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BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35724
CALIFORNIA HIGH-SPEED RAIL AUTHORITY
– CONSTRUCTION EXEMPTION –
IN MERCED, MADERA AND FRESNO COUNTIES, CALIFORNIA

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

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DATED: May 7, 2013.

Filing Contains Color

I. PARTIES PROTESTING AND OPPOSING THE PETITION FOR EXEMPTION.

Kings County Water District and Riverdale Public Utility District hereby protest and oppose the California High-Speed Rail Authority's ("CHSRA" or "Authority") Petition for Exemption under 49 U.S.C. § 10502 from the certification requirements of 49 U.S.C. § 10901. The Petition was filed March 27, 2013 along with a motion to dismiss the Petition. The motion to dismiss was denied and the Board also granted an extension within which to file protests and exemptions to the Petition to May 8, 2013.

Kings County Water District

Kings County Water District is a California County Water District formed in 1954 under the provisions of California Water Code §§ 30000 et seq. See Atchison etc. Ry. Co. v. Kings County Water District (1956) 47 Cal.2d 140, 143. The District consists of about 150,000 acres (234 mi²) of highly developed farmland in the northeast most portion of Kings County. Both "Hanford West" and "Hanford East" alternatives for the passage of the High-Speed Rail (HSR) Project in Kings County will pass through the lands within the District, causing lasting damage without any benefit to the land and people who live and work in the District.

Riverdale Public Utility District

Riverdale Public Utility District is a California public utility district formed and existing under the provisions of California Public Utilities Code §§ 15501 et seq. The District provides the vital municipal services of water, wastewater, solid waste disposal and street lighting to the unincorporated community of Riverdale, CA, in Fresno County, CA, in proximity to the projected path of the HSR Project. The Project will damage the Riverdale area in numerable irreversible ways. The Districts also adopt and incorporate by reference the protests/oppositions filed by other parties to this proceeding.

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II. BACKGROUND AND OVERVIEW: THE SCOPE OF THE PROJECT IS NOT MERCED TO FRESNO BUT MADERA TO FRESNO.

The Authority has been supplied with \$6.0 billion in state and federal funding, which it intends to use to construct an additional railroad line through approximately 130 miles of the Central Valley of California during the next five years.¹ This 130-mile section is referred to by the Authority as its “Initial Construction Section” (ICS), and has been divided into two segments, with each one currently at a different stage of progress.²

The first segment is what the Authority describes as the “Merced to Fresno HST Section.” When the Authority applied in 2009 for a grant of over \$900 million with the Federal Railroad Authority's (FRA) HSIPR Program, it described its project as a 50-mile new rail line starting in downtown Merced “close to the existing UPRR line ... and ending before SR180 close to the UPRR line through Fresno.”³ The Authority was granted these funds for the project as it was described in the application.

But the Authority has since changed the scope of the project by using the same grant funds to construct only a 29-mile section from Madera to Fresno (21 miles shorter). Although the Authority's Petition for Exemption declares that its Project is the construction of the “Merced to Fresno HST Section,” and that construction will be occurring in Merced County, this is simply not true. Its ICS construction will not begin in Merced and it will carry on no construction whatsoever in Merced County.

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¹CCHSRA November 3, 2011 Funding Plan (FP), pp. 1 (pdf 8), 2 (pdf 9), 6 (pdf 13), 7 (pdf 14), and 8 (pdf 15), <http://www.cahighspeedrail.ca.gov/funding.aspx>. The Funding Plan is attached as Exhibit A.

²FP, p. 2 (pdf 9); see also Authority's Revised 2012 Business Plan (RBP), pp. ES-3 (pdf 11), ES-7(pdf 15), http://www.cahighspeedrail.ca.gov/Business_Plan_reports.aspx. See Exhibit B.

³Federal Stimulus Update: Merced to Fresno Design/Build Application (10/1/09) p. 5 (pdf 5), http://www.cahighspeedrail.ca.gov/fed_stimulus.aspx. See Exhibit C.

Rather, the northern end of the Authority's ICS project begins in Madera County where Avenue 17 dead ends into the west side of the BNSF right of way (see Map M4458), a location northeast of the City of Madera. The proposed new rail line then runs southeast along the west side of the BNSF right of way until departing from the BNSF right of way south of Madera at a location north of Avenue 12. The line then doglegs cross-county to the UPRR right of way at approximately Avenue 7, and then runs south along the UPRR right of way into Fresno County (See Right of Way Appraisal Map Exhibit for Madera County).⁴

The Authority omits to make plain in its Petition that it will not be constructing the 31-mile section between Merced and Madera with the funding it has, and that it will not be proceeding with construction between those two points until it secures funding beyond what it currently has.⁵

The Authority has already accepted design/build bids for this Madera to Fresno section and has recently announced the best-ranked bidder, which is also the least technically competent and should not have been ranked under the original two step process. It is believed the Authority has also commenced appraising right-of-way parcels for this 29-mile section prior to their acquisition and is already making offers to right-of-way landowners. The extent of these acquisition activities is unknown due to lack of discovery and the Authority's lack of transparency.

The other segment of the Authority's ICS is a 100-mile section from Fresno to north of Bakersfield, which the Authority calls the "Fresno to Bakersfield HST Section." The Authority claims that its \$6.0 billion in state and federal funding is sufficient to also construct this section from Fresno to some presently undetermined point north of Bakersfield.⁶ The Authority and the FRA released a Revised EIR/EIS for that "Section," on which public comments have been received. The Authority has not completed its responses to these comments and will not be releasing its Final EIR/EIS for a number of months, so the environmental review process for this 100-mile section is

⁴The referenced maps are included in Exhibit J.

⁵FP, p. 6 (pdf 13); RBP, p. 3-8 (pdf 88).

⁶FP, p. 6 (pdf 6).

pending and subject to potential challenges. The Petition for Exemption of just the 30 or 29 mile Madera to Fresno “section” is an improper segmentation or piecemealing of Board oversight over the entire HSR system that the Authority purports to build. It is as if the Authority is seeking to escape Board review and oversight.

There will be two phases to the passenger train operations intended to be conducted on the Authority's new ICS rail line: The first will be the operation of non-high-speed, diesel locomotive-pulled passenger trains once construction of the 130-mile ICS is completed.⁷ For some reason, the Authority decided to downplay in its Petition the Authority's entire ICS plan, which is to continue the new rail line south from Fresno, where it will eventually rejoin the BNSF rail line somewhere north of Bakersfield. If the entire ICS is considered, as it should, impacts to Amtrak service seem unavoidable. This will come about by the transferring of an undetermined number, and possibly all, of the current Amtrak passenger trains off of the BNSF rail line and on to the new rail line.⁸ These Amtrak trains are to leave the BNSF tracks at Madera and use the new rail line until they rejoin the BNSF tracks somewhere north of Bakersfield. Much of the new rail line for the ICS south of Fresno will run two to four miles distant from the existing BNSF rail lines and will involve bypassing three cities in which Amtrak passenger stations are located and which Amtrak currently serves: Hanford, Corcoran and Wasco.

The Districts have not found evidence in documents posted by the Authority that it has funds allocated to the construction of replacement stations at these cities.⁹ Currently, the BNSF tracks carry fourteen daily Amtrak passenger trains and an unknown number of freight trains. Because the Authority's Project will not improve the single-track sections of BNSF track that currently exist north and south of the ICS, this Project will not increase the overall train-carrying capacity of the BNSF

⁷FP, p. 4 (pdf 11); RBP, pp. ES-3 (pdf 11), ES-7 (pdf 15).

⁸FP, p. 4 (pdf 11); RBP, pp. ES-3 (pdf 11), ES-7 (pdf 15), 2-14 (pdf 58), and 3-2 (pdf 82).

⁹Authority's Revised Draft Fresno-Bakersfield EIR/EIS, http://www.cahighspeedrail.ca.gov/Lib_Fresno_Bakersfield.aspx.

line. If the Authority were to make sure that the number of Amtrak trains serving the Hanford, Corcoran and Wasco stations remained unreduced, and if there are limited capacity problems, then new Amtrak trains could not be added to the new track. But how likely is it that the Authority would expose itself to ridicule by building this \$6.0 billion project and not using it? Otherwise it is a stranded investment, or a cynical ploy to force continued funding under the theory that once the project starts, it must continue.

Because if built the road must be used, and because the Authority has all along insisted that Amtrak trains will be operated on the Authority's new line, the prospect of Amtrak trains being pulled off the BNSF line looms large, thereby reducing or eliminating passenger service at these three stations. Hanford, Corcoran and Wasco may be small towns by many people's standards, but they are the closest stations for hundreds of thousands of people who reside in large towns such as Visalia and Tulare, and in the rural areas and countless smaller communities of Kings, Tulare and Kern Counties.

In a January 2, 2013 Fresno Bee newspaper article (attached as Exhibit D), Amtrak sources showed that ridership for the year 2012 at the Hanford station was 210,682, while the ridership at the Corcoran and Wasco stations were 29,072 and 21,117, respectively. In short, the Authority is proposing a scenario in which it is difficult to see how Amtrak service, convenience and ridership will not be significantly affected and diminished as compared to what is presently provided.

Non-high-speed, conventional passenger operations are intended to continue on the Authority's new rail lines for an indefinite number of years, to be ended only when, and if, another \$25.3 billion to \$30.6 billion is obtained from the state and federal governments, and possibly private sources to complete the IOS.¹⁰ Until the Authority secures this additional funding (which it does not currently have) to complete construction of the 300-mile IOS from Merced to the San Fernando Valley, it cannot and will not construct additional rail line from Madera to Merced and from north

¹⁰RBP, pp. ES-13 (pdf 21), ES-15 (pdf 23), 3-2 (pdf 82), and 3-11 (pdf 91).

of Bakersfield to the San Fernando Valley.¹¹ It also admits that it does not have the funding needed to purchase and operate electric-powered high-speed train sets over the new rail line, and that it does not have the funding for the electrification, signaling and control systems necessary to operate a HST system.¹²

The Government Accountability Office (GAO) is not optimistic about the prospects of the Authority getting additional funding. In testimony presented to the House Committee on Transportation and Infrastructure on December 6, 2012, the GAO testified that “One of the biggest challenges facing California's high-speed rail project is securing funding beyond the first construction segment. [. . .] However, given that the HSIPR grant program has not received funding for the last 2 fiscal years, and that future funding proposals will likely be met with continued concern about federal spending, the largest block of expected funds is uncertain.”¹³ Even the Authority admits that the prospects of securing funding beyond its present \$6.0 billion is uncertain and is a risk to its ability to complete the IOS.¹⁴

III. THERE IS A GENERAL REQUIREMENT OF OBTAINING A CERTIFICATE TO BUILD A NEW RAILROAD.

49 U.S.C. §10901(a) declares that a party may construct an additional railroad line and/or provide transportation by means of it only if the Board issues a certificate authorizing such activity. The Authority admits in its Petition for Exemption that it intends to construct a new rail line, and that rail passengers are to be transported across this additional rail line. Thus, it admits that both elements

¹¹RBP, pp. ES-13 (pdf 21), ES-15 (pdf 23), 3-2 (pdf 82) and 3-11 (pdf 91).

¹²FP, p. 2 (pdf 9); RBP, pp. ES-13 (pdf 21), ES-15 (pdf 23) and 3-2 (pdf 82).

¹³“High-Speed Passenger Rail; Preliminary Assessment of California’s Cost Estimates and Other Challenges,” Statement of Susan A. Fleming, Director, Physical Infrastructure Issues, delivered to the House Committee on Transportation and Infrastructure, on Dec. 6, 2012 at pp. 10, 11 (pdf 12, 13), <http://www.gao.gov/products/GAO-13-163T>. See Exhibit E.

¹⁴RBP, p. 8-10 (pdf 178).

described in subsections (2) and (3) of §10901(a) are present with respect to its Madera to Bakersfield ICS.¹⁵

IV. THE AUTHORITY SEEKS AN EXEMPTION INSTEAD OF A CERTIFICATE.

Although the Authority's Petition (p. 10) recognizes that “Construction of a new rail line requires prior Board approval pursuant to 49 U.S.C. § 10901,” and although it admitted that it was indeed constructing a new rail line, it nevertheless sought an exemption regarding its Project (which it misdescribes throughout the Petition as the “Merced to Fresno” segment) under 49 U.S.C. § 10502, instead of applying for a certificate.

Oddly, the Authority is just seeking an exemption for this short 29-mile section of its ICS. Clearly, at some point it is going to have to approach the Board as to the other section - the rest of its 130-mile ICS. It makes no sense for the Authority to parcel this matter into two discrete elements, and the Board should not have to look at this matter piecemeal; it needs to evaluate the full project and its cumulative impacts and implications. One part cannot be properly assessed without assessing the other.

The Authority seeks expedited consideration of its Petition by the Board because of the supposed “urgent” need to proceed rapidly with its Project. But the Authority cannot proceed until it complies with the requirement of the FRA Grant/Cooperative Agreement of having reached agreements with the UPRR and BNSF.

The Authority knew of the need to go before this Board at least three and a half years ago. In its October 1, 2009 application for a High-Speed Intercity Passenger Rail (HSIPR) grant for its

¹⁵FP, p. 4 (pdf 11); RBP, pp. ES-3 (pdf 11), ES-7 (pdf 15), 2-14 (pdf 58), and 3-2 (pdf 82). For example, the Authority states on p. ES-3 (pdf 11): *Through collaborative planning and implementation with the California Department of Transportation (Caltrans), Amtrak, Altamont Commuter Express (ACE), BNSF Railway, and Union Pacific, the San Joaquin rail service (fifth busiest in the nation) will be shifted to the first construction segment upon its completion, resulting in a 45-minute time savings.* This contradicts the Petition wherein it states the Authority has no current contracts or negotiations with Amtrak. It is clearly the intent of the Authority to shift Amtrak San Joaquin service to the “first construction segment.” Also noted is that the Authority has no agreements with UPRR or BNSF though these agreements are required to be in place before the Authority can spend any money, whether federal, state or local.

Merced to Fresno section, the Authority stated that “Additionally, CHSRA will address potential jurisdiction of the Surface Transportation Board (STB) over any aspect of the HST project and work to ensure timely completion [of] all prospective regulatory oversight responsibilities consistent with the project delivery schedule.”¹⁶ Although knowing of its obligations with respect to the Board, it failed to file any petitions until five weeks ago. And it appears it did so only because Congressman Denham called the problem to the Authority's and the Board's attention.¹⁷ When the Authority filed its Petition for Exemption with the Board on March 27, it was poorly done, rife with omissions and misrepresentations, and was sorely lacking in needed detail and factual support. It is easy to see why those opposing the Petition are nervous and apprehensive about how this agency will proceed with the construction and implementation of this project, especially with respect to the potentially adverse effect it will or may have on the future passenger service that the train-traveling public will be provided in contrast to the service the public has long enjoyed from Amtrak's current operations.

V. THE AUTHORITY FAILS TO SHOW COMPLIANCE WITH ALL POLICIES OF § 10101.

The Authority begins its request for exemption by paraphrasing the relevant provisions of 49 U.S.C. §10502(a):

“Under 49 U.S.C. §10502 (a), however, the Board shall exempt a proposed rail line construction from the detailed application procedures of § 10901 if it finds that (1) those procedures are not necessary to carry out the transportation policy of 49 U.S.C. § 10101 and (2) either (a) the transaction or service is of limited scope; or (b) regulation is not needed to protect shippers from the abuse of market power.”

¹⁶See the Authority's “Merced/Fresno HSR Design/Build High-Speed Intercity Passenger Rail (HSIPR) Program Track 2–Corridor Programs: Application Form” dated 10/01/09, at p. 23 (pdf 23) http://www.cahighspeedrail.ca.gov/fed_stimulus.aspx. See Exhibit C.

¹⁷See Congressman’s Denham’s letter attached as Exhibit F.

The Authority's Petition argued that its "Merced to Fresno" Project should be exempted from the requirements of § 10901 "because regulation under §10901 is not needed to protect shippers from the abuse of market powers," and because "the Project will provide passenger rail service and not freight service, [so] no shippers need protection against potential market power abuses." It further argued (though without evidence) that "construction of new rail lines only seems to enhance competitive options."¹⁸ The Authority further argued that "exemption of the construction of the Project from regulation under 10901 will further the goals of the nation's rail transportation policy [§10101]." The Authority confirmed that these are its sole arguments for an exemption by concluding: "Accordingly, under the standards for exemption set forth in 10502, this Petition [for Exemption] should be granted."

Let us examine, therefore, how the Authority went about supporting its argument sans evidence that its project will "further the goals of the nation's rail transportation policy." There are fifteen different railroad industry policy elements set forth in §10101, any one of which can give the Board justification to become involved in order to ensure that these policy elements will be promoted and protected.

While the Authority mentioned the language set forth in subsections (2), (4), (5), (7) and (14) of the §10101 policies, it conveniently ignored others that would be the most troublesome. The policy elements that it conveniently failed to mention or glossed over, but which are very relevant in this matter, are (emphasis added):

- (1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail.
- (4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and other modes, to meet the needs of the public and the national defense.
- (8) to operate transportation facilities and equipment without detriment to the public health and safety. (Emphasis added)

¹⁸Authority's Petition for Exemption, p. 2.

The Districts are very concerned about how the new rail line will be used and what its effect on Amtrak passenger train service might be. As already mentioned, the Authority's new line will bypass the current Amtrak stations at Hanford, Corcoran and Wasco, and the Authority has no funding or plans to construct replacement stations at these three locations (there is also a self-service Amtrak station in Madera). The Authority should be required to show that future operations on the new rail line will not diminish or have an adverse effect on passenger train service or convenience for the train-traveling public living in or near these towns. Based on what the Authority discloses, with its disavowal of any agreements or discussions with Amtrak, the proposed rail road does not meet the needs of the public.

With respect to policy element (1) above, we need to know how future operations on the new line might affect the reasonability of rates or fares charged both on Amtrak and the Authority's rail road. If changes in the Amtrak system produce reductions in ridership by eliminating service in Hanford, Corcoran and Wasco, can suppressed use put increased pressure on the raising of fares/rates above what would have occurred had no changes in current Amtrak service been instituted?

With respect to policy element (4) above, we also need to know whether the operation of the new rail line will "meet the needs of the public." How will passenger service be different and how will such differences affect the public's needs or meet them better than they now are? This issue again points up the need for discovery and Board oversight in this case.

With respect to policy element (8) above, we must point out that Corcoran recently closed its only hospital. A person in Corcoran who has no car can presently board Amtrak in Corcoran and for a fare that is less than the cost of driving can get off the station in Hanford only a few hundred yards from the hospital. With the new line by-passing current stations in these two towns, how will it affect such persons?¹⁹

¹⁹Federal involvement in funding and other activities requires compliance with President Clinton's environmental justice executive order "Federal Actions to Address Environmental Justice in Minority and Low-Income Populations," Executive Order No. 12898, 59 Fed. Reg. 7629 (February 11, 1994).

The burden should be on the Authority to lay out in detail what changes to passenger service will or may occur. The Authority has not specified in its Petition how passenger trains will run each day on its new rail line - a rail line that will not have passenger stations at Hanford, Corcoran and Wasco - nor how many trains will continue to run on the BNSF line so that passengers can board and detrain at the stations that currently serve Hanford, Corcoran and Wasco. Nor has it specified how fares might be affected in comparison to the fares that Amtrak currently charges. It needs to show that interstate Amtrak passengers will not be importuned or otherwise adversely affected by the new system and its operation. Rather than provide such information, the Authority says in its Petition that it is not seeking "operating authority over the Project at this time because the Authority has no contracts, memoranda of understanding or any arrangements to permit any operations within the Board's jurisdiction over the Project."²⁰ This is an astonishing declaration, and it is difficult to know what to make of it. Is it suggesting that, because it has no detailed, firm plans regarding passenger train operations, there is no need for the Board to inquire whether the operation of the new line would be anathema to the policies of §10101 or harmful to the train-traveling public?

In the absence of such vital information, how can the Board be expected to decide whether, upon applying all of the rail policies set forth in § 10101, this Project should be exempted from the need for a certificate? It is difficult to see how the Board can possibly be won over by such an audaciously vacuous, disingenuous and unsupported argument for exemption.

VI. THE AUTHORITY FAILS TO COMPLY WITH, AND IS IN FLAGRANT BREACH OF, THE REQUIREMENT UNDER THE FRA GRANT/COOPERATIVE AGREEMENT THAT THE AUTHORITY HAVE AGREEMENTS WITH THE AFFECTED RAILROADS.

The most recent amendment to the Grant Agreement between the Authority and the FRA (dated 12/05/2012), states on page 8 that "The Grantee [Authority] represents that it has entered into and will abide by, or will enter into and abide by, a written agreement, in form and content satisfactory to FRA, with any railroad owning property on which the Project is to be undertaken,

²⁰Petition, p. 5.

. . . The Grantee may not obligate or expend any funds (federal, state, or private) for final design and/or construction of the Project, or any component of the Project, without receiving FRA's prior written approval of the executed railroad agreement satisfying the requirements of this section."²¹ (Emphasis added)

The Authority's project will encroach upon the BNSF lines, and will cross it at various locations. Further, there will need to be coordination and agreement with the BNSF regarding future passenger train traffic. The project will also encroach upon and cross the UPRR's rail lines at various locations.

In the Authority's 2009 Revised Final Program EIR/EIS for the Bay Area to Central Valley section, it noted the UPRR's unwillingness to allow the use of its rights-of-way for the Authority's HST project.

The UPRR submitted a comment letter dated October 12, 2011 in response to the Authority's Draft EIR/EIS, Merced to Fresno section. The letter expressed its opposition and objection to the new HST rail line where it would encroach upon and interfere with the full use of UPRR's rights-of-way and operations. A copy of the letter was included in the Authority's Response to Public Comment in its Final EIR/EIS Merced to Fresno section.²²

In its October 1, 2009 Application for FRA/HSIPR funds for its Merced to Fresno HST project, the Authority declared that "an initial MOU with Burlington Northern for the LOSSAN corridor and Central Valley to exchange information has been signed. The Authority is currently

²¹FRA Grant/Cooperative Agreement for ARRA Funding (Amendment 12/6/12), p. 8 (pdf 10), <http://www.cahighspeedrail.ca.gov/funding.aspx>. See Exhibit G.

²²See the Authority's Final EIR/EIS Merced to Fresno, Chapter 20: Response to Comments from Businesses and Organizations, pp. 20-922 to 20-924 (pdf 922-924, <http://www.cahighspeedrail.ca.gov/assets/0/152/407/413/8fe27cbe-1533-4436-92fb-771061d42d13.pdf>). The UPRR letter dated October 12, 2011 is attached as Exhibit H.

working with Burlington Northern to establish a more detailed MOU dealing with the operation within their boundaries and the rules and regulations that are needed.”²³

Also attached as Exhibit I is a letter from the BNSF to the Authority, dated April 16, 2013. At the beginning of its letter, the BNSF states:

We have generally reviewed and looked over these plans, but we are at a point in our understanding of intercity passenger rail planning in the San Joaquin Valley that we are at present unable to proceed to more specific planning or review of these materials. This is in light of frankly a great deal of ambiguity and contradictions in the different materials that have been forwarded, in the public statements being made and in the absence of any kind of understanding or agreement with the public agency sponsors of these programs. It is unclear what plans are ready to be progressed on behalf of the Authority and under what terms we should consider them.²⁴ (Emphasis added)

The BNSF letter strongly suggests that the “railroad agreement” with BNSF that is required under the FRA Grant/Cooperative Agreement has not yet been developed and finalized. There is no evidence in the letter suggesting that any plans or coordination have been concluded or achieved regarding future passenger train service using BNSF tracks. Indeed, the letter suggests the lack of a fruitful or harmonious relationship between the two parties at this time.

The BNSF letter is significant and deserves further scrutiny. The letter²⁵ continues:

In that regard, six intercity rail service options have been forwarded which may be internally inconsistent with respect to the extent to which they would involve BNSF right of way, trackage, or the construction of new railroad sometimes adjacent

²³Federal Stimulus Update: Merced to Fresno HST Design/Build Application (10/1/09), p. 25. http://www.cahighspeedrail.ca.gov/fed_stimulus.aspx. See Exhibit C.

²⁴BNSF Letter, p. 1 (pdf 1). See Exhibit I.

²⁵BNSF Letter, pp. 1-3 (pdf 1-3); all emphasis added. See Exhibit I.

to and sometimes over BNSF right of way. It is also unclear the extent to which these options would use conventional FRA compliant rolling stock at speeds below 90 MPH or other alternatives.

With respect to truly high speed passenger rail service, elements of the options under consideration appear to be inconsistent with materials or plans that the Authority has submitted in descriptions to the Surface Transportation Board for exemption, and what the Authority has submitted for environmental review. Thus, there appears to be too much ambiguity at this time for a productive review of these plans.

In order to progress this effectively, we ask that the Authority provide us with a draft engineering agreement that contains a scope of work and budget that can be reviewed and for the Authority to specify the corridor alignment that is the realistic plan they might be advancing. As we have emphasized since our first discussions with prior officers of the Authority, it will also be essential to address the safety implications, risk mitigation strategy and liability associated with any construction near or adjacent to our track as well as for future operations. We would then be in a better position to have meaningful discussions on how this could progress. **BNSF has not agreed to or acquiesced in any proposed or potential alignment or change in service in the San Joaquin Valley involving our railroad, whether on, near, or adjacent to, our current right-of-way, or which could affect current or future rail service on our line, or could affect access to our line by present or future freight customers.** In order for BNSF to progress any particular segment we will need to understand how these issues are addressed as to the entire proposed line through the San Joaquin Valley.

By the same token, we are not clear with whom we are actually negotiating or what agency would be the responsible entity progressing these plans, whether they

are for truly high speed service or for what is being called Blended Service. [. . .]

With respect to the Authority's two Blended Service options and Caltrans' three service options A, B, and C, we believe it is necessary for the appropriate public agency intercity passenger rail sponsors to make some key decisions:

- Determine which one of the five conventional train speed options should be used as the foundation for any additional service agreement negotiations;
- Confirm that the service option selected consists of Amtrak service as part of its existing network and normal operations, whether operating on BNSF track or facilities constructed by the Authority;
- Identify a lead agency with which BNSF would negotiate;
- Provide BNSF with a projected timeline for the implementation of the proposed additional service; and,
- **Confirm, as discussed in recent meetings, that Design-Build will not be used as a project delivery method where CHSRA construction will impact BNSF property or customers.**

The different options and scenarios of your various alternative plans, some of which are very aggressive levels of passenger train service, could require significantly different capital infrastructure requirements to permit service and analysis of impacts on future freight service capacity and even access to our own line as a result of potential parallel structures along the right-of-way. In a similar vein, if the agencies envision something along the lines of the Amtrak metrics and standards to apply to this service for measurement of on-time performance, that will also involve significantly increased infrastructure and capital investment to ensure future intercity passenger rail service compatible with the preservation of freight capacity and mobility.

While we appreciate the work Parsons Brinckerhoff has been doing on this project, it is now essential that we have direct contact with whatever authority we would be negotiating definitive agreements if these projects are to be progressed. [. . .] When we are advised with whom at the appropriate agency we should discuss how best to progress this, we can plan a follow-up call or meeting . . . as we coordinate these efforts for BNSF, consistent with our previous direct meetings with prior representatives for and officers of the California High Speed Rail Authority.

This very recent letter discloses that any agreement(s) with BNSF are nowhere near fruition, nor does BNSF appear aware that the Authority is already proceeding on a design-build basis in letting contracts. Under the FRA Grant/Cooperative Agreement, the Authority is not allowed to spend ANY FUNDS, whether federal, state or local. Since money cannot be expended on construction without the required agreements, the Petition should be denied.

Looking at the Authority's website, in a section entitled "Caltrans and Railroad Agreements," and the only agreement appearing there is an agreement between the Authority and Caltrans regarding the latter's highways. No agreement between the Authority and either railroad is listed. Hence, it appears that the Grant Agreement requirement concerning written agreements with the involved railroads (BNSF, UPRR, Amtrak) has not been fulfilled. Without these required agreements, the Authority cannot spend any federal, state, or local funds. Therefore no urgency hangs over the timing of the Board's decision on the Petition.

The Fresno-Bakersfield Revised Draft EIR acknowledged that the impacts of interim Amtrak service will need to be studied, which they admittedly did not perform.

The interim use of the IOS first construction track for upgraded Amtrak service could have environmental impacts that differ from those analyzed in this EIR/EIS. However, there are no plans for this service at this time and such plans will require future cooperative agreements between the Authority and entities associated with operation of the Amtrak San Joaquin service.

As a result, the operational characteristics of that interim use are unknown at this time and an analysis would be speculative. For that reason, interim use has not been analyzed in this EIR/EIS. Service upgrades for the Amtrak San Joaquin service and its potential for environmental impacts would be assessed, as appropriate, by the operating agency before the initiation of that service.” Source: Fresno-Bakersfield Revised DEIR/Supplemental DEIS, Volume I, Page 1-32. <http://cahighspeedrail.ca.gov/assets/0/490/491/ddd39cc1-c36c-4201-ae1b-4160e72a6450.pdf>.

Under the “Design-Build Contract Term Sheet” for Construction Package #1,²⁶ the Authority acknowledged its obligation to reach agreements with the impacted railroads:

“Railroad Agreements:

“Authority anticipates executing agreements with railroads by June 2012. The Contract will address Contractor’s obligations regarding those agreements. Generally, the Contractor will be responsible for fulfilling the Authorities [sic] obligations under the agreements with the Authority continued participation.” See Exhibit L, Term Sheet, p. 5.

The Contract Term Sheet was approved at the Authority’s March 1, 2012 Board meeting, when the Board approved Resolution # HSRA 12-04 entitled “Approval of the Term Sheet, Stipend and RFP scoring criteria for Construction Package # 1.”

The BNSF letter dated April 16, 2013 shows that BNSF and the Authority are nowhere close to an agreement, or that substantive negotiations have even begun. The Authority has demonstrably failed to meet the requirement of FRA Grant/Cooperative Number FR-HSR-0009-10-01-05:

2. Attachment 1A is deleted in its entirety, and the following is substituted therefor:

PRIIA Clauses for Corridor Programs, Attachment 1A

Section 1. Railroad Agreements.

²⁶RFP No. 11-016 Construction Package #1, Initial Construction Section of the California High-Speed Train System, Design-Build Contract Term Sheet, attached to the Chief Counsel’s Board memorandum dated March 1, 2012. See Exhibit L.

The Grantee represents that it has entered into and will abide by, or will enter into and abide by, a written agreement, in form and content satisfactory to FRA, with any railroad owning property on which the Project is to be undertaken, in accordance with 49 U.S.C. 24405(c)(1) and section 4.2.6 of the High Speed Intercity Passenger Rail (HSIPR) Program Interim Guidance published in the Federal Register on July 1, 2010 (75 FR 38344). Such agreement shall provide for compensation for use, assurance regarding the adequacy of infrastructure capacity, a commitment to keeping railroad collective bargaining agreements in full force and effect, and compliance with liability requirements consistent with 49 U.S.C. 28103. The Grantee shall not enter into or agree to any substantive changes to the FRA approved written agreement with the railroad on which the Project is undertaken without FRA's prior written consent. **The Grantee may not obligate or expend any funds (federal, state or private) for final design and/or construction of the Project, or commence any part of the final design and/or construction for the Project, or any component of the Project, without receiving FRA's prior written approval of the executed railroad agreement satisfying the requirements of this section.** See Exhibit G, p. 8. Emphasis added.

The Authority has already breached this section by spending funds for the CP 1 RFP solicitation which has resulted in the receipt and ranking of design-build bids. The Authority will remain in breach of this provision for every act taken up to award of the contract and beyond. The Authority is in breach of this section for spending funds on land acquisition and expenditures preparatory to land acquisition such as surveys and appraisals.²⁷

Such conclusive and flagrant breach of the FRA Grant/Cooperative Agreement requires that the Petition be denied, for the Authority to apply for a certificate and for the Board to act to prevent further breaches of the FRA Grant/Cooperative Agreement by prohibiting expenditure of any funds in violation of the FRA Grant/Cooperative Agreement.

VII. THE AUTHORITY SECRETLY CHANGED THE BOARD APPROVED PROCESS FOR EVALUATING AND RANKING RESPONSES TO ITS REQUEST FOR PROPOSAL FOR DESIGN-BUILD SERVICES.

On March 1, 2012, the Authority's Board held its regular meeting at which it approved a Request for Proposal for Design-Build Services. The Board adopted Resolution # HSRA 12-04 which states in relevant part: **"The Executive Director/Chief Executive Officer is hereby**

²⁷Information at District Board meetings is that landowners have been contacted by representatives of the Authority. Presumably surveys and appraisals are being obtained but lack of openness and transparency on this as on other issues points up the need for discovery in Board proceedings involving the Authority.

authorized to use a two-step RFP evaluation process that includes a technical evaluation resulting in the qualification of three of the five proposer teams followed by a combined technical/price evaluation of these top three proposer teams.” (Emphasis added) See Resolution attached as Exhibit K.

The Resolution also stated “The Executive Director/Chief Executive Officer is hereby authorized and directed to make appropriate non-substantive changes to the Construction Package #1 RFP terms contained on the term sheet in consultation with the Board Chair as part of the RFP evaluation and contract negotiation process.”

In a Board memorandum dated March 1, 2012, the Authority’s Chief Counsel stated:

In the evaluation of the proposals it is in the best interests of the HSR Authority to assure technically competent proposals and assure the best value is received. HSR staff is recommending a two-step RFP evaluation process that includes a technical evaluation resulting in the qualification of three of the five proposer teams followed by a combined technical/price evaluation of these top three proposer teams.

(Emphasis added) See Exhibit L.

During the meeting the Chief Counsel stated:

MR. FELLEENZ: The selection process for the best value -- or proposal is going to be a best value selection and it's a technical and price component, and we had a lot of internal discussion on what the best way to approach this is so that we end up with a strong technical proposal team as well as a very fair and competitive price. So we looked to the federal acquisition regulations and followed those, and we looked at also examples of technical price waiting for Design-Build contractors selection for other types of projects throughout the United States. And so we settled on this approach. We're going to have -- there are five proposal teams, and **we hope, are confident, that there will be five proposals submitted, and so the first evaluation process will be to go through and have technical evaluation.** These

are the weightings that we'll put on the various subject areas that we'll be looking at, project approach, safety, exceptional engineering, ability to meet the schedule, anticipated problems and solutions, and quality of self-certification. And you can see the representative weightings that they have. These are broad categories, and within them, there are other categories. So for instance, you don't see, here, the small business program because that's going to be part of the project approach. So there are many subcategories within these major categories. When the technical evaluation in the Design-Build procurement is done, usually there are very broad categories like this. We're going to have this first approach, we're going to rate them, and we're going to take the top three out of the five to move onto the next part of the competition for selection. If we have only four proposals, we -- again, we'll just go with the top three. If we had two proposals -- or pardon me, three proposals, we'll just select the top two to move onto the next price component. Okay. So that's -- we narrow the field to the top three, and then we move onto the top two technical if there's only three. And then we move onto what's called the price consideration, although, it actually folds back into technical proposals we received, but now we only weight it at thirty percent and the price component is a full seventy percent. So the same five -- or no, six categories are in the technical proposal piece. That's thirty percent. By creating the competition for the technical piece, we think we're going to get strong technical proposals, and we're going to get some very well thought out plans from these proposal teams. And we're making it very competitive, because, you know, if you are not in the top three, you'll be dropped off. And then we move to the price, and because it's more heavily weighted in price than in second phase, we think we'll get some good competition and get a very fair and reasonable price. And as I mentioned before, we looked at other projects throughout the United States and the Design-Build Institute. We are following principals in that manual. There's a

quote there that shows one type of procurement approach that could be taken. Although, ours will be a little different than that, but we look into the Design-Build institute for guidance, and then also we looked at these particular projects as good examples. This is a Caltrans Design-Build program where for their largest Design-Build project, which is the Gerald Desmond Bridge, they had this scoring plan, which was seventy to eighty percent price and twenty to thirty percent technical, and that project was about \$700 million. And Denver's RTD, Denver Eagle P3 rail project, had a price and technical split as you see, between sixty and forty. And then finally, Dallas Area Rapid Transit Orange Line had a 35 point price and 65 point technical. So you can see there are many variations that you could select, but we chose this method, because we thought we would accomplish the goals of the Authority best. I want to move on to stipends. Meeting Transcript pp. 60-63. See Exhibit M.

The Board approved the Resolution unanimously. Transcript pp. 79-80.

On August 22, 2012, the Authority issued "Request for Design-Build Services RFP No.: HSR 11-16 Addenda Change Log for Addendum No. 4" (Addendum 4), relevant pages of which are attached as Exhibit N. Addendum 4 made crucial changes to the selection process. In fact, the selection process was materially changed. No longer were all proposals first evaluated on technical merit, with only the top three going to the next step which was to be a technical/price evaluation of the top three proposer teams. This two step process was eliminated. See Addendum 4, pp. 1, 3 (pdf 3, 5).

On April 12, 2013, the Authority issued a press entitled "California High-Speed Rail Authority Announces Bid Results on Central Valley Construction Project" and also released the "Apparent Best Value" rankings of the five firms submitting proposals. See Exhibits O and P.

These rankings gave the highest combined price and technical competence ranking to a joint venture comprised of Tutor Perini, Zachry Construction, and Parsons Corporation ("Tutor Perini").

Tutor Perini was rated lowest in technical competence, and made the lowest bid, so it received the highest score.

The rating was conducted in violation of Resolution # HSRA 12-04 adopted by the Authority's Board on March 1, 2012. Under the adopted Resolution, the two lowest technically competent proposals were to be eliminated before the price proposals were even looked at. A change in the evaluation procedure which produces "best value ranking" for a proposal that would not have been considered under the original procedure cannot be called a "non-substantive" change. The Executive Director/Chief Executive Officer did have the authority under the Resolution²⁸ to make non-substantive changes to the "Construction Package #1 RFP" terms contained on the term Design-Build Contract Term Sheet (attached to the Chief Counsel's March 1, 2012 Memorandum along with the Resolution). See Exhibit L pp. 3-20.

But the bid evaluation process was not "contained on the term sheet," and there was no authority to change the bid evaluation process. A gigantic inquiry thus arises: Why was the change made? By whom? When? For what reason(s)? What other sub rosa events have occurred? Discovery is needed to uncover the truth.

The result of changing the process without open, public Board approval, is that the bidder of lowest technical competency will now design the remaining 70% of the project.

VIII. THE PRESENT CASE IS DISTINGUISHABLE FROM DESERTXPRESS.

The Authority argues it should be granted an exemption because its Project is similar to the DesertXpress case,²⁹ where the Board granted an exemption. There are a number of distinguishable differences, however, the most significant being that DesertXpress proposed adding a new passenger train service between Victorville and Las Vegas, mostly along the I-15 corridor, a service that does

²⁸"The Executive Director/Chief Executive Officer is hereby authorized and directed to make appropriate non-substantive changes to the Construction Package #1 RFP terms contained on the term sheet in consultation with the Board Chair as part of the RFP evaluation and contract negotiation process."

²⁹DesertXpress Enterprises, LLC's Petition for Exemption before the Surface Transportation Board, Docket no. FD 35544.

not currently exist. In the Authority's case at hand, a robust Amtrak service does currently exist and a large number of people depend upon it. The Authority is planning to change it (or else have a “stranded investment”), and it is these changes that should not go forward without scrutiny.

IX. THE ENVIRONMENTAL REVIEW PROCESS IS INSUFFICIENT AND INCOMPLETE.

The environmental process for the Authority's ICS and IOS is incomplete. Not only has the Authority not certified its Final EIR/EIS for the Fresno to Bakersfield section, it has not even released its Draft EIR/EIS for its Bakersfield to Palmdale section or its Palmdale to Los Angeles section. The Districts contend that the environmental concerns for a project of this scale are enormous, and a full, methodical review by the Board is essential.

There are additional, significant, reasons why the Petition should be denied, and why the “urgency” claimed by the Authority does not exist.

X. THE AUTHORITY IS EMBROILED IN SIGNIFICANT LITIGATION IN THE CALIFORNIA STATE COURTS.

The Authority omits to disclose to the Board that significant litigation is pending in the California state courts that will impact the proposed “High-Speed Rail Project” (Project). For the Board’s information these cases are:

1. John Tos, et al. v. CHSRA, et al., Case No. 2011-00113919, filed November 14, 2011. This case is known as the “Prop. 1A” case, after Proposition 1A which was approved by the California voters at the November 4, 2008 General Election. This case alleges various violations of Prop. 1A by the CHSRA, including that the high speed train will need an illegal operating subsidy, and that the train can never meet the legally required travel time of 2 hours, 40 minutes between the San Francisco Transbay Terminal and Union Station in downtown Los Angeles, and that it would be illegal for Prop. 1A bond funds to be spent on the project. Plaintiffs ask the Court to rule that such use of Prop. 1A funds would be illegal and that all defendants must be prevented from expending any Prop. 1A funds. The case is set for hearing on May 31, 2013. Bonds will not be purchased by investors while this case

is pending. If plaintiffs prevail, the CHSRA cannot proceed with the Project until it has the funding committed to build the entire Project. It should be noted that the California courts have already adjudicated that Proposition 1A was illegally placed on the November 4, 2008 ballot. See, Howard Jarvis Taxpayers Association v. Debra Bowen, et al. (2011) 192 Cal.App.4th 110.

2. High-Speed Rail Authority, et al. v. All Persons, etc., Case No. 2013-00140689, filed March 19, 2013. This case is a “validation” action filed to “confirm” the validity of issuing the Prop. 1A bonds. The scope of issues the Authority seeks to adjudicate in this case are vague, ambiguous, and unlimited. Paragraph 4 of the prayer for relief requests an injunction “permanently enjoin and restrain all persons or entities, public or private, from the institution of any action or proceeding challenging, inter alia, [. . .] any matters herein adjudicated or **which ever could have been adjudicated against Plaintiffs, the State, and against all other persons.**” This relief, if granted, would give carte blanche to the State against all parties, public or private, for all time. This relief would bar this Board, and other federal agencies with jurisdiction, from exercising their regulatory and supervisory functions. It is fantastic that such relief could even be contemplated.

The Authority filed a motion to consolidate the Prop. 1A case and the validation action to be heard May 10, 2013. The Authority obtained an ex parte order approving form of summons and service by newspaper publication on three occasions (less than the number for a petition for probate of a will) in only five of the 58 counties in California. None of the landowners whose land is targeted to be taken by the Authority have received any actual summons. This lack of notice is deliberate and is part of a pattern and practice of orchestrating procedures and processes to reduce the scope of public participation. The form of summons and manner of its “service” by newspaper publication represents a massive denial of procedural due process under Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950) (Fourteenth Amendment requires best notice reasonably calculated to give

actual notice).³⁰ The Kings County Water District has filed a motion to quash service of summons (form of and manner of publication). This motion to quash raises a fundamental constitutional issue that must be decided at the outset of the case. It is clear from Mullane that the service in the case must be much broader including actual as opposed to the fictitious, “constructive” notice of newspaper publication. Riverdale Public Utility District demurrer to the validation complaint on grounds of uncertainty of the complaint in the nature and scope of the adjudication sought.

The above cases are pending in the Sacramento County Superior Court. It is reasonable to anticipate appeals from the trial court’s rulings, and that the State general obligation bonds authorized by Prop. 1A may not be marketable until the full, final resolution of these cases including appeals. Given the time required for appeal, there is no urgency for action on the Petition now pending, particularly as the Authority delayed filing its Petition until the eleventh hour. There is no reason why the Authority could not have filed a petition for exemption in 2009 when applying for FRA/ARRA funding. At that time the Authority acknowledged the jurisdiction of the Board. But it was only after Congressman Denham’s letter that this proceeding was filed.

XI. CONCLUSION: THE PETITION SHOULD BE DENIED ON ACCOUNT OF NUMEROUS SUBSTANTIAL ISSUES THAT REQUIRE RESOLUTION IN A PROCEEDING BROUGHT UNDER 49 U.S.C. § 10901.

One cannot see how, under present circumstances, including the virtual absence of any supporting evidence, substantial or otherwise, the Authority can expect the Board to exempt the Authority from its review, evaluation, guidance and supervision. Yet, the Authority seems to think so. The Authority's attitude is not surprising. In the Districts’ experience, they have consistently found the Authority to be arrogant, imperious, presumptuous, and less than forthright - the very same institutional personality traits that we find expressed throughout its Petition for Exemption. Their

³⁰“An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” Mullane, *supra*, 339 U.S. at 314.

unsubstantiated assertions should be regarded with skepticism, and is a compelling reason why the Board should exercise its jurisdiction over this Project. It should involve itself in this project to ensure that the Authority will not trample upon any of the policy elements enumerated in §10101, and that it will do no harm to public convenience and need.

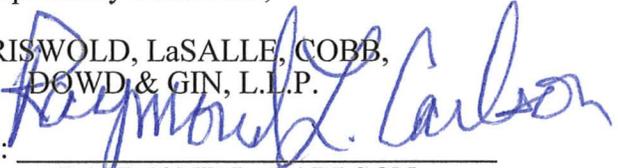
It should also be mentioned that the Authority has not yet demonstrated that there will be sufficient investors willing to purchase California Prop. 1A bonds, the proceeds of which not only are needed to fund the construction of the ICS, but must also serve as matching funds to the federal FRA/ARRA grant. In other words, if there are no Prop. 1A funds, then no federal funds will be available either. The Board is in a position to explore this important issue and to prevent the frightening possibility that this Project will end up as a “stranded investment” or environmental disaster of destroyed homes, divided farms and weed-growing piles of abandoned dirt.³¹ The Board is in a position to not only deny the Authority's petition for exemption, but also to require a certificate so that this project becomes subject to important protective conditions imposed by the Board. Therefore, Districts request:

1. That the Petition be denied;
2. That the Authority be ordered to file for permission to construct the new rail road;
3. That the Board conduct the necessary or appropriate proceedings;
4. That the Authority be ordered that it is not to commence construction until it has obtained the certificate required by 49 U.S.C. § 10901.

DATED: May 7, 2013.

Respectfully Submitted,

GRISWOLD, LaSALLE, COBB,
DOWD & GIN, L.L.P.

By: 

RAYMOND L. CARLSON

Attorneys for Kings County Water District
and Riverdale Public Utility District

³¹See RBP, p. ES-2 (pdf 10).

EXHIBIT LIST AND EXHIBITS

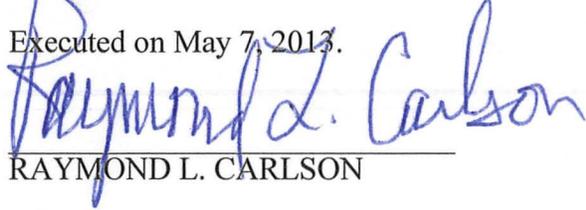
- NOTE: In some cases, due to their length and internet accessibility, the form of the Exhibits attached includes the cited pages or the cited pages plus other select pages. The intent in identifying these Exhibits is that the entirety of each Exhibit is included for purposes of the record of this proceeding.
- EXHIBIT A CHSRA Funding Plan (FP) dated November 11, 2011 (entire)
- EXHIBIT B CHSRA Revised Business Plan (RBP) dated April 2012 (selections attached)
- EXHIBIT C CHSRA Merced/Fresno HSR Design/Build High-Speed Intercity Passenger Rail (HSIPR) Program Track 2–Corridor Programs: Application Form dated 10/01/09 (selections attached)
- EXHIBIT D January 2, 2013 Fresno Bee article “Record Ridership in the Valley”
- EXHIBIT E “High-Speed Passenger Rail; Preliminary Assessment of California’s Cost Estimates and Other Challenges,” Statement of Susan A. Fleming, Director, Physical Infrastructure Issues, delivered to the House Committee on Transportation and Infrastructure, on December 6, 2012 (selections)
- EXHIBIT F Letter of Congressman Jeff Denham dated March 22, 2013 to Daniel R. Elliot III, Chairman, Surface Transportation Board
- EXHIBIT G FRA Grant/Cooperative Agreement for ARRA Funding (Amendment 12/6/12) (pdf 10), <http://www.cahighspeedrail.ca.gov/funding.aspx> (selections attached)
- EXHIBIT H Letter of Union Pacific Railroad dated October 12, 2011 with comments on the Authority’s Merced to Fresno Section of the High-Speed Train Project EIR/EIS
- EXHIBIT I Letter of BNSF Railway Company dated April 16, 2013 regarding PB-BNSF-3146–California High Speed Rail Authority Rail Service Concepts for 2018-2025 BNSF Network Capacity Models
- EXHIBIT J Right of Way Maps from Addendum 9 dated January 1, 2013, to “Request for Proposal for Design-Build Services, RFP No.: HSR 11-16, Book 3, Part E, Subpart 4 - Right of Way Acquisition Plan” (selections pdf 1, 18-21, 142-145)
- EXHIBIT K CHSRA Resolution # HSRA 12-04, “Approval of the Term Sheet, Stipend and RFP scoring criteria for Construction Package # 1,” adopted March 1, 2013; also an attachment to Exhibit L
- EXHIBIT L CHSRA Chief Counsel Board Memorandum dated March 1, 2013 with attachments: (1) contract term sheet entitled “RFP No. 11-016 Construction Package #1, Initial Construction Section of the California High-Speed Train System, Design-Build Contract Term Sheet” and (2) Resolution # HSRA 12-04

EXHIBIT M	Transcript of CHSRA March 1, 2012 Board Meeting (selected pages)
EXHIBIT N	Request for Proposal for Design-Build Services RFP No.: HSR 11-16 Addenda Change Log for Addendum No. 4 Released August 22, 2012 (relevant pages showing alteration of two step scoring process)
EXHIBIT O	CHSRA press release dated April 12, 2013, "California Nigh-Speed Rail Authority Announces Bid Results on Central Valley Construction Project"
EXHIBIT P	CHSRA Apparent Best Value rankings dated April 12, 2013

VERIFICATION

I, Raymond L. Carlson, verify under penalty of perjury that the foregoing is true and correct
and that I am qualified and authorized to file this verification.

Executed on May 7, 2013.



RAYMOND L. CARLSON

Attorney for Kings County Water District
and Riverdale Public Utility District

PROOF OF SERVICE

CCP §§ 1011, 1013, 1013a, 2015.5; FRCP 5(b); 49 C.F.R. § 1104.12(c)

I am employed in the County of Kings, State of California. I am over the age of 18 years and not a party to the within action; my business address is 111 E. Seventh Street, Hanford, CA 93230.

On May 76, 2013, I served the following document(s): PROTEST AND OPPOSITION OF KINGS COUNTY WATER DISTRICT AND RIVERDALE PUBLIC UTILITY DISTRICT TO PETITION FOR EXEMPTION OF CALIFORNIA HIGH-SPEED RAIL AUTHORITY on the interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

BY E-MAIL & MAIL

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BY MAIL—SEE ATTACHED CERTIFICATE OF SERVICE

(By Mail) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Hanford, California, in the ordinary course of business.

(By Mail) I deposited such envelope in the United States mail at Hanford, California. The envelope was mailed with postage thereon fully prepaid.

(By Overnight Delivery) I deposited such envelope in the Federal Express/UPS Next Day Air/U.S. Mail Express Mail depository at Hanford, California. The envelope was sent with delivery charges thereon fully prepaid.

(By Electronic Mail) I caused such documents to be sent to the stated recipient via electronic mail to the e-mail address as stated herein.

(By Personal Service) I caused such envelope to be hand delivered to the offices of the addressee(s) shown above.

(By Facsimile) I caused each document to be delivered by electronic facsimile to the offices listed above.

(State) I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

(Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on May 7, 2013, at Hanford, California.


KATIE ASKINS

CERTIFICATE OF SERVICE

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Denham, Honorable Jeff
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Hazardous Materials Committee On
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Stout, Karen J.
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I certify that I have this day served copies of documents upon all parties of record in this proceeding, by United States mail.

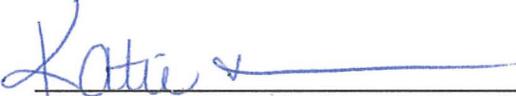

KATIE ASKINS

EXHIBIT “A”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



November 3, 2011

The Honorable Mark Leno, Chair
Joint Legislative Budget Committee
Senate Budget & Fiscal Review Committee

The Honorable Bob Blumenfield, Chair
Assembly Budget Committee

The Honorable Bob Blumenfield, Vice Chair
Joint Legislative Budget Committee

The Honorable Bob Huff, Vice Chair
Senate Budget & Fiscal Review Committee

The Honorable Jim W. Nielsen, Vice Chair
Assembly Budget Committee

The Honorable Bonnie Lowenthal, Chair
Assembly Transportation Committee

The Honorable Kevin Jeffries, Vice Chair
Assembly Transportation Committee

The Honorable Mark De Saulnier, Chair
Senate Transportation and Housing

The Honorable Ted Gaines, Vice Chair
Senate Transportation and Housing

Mr. Will Kempton, Chair
CHSRA Board Peer Review Group

Ms. Ana J. Matosantos, Director
California State Department of Finance

Board Members:

Thomas J. Umberg
Chairperson

Lynn Schank
Vice-Chairperson

Thomas Richards
Vice-Chairperson

Robert Balgenorth

Russell Burns

Jim Hartnett

Dan Richard

Michael Rossi

Matthew Toledo

Roelof van Ark
CEO

Dear Members:

The California High-Speed Rail Authority (the Authority) approved the enclosed Funding Plan on [November 3, 2011] for transmittal to the above parties as required by Streets and Highways (S&H) Code section 2704.08, subdivision (c), prior to the request for appropriation of bond proceeds for certain purposes. Such bonds were authorized under the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, chapter 20 (commencing with section 2704) of Division 3 of the S&H Code (the Bond Act).

The Authority proposes to invest bond proceeds in a Usable Segment, as described in the enclosed Funding Plan under the section entitled "A. The Usable Segment." Two such Usable Segments are the subject of this Funding Plan. The Authority has selected for construction, in accordance with S&H 2704.08, subdivision (f), these two Usable Segments.

The enclosed Funding Plan incorporates by reference the detailed information provided in the draft 2012 Business Plan dated as of November 1, 2011. The Authority wants to ensure readers of this Funding Plan have the full benefit of the details provided in the draft 2012 Business Plan that are relevant to the current Funding Plan, without any confusion that might be created by summaries or inadvertent omissions.

JERRY BROWN
GOVERNOR



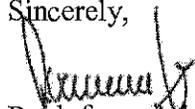
The Authority's initial request for appropriation of proceeds of bonds authorized by the Bond Act for these Useable Segments will be in the amount of \$2.684 billion, including \$66.0 million for pre-construction period activities and \$2.618 billion for construction period activities related to the Initial Construction Section (ICS) described further in the attached.

Each Useable Segment includes a portion of the high-speed train system defined in the draft 2012 Business Plan as the Initial Construction Section. The Authority's initial request for appropriation in the amount of \$2.684 billion is the amount needed to supplement \$3.316 billion in federal funds awarded for use on the Initial Construction Section. The combined funding of \$6.0 billion represents the full amount of funding the Authority believes is needed to complete the Initial Construction Section.

Although the Authority is not yet requesting the full amount of bond proceeds to complete these Usable Segments at this time, this Funding Plan nonetheless provides information for these Usable Segments required by S&H section 2704.08, subdivision (c).

The Authority respectfully requests favorable consideration of this Funding Plan in order to meet its responsibilities to implement a high-speed rail system in California.

Sincerely,



Roelof van Ark
CEO

Enclosure: Funding Plan;

Draft 2012 Business Plan of November 1, 2011
http://www.cahighspeedrail.ca.gov/Business_Plan_reports.aspx;

Resolution # HSRA11-22-Resolution Selecting for Construction Certain Usable Segments Pursuant to Streets and Highways Code Section 2704.08, Subdivision (f); and

Resolution # HSRA11-23-Resolution Approving Funding Plan for Submission Pursuant to Streets and Highways Code Section 2704.08, Subdivision (c)

Cc:

- The Honorable Mark DeSaulnier, Joint Legislative Budget Committee
- The Honorable Bill Emmerson, Joint Legislative Budget Committee
- The Honorable Bob Huff, Joint Legislative Budget Committee
- The Honorable Christine Kehoe, Joint Legislative Budget Committee
- The Honorable Mark Leno, Joint Legislative Budget Committee
- The Honorable Alex Padilla, Joint Legislative Budget Committee
- The Honorable Mimi Walters, Joint Legislative Budget Committee
- The Honorable Lois Wolk, Joint Legislative Budget Committee
- The Honorable Robert Blumenfeld, Joint Legislative Budget Committee
- The Honorable Bill Berryhill, Joint Legislative Budget Committee
- The Honorable Julia Brownley, Joint Legislative Budget Committee
- The Honorable Wesley Chesbro, Joint Legislative Budget Committee
- The Honorable Felipe Fuentes, Joint Legislative Budget Committee
- The Honorable Diane L. Harkey, Joint Legislative Budget Committee
- The Honorable Holly J. Mitchell, Joint Legislative Budget Committee
- The Honorable Jim W. Nielson, Joint Legislative Budget Committee
- The Honorable Elaine Kontominas Alquist, Senate Budget & Fiscal Review Committee
- The Honorable Joel Anderson, Senate Budget & Fiscal Review Committee
- The Honorable Mark DeSaulnier, Senate Budget & Fiscal Review Committee
- The Honorable Bill Emmerson, Senate Budget & Fiscal Review Committee
- The Honorable Noreen Evans, Senate Budget & Fiscal Review Committee
- The Honorable Jean Fuller, Senate Budget & Fiscal Review Committee
- The Honorable Loni Hancock, Senate Budget & Fiscal Review Committee
- The Honorable Doug LaMalfa, Senate Budget & Fiscal Review Committee
- The Honorable Carol Liu, Senate Budget & Fiscal Review Committee
- The Honorable Alan Lowenthal, Senate Budget & Fiscal Review Committee
- The Honorable Michael Rubio, Senate Budget & Fiscal Review Committee
- The Honorable Joe Simitian, Senate Budget & Fiscal Review Committee
- The Honorable Lois Wolk, Senate Budget & Fiscal Review Committee
- The Honorable Roderick D. Wright, Senate Budget & Fiscal Review Committee
- The Honorable Luis Alejo, Assembly Budget Committee
- The Honorable Michael Allen, Assembly Budget Committee
- The Honorable Bill Berryhill, Assembly Budget Committee
- The Honorable Susan Bonilla, Assembly Budget Committee
- The Honorable Julia Brownley, Assembly Budget Committee
- The Honorable Joan Buchanan, Assembly Budget Committee

- The Honorable Betsy Butler, Assembly Budget Committee
- The Honorable Gil Cedillo, Assembly Budget Committee
- The Honorable Wesley Chesbro, Assembly Budget Committee
- The Honorable Roger Dickinson, Assembly Budget Committee
- The Honorable Mike Feuer, Assembly Budget Committee
- The Honorable Richard S. Gordon, Assembly Budget Committee
- The Honorable Diane L. Harkey, Assembly Budget Committee
- The Honorable Jared Huffman, Assembly Budget Committee
- The Honorable Kevin Jeffries, Assembly Budget Committee
- The Honorable Brian Jones, Assembly Budget Committee
- The Honorable Dan Logue, Assembly Budget Committee
- The Honorable Allan R. Mansoor, Assembly Budget Committee
- The Honorable Holly J. Michell, Assembly Budget Committee
- The Honorable William W. Monning, Assembly Budget Committee
- The Honorable Mike Morrell, Assembly Budget Committee
- The Honorable Brian Nestande, Assembly Budget Committee
- The Honorable Sandre Swanson, Assembly Budget Committee
- The Honorable David Valadao, Assembly Budget Committee
- The Honorable Donald P. Wagner, Assembly Budget Committee
- The Honorable Katcho Achadjian, Assembly Transportation Committee
- The Honorable Robert Blumenfield, Assembly Transportation Committee
- The Honorable Susan Bonilla, Assembly Transportation Committee
- The Honorable Joan Buchanan, Assembly Transportation Committee
- The Honorable Mike Eng, Assembly Transportation Committee
- The Honorable Warren T. Furutani, Assembly Transportation Committee
- The Honorable Cathleen Galgiani, Assembly Transportation Committee
- The Honorable Dan Logue, Assembly Transportation Committee
- The Honorable Jeff Miller, Assembly Transportation Committee
- The Honorable Chris Norby, Assembly Transportation Committee
- The Honorable Anthony Protantino, Assembly Transportation Committee
- The Honorable Jose Solorio, Assembly Transportation Committee
- The Honorable Tom Harman, Senate Transportation and Housing
- The Honorable Bob Huff, Senate Transportation and Housing
- The Honorable Christine Kehoe, Senate Transportation and Housing
- The Honorable Alan Lowenthal, Senate Transportation and Housing
- The Honorable Fran Pavley, Senate Transportation and Housing
- The Honorable Michael J. Rubio, Senate Transportation and Housing
- The Honorable Joe Simitian, Senate Transportation and Housing
- Mr. Chris Holtz, Assembly Republican Fiscal
- Mr. Ted Morely, Senate Republican Office of Policy
- Ms. Rocel Bettencourt, Senate Republican Fiscal
- Mr. Gregson Porteous, Assembly Republican Office of Policy

- Mr. John Chalker, California High Speed Rail Authority Board Peer Review Group
- Mr. Lou Thompson, California High Speed Rail Authority Board Peer Review Group
- Mr. Walter Bell, California High Speed Rail Authority Board Peer Review Group
- Ms. Diane Eidam, California High Speed Rail Authority Board Peer Review Group
- Mr. Frieder Seible, California High Speed Rail Authority Board Peer Review Group
- Mr. Michael Cohen, Chief Deputy Director, Budget, California State Department of Finance
- Mr. Pedro R. Reyes, Chief Deputy Director, Policy, California State Department of Finance



**CALIFORNIA
HIGH-SPEED RAIL
AUTHORITY**

California High-Speed Rail Authority

Funding Plan

[November 3, 2011]

** Submitted pursuant to Streets and Highways Code section 2704.08, subdivision (c)*

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Introduction

The "Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century" (the Bond Act) is codified in Streets and Highways Code Section (S&H) 2704 et seq. S&H 2704.08, subdivision (c)(1) requires that, [n]o later than 90 days prior to the submittal to the Legislature and the Governor of the initial request for appropriation of proceeds of bonds authorized by this chapter for any eligible capital costs on each corridor, or usable segment thereof, identified in subdivision (b) of Section 2704.04, other than costs described in subdivision (g), the authority shall have approved and submitted to the Director of Finance, the peer review group established pursuant to Section 185035 of the Public Utilities Code, and the policy committees with jurisdiction over transportation matters and the fiscal committees in both houses of the Legislature, a detailed funding plan for that corridor or a usable segment thereof.

The Authority is submitting this Funding Plan in satisfaction of the above-referenced requirement. The Authority proposes to invest bond proceeds in a Usable Segment, as described in this Funding Plan under the section entitled "A. The Usable Segment." Two Usable Segments are the subject of this Funding Plan. The Authority has selected for construction, in accordance with S&H 2704.08, subdivision (f), these two Usable Segments. A decision will be made in the future as to which of the two segments will be constructed first. The two segments presented have an overlapping sub-segment, namely the section from Merced to Bakersfield, so figures presented in this funding plan should not be added. Each of the two Useable Segments are identical to the associated Initial Operating Sections defined in the draft 2012 Business Plan Each Useable Segment includes a portion of the high-speed train system defined in the 2012 Business Plan as the Initial Construction Section.

This Funding Plan incorporates by reference the detailed information provided in the attached draft 2012 Business Plan dated November 1, 2011. The Authority wants to provide readers of this Funding Plan the full benefit of the details provided in the draft 2012 Business Plan that are relevant to the current Funding Plan, without any confusion that might be created by summaries or inadvertent omissions.

The Authority's initial request for appropriation of proceeds of bonds authorized by the Bond Act for the initial Useable Segment will be in the amount of \$2.684 billion, which is the amount needed to supplement \$3.316 billion in federal funds awarded for use on the Initial Construction Section. The combined funding of \$6.0 billion represents the full amount of funding the Authority believes is needed to complete the Initial Construction Section.

Although the Authority is not yet requesting the full amount of bond proceeds to complete the Usable Segments at this time, this Funding Plan nonetheless provides information for these Usable Segments required by S&H section 2704.08, subdivision (c).

A. The Usable Segment

Streets and Highways Code section 2704.08, subdivision (c)(2)(A) requires identification of the corridor, or usable segment thereof, in which the authority is proposing to invest bond proceeds.

As described in the attached draft 2012 Business Plan, the Authority is advancing a detailed phasing plan that contains two options for its Initial Operating Section (the IOS). The selected IOS will become the initial Usable Segment in which the Authority is proposing to invest bond proceeds. The other Usable Segment would follow thereafter, as described in the 2012 Business Plan in **Chapter 2, A Phased Implementation Strategy: Linking Northern and Southern California**. This document is a Funding Plan for both.

Initial Operating Section – North (IOS North or IOS-N) (Central Valley to Bay Area).

This Usable Segment consists of the portion of the corridor defined as Phase 1 in the Bond Act between and including a Bakersfield station and a San Jose station. It would run approximately 290 miles from a Bakersfield station in the South to a San Jose station in the North, through four additional stations including Gilroy, Merced, Fresno, and Kings/Tulare. The six planned stations also provide vital connections with other rail and transit services throughout the State. This Usable Segment is described in the draft 2012 Business Plan as the IOS-North.

Initial Operating Section – South (IOS South or IOS-S) (Central Valley to Los Angeles Basin).

This Usable Segment consists of the portion of the corridor defined as Phase 1 in the Bond Act between and including a Merced station and a San Fernando Valley station. It would run approximately 300 miles from a Merced station in the North to a San Fernando Valley station in the South, with four additional stations including Fresno, Kings/Tulare, Bakersfield, and Palmdale. The six planned stations also provide vital connections with other rail and transit services throughout the State. This Usable Segment is described in the draft 2012 Business Plan as the IOS South.

The future appropriation for \$2.684 billion in proceeds of bonds authorized under Proposition 1A is proposed to be invested in the portion of each Usable Segment described in the draft 2012 Business Plan as the Initial Construction Section (the ICS). The ICS is proposed to cover a distance of approximately 130 miles of new high-speed rail alignment from just north of Bakersfield at the southern end to north of Fresno at the northern end. The ICS includes the Fresno and Kings/Tulare stations. The ICS is included in both the IOS North Usable Segment and the IOS South Usable Segment.

Regardless of which of these IOS options is selected in completing the initial Usable Segment, the ICS must be completed as a first step toward completion of these Usable Segments.

See the attached draft 2012 Business Plan for additional information about the IOS North, the IOS South and the Initial Construction Section for which the Authority is requesting an appropriation of bond proceeds as described in this Funding Plan. In particular, see Chapter 2, A Phased Implementation Strategy: Linking Northern and Southern California.

B. Lease or Franchise Agreements

Streets and Highways Code section 2704.08, subdivision (c)(2)(B) requires a description of the expected terms and conditions associated with any lease agreement or franchise agreement proposed to be entered into by the authority and any other party for the construction or operation of passenger train service along the corridor or usable segment thereof.

The attached draft 2012 Business Plan describes the Authority's planned business model and the anticipated roles of various parties in the development of the System, including for the IOS North Usable Segment and IOS South Usable Segment that are the subject of this Funding Plan. ***See Chapter 5, Business Model.***

There will be numerous agreements associated with completion of these Usable Segments, which agreements may include one or more lease agreements or franchise agreements of the types referenced in S&H 2704.08, subdivision (c)(2)(B). However, no such lease or franchise agreements are being proposed to be entered into by the Authority at this time.

The Initial Construction Section is anticipated to be developed using one or more design-build contracts (the DB Contracts). The terms of the DB Contracts and any other necessary contracts for the ICS have been developed as part of the procurement process, commencing with a planned release of a request for qualifications in October/November 2011. No lease or franchise agreement is anticipated for the Initial Construction Section.

Furthermore, as discussed in Chapter 2 and Chapter 5 of the attached draft 2012 Business Plan, the Authority does not plan to operate high-speed service along the ICS. Such service will only occur upon completion of the Initial Operating Section that will serve as the initial Usable Segment. At that time the Authority intends to enter into franchise, operating or lease agreements with private operators to operate the system. ***See Chapter 2, A Phased Implementation Strategy, and Chapter 5, Business Model.***

Although not proposed at this time, the Authority is exploring the potential to allow Amtrak to operate its passenger train service on an interim basis, using the Authority's ICS. There would be an agreement required with this approach. Discussions with Amtrak have taken place and a general letter of support has been received dated October 8, 2010. However, any final decision regarding such potential interim Amtrak service would be made in the future and therefore is not applicable at the time of this Funding Plan. This alternative is further discussed in Chapter 2 of the draft 2012 Business Plan.

C. Capital / Construction Cost

Streets and Highways Code section 2704.08, subdivision (c)(2)(C) requires presentation of the estimated full cost of constructing the corridor or usable segment thereof, including an estimate of cost escalation during construction and appropriate reserves for contingencies.

As presented in the attached draft 2012 Business Plan, the Authority has obtained updated estimates of costs to complete the System. **See Chapter 3, Capital Costs; Chapter 4, Business Planning Schedule; and Chapter 8, Funding and Financing.**

Exhibits C-1 and C-2 below present the estimated full cost of the Initial Construction Section and the incremental capital costs required to complete the IOS North Usable Segment and the IOS South Usable Segment, based on the Capital Cost Scenario 1 costs described in **Chapter 3, Capital Cost**. Exhibit C-1 presents the capital costs in 2010 dollars, and Exhibit C-2 presents the capital costs in year-of-expenditure dollars. The IOS North and IOS South figures should not be added, but should be seen as stand-alone values. They contain an overlapping sub-segment, namely the section from Merced to Bakersfield.

Except where noted, the figures in this Funding Plan are based on these Scenario 1 capital cost estimates. An alternative estimate of capital costs also has been presented in the draft 2012 Business Plan, reflecting the highest cost alignment options under consideration, and the associated environmental mitigation costs. This scenario also is described in the draft 2012 Business Plan as Capital Cost Scenario 2. **See Chapter 3, Capital Cost.**

The Capital Cost Scenario 1 year-of-expenditure figures in Exhibit C-2 are based on the phased delivery schedule described in **Chapter 4, Business Planning Schedule**. The Authority plans to commence construction activities for the ICS by late 2012. For purposes of presentation, these costs are combined with costs in 2013, the first full year in which construction would be underway.

Exhibit C-1: Cost to Construct Initial Usable Segment (2010 dollars in millions)

	ICS	IOS North	ICS	IOS South
Incremental capital cost by section	5,200	19,400	5,200	21,400
Cumulative capital cost ¹	5,200	24,600	5,200	26,600
Year of construction start ²	2013	2015	2013	2015
Year of construction end	2017	2021	2017	2021

¹ Cumulative figures may not foot due to independent rounding

² First full year of construction

Exhibit C-2: Cost to Construct Initial Usable Segment (year-of-expenditure dollars in millions)

	ICS	IOS North	ICS	IOS South
Incremental capital cost by section	6,000	24,700	6,000	27,200
Cumulative capital cost ¹	6,000	30,700	6,000	33,200
Year of construction start ²	2013	2015	2013	2015
Year of construction end	2017	2021	2017	2021

¹ Cumulative figures may not foot due to independent rounding

² First full year of construction

The above-referenced capital costs include both allocated contingencies and unallocated contingencies, as well as costs related to rolling stock and systems testing and commissioning before operations (pre-operating costs). Furthermore, the year-of-expenditure costs include escalation at a rate of 3 percent per annum, representing a long-term average annual rate of inflation.

The detailed breakdown of these projected costs by category of expenditure can be found in the draft 2012 Business Plan. **See Chapter 3, Capital Cost.**

D. Sources of Funds

Streets and Highways Code section 2704.08, subdivision (c)(2)(D) requires presentation of the sources of all funds to be invested in the corridor, or usable segment thereof, and the anticipated time of receipt of those funds based on expected commitments, authorizations, agreements, allocations, or other means.

As described in the attached draft 2012 Business Plan, the Authority intends to commence with the Initial Construction Section, to be completed between 2012 and 2017. All necessary funding sources for the ICS have been identified, with distribution subject to satisfaction of the various conditions associated with each of the following sources:

- **State general obligation bonds authorized under the “Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century” (Bond Act) approved by California voters as Proposition 1A in 2008.** This includes \$66.0 million for pre-construction period activities and \$2.618 billion for construction period activities. Total state bond funding to be applied to the ICS combines to \$2.684 billion.
- **Federal grants authorized under the American Recovery and Reinvestment Act (ARRA) and under the “High-Speed Intercity Passenger Rail Program (HSIPR) for federal fiscal year 2010.** This includes \$66.0 million for pre-construction period activities and \$3.25 billion for construction period activities. Total federal grants funding to be applied to the ICS combines to \$3.316 billion.

Exhibit D-1, below, presents the above-referenced sources of funds for the Initial Construction Section.

Exhibit D-1. Initial Construction Section Funding Sources¹

Funding Sources¹ (\$ MM)	Amount	Subtotals
<i>Pre-construction² (e.g., planning, engineering, environmental clearance)</i>		
ARRA Pre-construction Funding	66.0	
- State matching funds	66.0	
<i>Total ARRA Pre-Construction</i>		<i>132.0</i>
<i>Construction</i>		
ARRA Construction Funding	2,321.0	
- State matching funds	2,258.0	
<i>Subtotal ARRA Construction</i>		<i>4,579.0</i>
FY 2010 Appropriations Construction Funding	929.0	
- State matching funds	360.0	
<i>Subtotal FY 2010 Construction Funding</i>		<i>1,289.0</i>
<i>Total Construction Funding</i>		<i>5,868.0</i>
<i>Total Initial Construction Section</i>		
<i>Total Pre-construction and Construction Periods</i>		<i>6,000.0</i>

¹ Figures are subject to rounding

² Pre-construction costs reflect estimated ICS share, excluding any station design costs

The timing of distribution and receipt of funds will coincide with the anticipated timing of construction discussed previously, with certain pre-construction activities already in process, and certain construction activities commencing for the ICS by late 2012 and continuing into 2017.

Upon identification of additional funding sources, the Authority intends to continue construction beyond the ICS to commence either the IOS North or the IOS South. For planning purposes, construction of the remainder of the IOS North or IOS South is estimated to be performed between 2015 and 2021 to reach completion of the initial Usable Segment. The anticipated timing of the identification of these additional funds for the initial Usable Segment would be not later than 2015 to enable procurement of construction-related services at that time. The timing of distribution and receipt of the funds then would correspond to the timing of anticipated expenditures.

The draft 2012 Business Plan discusses the potential future funding sources and the timing of the funding needs, to construct the Usable Segments. ***See Chapter 8, Funding and Financing.***

E. Projected Ridership and Operating Revenue Estimates

Streets and Highways Code section 2704.08, subdivision (c)(2)(E) requires presentation of the projected ridership and operating revenue estimate based on projected high-speed passenger train operations on the corridor or usable segment.

This Funding Plan incorporates by reference the projected ridership and related revenue estimates presented in the attached draft 2012 Business Plan. **See Chapter 6, Ridership Revenues, and Chapter 7, Operating and Maintenance Costs.** The chapter also includes sensitivity analysis, reflecting revenue estimates for high, medium and low scenarios for ridership.

Furthermore, this Funding Plan also incorporates by reference the information regarding the net operating profit (net revenues after operations and maintenance expenses) presented in the draft 2012 Business Plan. **See Chapter 8, Funding and Financing.** The chapter also includes sensitivity analysis, reflecting the net operating profit resulting from both revenue estimates and operating and maintenance cost estimates for high, medium and low scenarios for ridership.

The draft 2012 Business Plan uses as its "Planning Case" the "medium" scenario for ridership, revenues and associated operating and maintenance (O&M) costs. This Funding Plan adopts the same approach, and incorporates by reference the results of the financial analysis presented. Under the three revenue and O&M cost scenarios analyzed in Chapter 8 (planning case, high revenue and low revenue) there is a net operating profit commencing in the first year of operations under each scenario. This is a consistent finding across scenarios once an initial operating section is achieved. **See Chapter 8, Funding and Financing.**

Exhibits E-1, E-2, and E-3 present Revenues, O&M Costs, and Net Operating Profit, respectively for the two Usable Segments in year of expenditure dollars. As noted previously, IOS North and IOS South figures should not be added, but should be seen as stand-alone values.

Exhibit E-1. Revenues – Planning case (year of expenditure dollars in millions)

Revenues		2025	2030	2035	2040	2045	2050	2055	2060
Usable Segment	Operating Year								
IOS North	2022	759	1,074	1,277	1,514	1,804	2,145	2,549	3,018
IOS South	2022	1,002	1,422	1,691	2,005	2,389	2,840	3,375	3,996

Exhibit E-2. O&M Costs — Planning case (year of expenditure dollars in millions)

O&M Costs		2025	2030	2035	2040	2045	2050	2055	2060
Usable Segment	Operating Year								
IOS North	2022	474	643	808	988	1,193	1,362	1,456	1,751
IOS South	2022	539	713	927	1,132	1,362	1,548	1,683	1,953

Exhibit E-3. Net Operating Profit — Planning case (year of expenditure dollars in millions)

Net Operating Profit		2025	2030	2035	2040	2045	2050	2055	2060
Usable Segment	Operating Year								
IOS North	2022	285	431	469	526	612	783	1,094	1,268
IOS South	2022	464	710	764	873	1,027	1,292	1,693	2,043

F. Known or Foreseeable Risks

Streets and Highways Code section 2704.08, subdivision (c)(2)(F) requires presentation of all known or foreseeable risks associated with the construction and operation of high-speed passenger train service along the corridor or usable segment thereof and the process and actions the authority will undertake to manage those risks.

This Funding Plan incorporates by reference the risks and mitigation strategies presented in the attached draft 2012 Business Plan. **See Chapter 9, Risk Identification and Mitigation.**

The information presented therein includes the known or foreseeable risks associated with the Usable Segments, including the Initial Construction Section, that are the subject of this Funding Plan. The draft 2012 Business Plan identifies both program-level risks associated with revenue, ridership, approvals and other program-level matters, as well as the specific delivery risks associated with the ICS portion of an initial Usable Segment, in particular.

The categories of key risks identified in Chapter 9 include the following:

- Cost and Schedule
- Staffing and Organizational Structure
- Approvals
- Demand/Ridership and Revenues
- Funding
- Financing
- Right-of-Way
- Stakeholder Agreements, Interface and Integration

For each category, the draft 2012 Business Plan describes the risk and its potential impact, and presents a mitigation and management approach. It also describes fundamental risk mitigation principles, objectives for balanced risk transfer, and contracting strategies. Finally, it describes key elements of the Authority's Risk Management Plan. **See Chapter 9, Risk Identification and Mitigation**, for additional details on these topics.

G. Authority Certifications

Streets and Highways Code section 2704.08, subdivision (c)(2)(G) through subdivision (c)(2)(K) requires presentation of various certifications of the Authority regarding the corridor or usable segment thereof, as noted below:

(G) Construction of the corridor or usable segment thereof can be completed as proposed in the plan.

(H) The corridor or usable segment thereof would be suitable and ready for high-speed train operation.

(I) One or more passenger service providers can begin using the tracks or stations for passenger train service.

(J) The planned passenger service by the authority in the corridor or usable segment thereof will not require a local, state, or federal operating subsidy.

(K) The authority has completed all necessary project level environmental clearances necessary to proceed to construction.

Based on the various estimates, plans and other information presented in the attached draft 2012 Business Plan, which is incorporated by reference in this Funding Plan, the Authority certifies the following:

- **Construction of these Usable Segments, and the Initial Construction Section within them, can be completed as proposed by the Authority.**
 - *Furthermore, such Usable Segments will commence with the construction of the Initial Construction Section. The future completion of these Usable Segments can proceed thereafter on a phased basis, as described in detail the attached draft 2012 Business Plan.*

- **Upon completion of each Usable Segment, such segment would be suitable and ready for high-speed train operation.**
 - *Furthermore, such Usable Segments will be designed and constructed for the purpose of high-speed passenger rail service.*

- **Upon completion of each Usable Segment, one or more passenger service providers can begin using the tracks or stations for passenger train service.**
 - *Furthermore, in the case of each Usable Segment, it is the Authority’s intent to have high-speed passenger rail service operating such that there would be no need for other passenger service providers, such as Amtrak, to begin using the tracks or stations.*
 - *Nonetheless, it is the Authority’s belief that in the event it became necessary or advantageous, such other passenger service provider could use each Usable Segment (or a portion thereof) for passenger train service, subject to the satisfaction of appropriate conditions and agreements.*
 - *In addition, although the Authority does not presently plan to have any passenger service commence on the Initial Construction Section prior to completion of a Usable Segment, the Authority has planned that a passenger service provider could use the Initial Construction Section for passenger train service, should this at some future time seem advisable, subject to satisfaction of appropriate conditions and agreements.*

- **The planned passenger service by the Authority for the Usable Segments will not require a local, state, or federal operating subsidy.**
 - *Furthermore, each Usable Segment is projected to generate positive net operating profit (revenues less operations and maintenance expenses) commencing in the first year of operations.*

- **In connection with the Initial Construction Section¹, the Authority will have, prior to expending Bond Act proceeds requested in connection with this Funding Plan, completed all necessary project level environmental clearances necessary to proceed to construction.**
 - *Furthermore, in connection with the Initial Construction Section, the Authority already has completed the following necessary steps: The draft environmental impact reports / environmental impact statements for the Merced to Fresno and Fresno to Bakersfield segments were released for public comment on August 9, 2011. Public comment closed on October 13, 2011. The revised draft environmental impact reports / environmental impact statements for the Fresno to Bakersfield segment will be reissued in spring of 2012 for further public comment.*
 - *The following steps are scheduled to be completed before construction is to commence: The Record of Decision/Notice of Determination (ROD/NOD) is expected to be obtained for the Merced to Fresno segment by April 2012, and for the Fresno to Bakersfield section by November 2012.*

¹ The ICS is the only portion of the Usable Segments for which Bond Act proceeds for construction are requested in this Funding Plan.



CALIFORNIA
HIGH-SPEED RAIL
AUTHORITY

Resolution #HSRA11-22

Resolution Selecting for Construction Certain Usable Segments Pursuant to Streets and Highways Code Section 2704.08, Subdivision (f)

WHEREAS, the authorization and responsibility for planning, construction, and operation of high-speed passenger train service at speeds exceeding 125 miles per hour in this State is exclusively granted to the High-Speed Rail Authority (the "Authority");

WHEREAS, the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, chapter 20 (commencing with section 2704) of Division 3 of the S&H Code (the "Bond Act") was approved by the voters of the State in November 2008;

WHEREAS, the Bond Act authorized bonds for purposes of developing a high-speed train system (as defined in the Bond Act);

WHEREAS, the Bond Act added section 2704.08, subdivision (f), to the Streets and Highways Code, which requires the Authority consider certain criteria in selecting for construction corridors or usable segments (each as defined in the Bond Act) of the high-speed train system;

WHEREAS, the Authority was presented with information and reports bearing on each required criterion and such other criteria, if any, the Authority has deemed appropriate to consider; and

WHEREAS, the Authority has considered such information and reports and evaluated such criteria in accordance with Streets and Highways Code section 2704.08, subdivision (f).

NOW, THEREFORE, BE IT RESOLVED by the High-Speed Rail Authority, as follows:

Pursuant to Streets and Highways Code section 2704.08, subdivision (f), the Authority hereby selects for construction each of the following usable segments:

- The portion of the Phase 1 corridor (described in Streets and Highways Code 2704.04, subdivision (b)(2)) between and including a San Jose station and a Bakersfield station; and
- The portion of the Phase 1 corridor between and including a Merced station and a San Fernando Valley station.

Vote: 6-0

Date: November 3, 2011



**CALIFORNIA
HIGH-SPEED RAIL
AUTHORITY**

Resolution #HSRA11-23

Resolution Approving Funding Plan for Submission Pursuant to Streets and Highways Code Section 2704.08, Subdivision (c)

WHEREAS, the authorization and responsibility for planning, construction, and operation of high-speed passenger train service at speeds exceeding 125 miles per hour in this State is exclusively granted to the High-Speed Rail Authority (the "Authority");

WHEREAS, the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, chapter 20 (commencing with section 2704) of Division 3 of the S&H Code (the "Bond Act") was approved by the voters of the State in November 2008;

WHEREAS, the Bond Act authorized bonds for purposes of developing a high-speed train system (as defined in the Bond Act);

WHEREAS, the Bond Act added section 2704.08, subdivision (c), to the Streets and Highways Code, which requires that no later than 90 days prior to the submittal to the Legislature and the Governor of the initial request for appropriation of proceeds of high-speed rail bonds authorized by the Bond Act for any eligible capital costs (as defined in the Bond Act) on each corridor (as defined in the Bond Act), or usable segment (as defined in the Bond Act) thereof, identified in Streets and Highways Code section 2704.04, subdivision (b), other than costs described in Streets and Highways Code section 2704.08, subdivision (g), the Authority shall have approved and submitted to the Director of Finance, the peer review group established pursuant to Public Utilities Code Section 185035, and the policy committees with jurisdiction over transportation matters and the fiscal committees in both houses of the Legislature, a detailed funding plan for that corridor or usable segment thereof;

WHEREAS, the Authority on this date adopted its Resolution **#HSRA11-22**, selecting for construction each of the usable segments (the "Usable Segments") described therein;

WHEREAS, the Authority was presented with a form of funding plan for each Usable Segment; and

WHEREAS, the Authority desires to approve and submit a funding plan for each Usable Segment.

NOW, THEREFORE, BE IT RESOLVED by the High-Speed Rail Authority, as follows:

The Authority hereby approves the funding plan presented to this meeting and relating to each Usable Segment. The Authority hereby authorizes and directs the Executive Director to submit the funding plan to the recipients set forth in Streets and Highways Code section 2704.08, subdivision (c).

Vote: 6-0

Date: November 3, 2011

o000o

EXHIBIT “B”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



California High-Speed Rail Program Revised 2012 Business Plan

APRIL 2012

Building California's Future

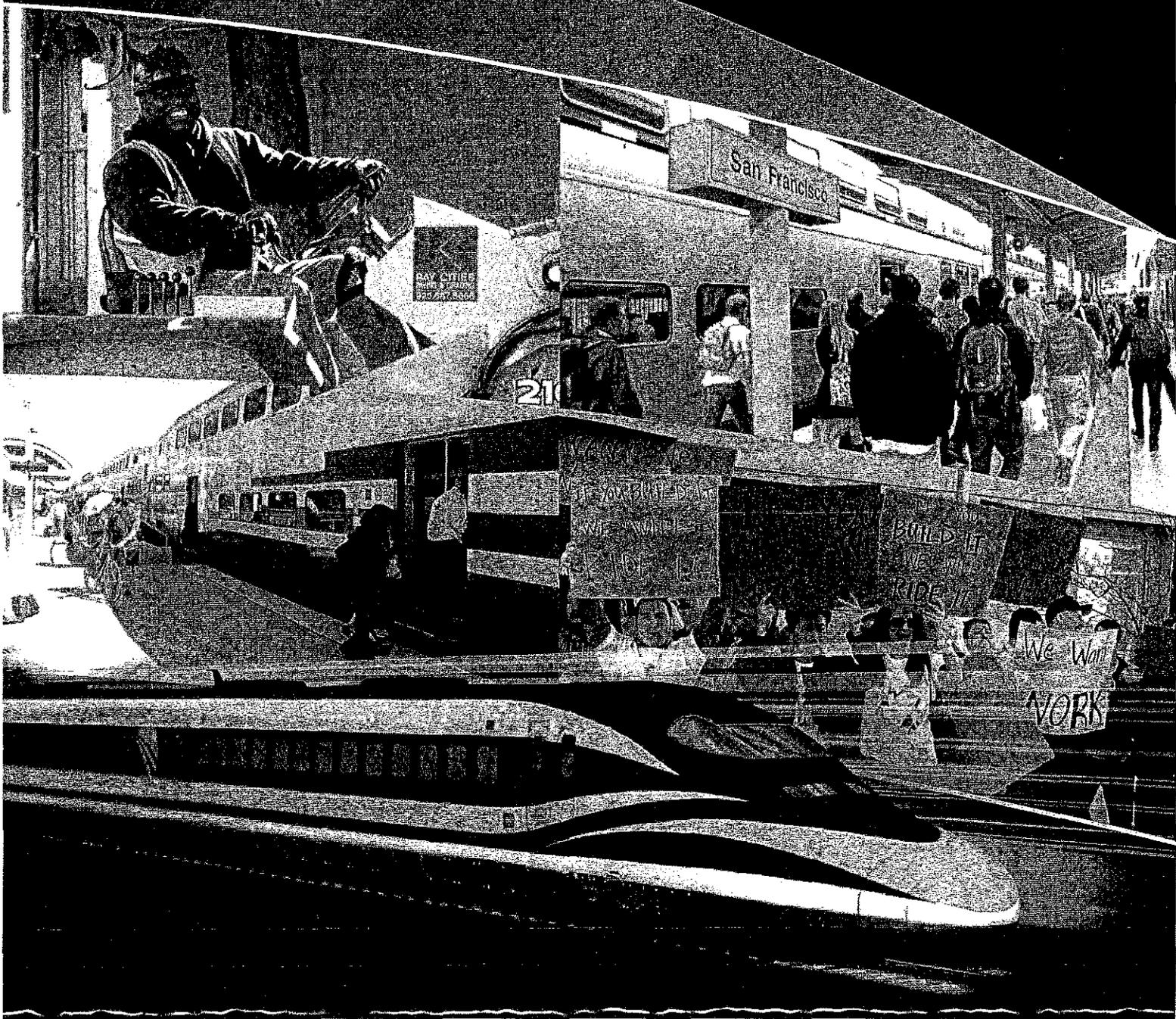


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Acronyms and Abbreviations

ACE	Altamont Commuter Express
ARB	Air Resources Board
ARRA	American Recovery and Reinvestment Act of 2009
ASCE	American Society of Civil Engineers
Authority	California High-Speed Rail Authority (see also "CHSRA")
AVE	Alta Velocidad Española (Spanish HSR service)
AVTA	Antelope Valley Transit Authority
B2B	Bay to Basin
BART	Bay Area Rapid Transit
BCA	benefit-cost analysis
BNSF	Burlington Northern Santa Fe
CADWR	California Department of Water Resources
CAFE	corporate average fuel economy
CALPIRG	California Public Interest Research Group
CALTRANS	California Department of Transportation
CEO	chief executive officer
CHSRA	California High-Speed Rail Authority (see also "Authority")
CHSRP	California High-Speed Rail Program
CTC	California Transportation Commission
DBB	design-bid-build
DBE	Disadvantaged Business Enterprise
DBF(O)M	design-build-finance-operate-maintain
DVBE	Disabled Veterans Business Enterprise
EIA	U.S. Energy Information Administration
EIR/EIS	environmental impact report/environmental impact statement
EPA	U.S. Environmental Protection Agency
ERR	economic rate of return
FAX	Fresno Area Express
FR	<i>Federal Register</i>
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
GDP	Gross Domestic Product
GET	Golden Empire Transit
GHG	greenhouse gas
HSIPRP	High-Speed Intercity Passenger Rail Program
HSR	high-speed rail
HUD	U.S. Department of Housing and Urban Development

ICE	InterCityExpress (German HSR)
IOS	Initial Operating Section
IRJ	<i>International Railway Journal</i>
IRR	internal rate of return
JR Central	Central Japan Railway Company
KART	Kings Area Rural Transit
LACTMA	Los Angeles County Metropolitan Transportation Authority
LDV	light-duty vehicle
Metrolink	Southern California Regional Rail Authority
MB	Microbusiness
MOU	memoranda of understanding
MPH	miles per hour
MPO	metropolitan planning organization
MTC	San Francisco Bay Area Metropolitan Transportation Commission
MTS	San Diego Metropolitan Transit System
MUNI	San Francisco Municipal Railway Transit System
NCTD	North County Transit District
NPV	net present value
O&M	operating and maintenance
OCTA	Orange County Transportation Authority
PMT	Program Management Team
PPP	public-private partnership
QTCB	qualified tax credit bonds
RASP	Regional Aviation System Planning
RCTC	Riverside County Transportation Commission
RENFE	Red Nacional de los Ferrocarriles Españoles
RFEI	Request for Expression of Interest
ROW	right-of-way
RPA	Regional Plan Association
RRIF	Railroad Rehabilitation and Improvement Financing
RT	Sacramento Regional Transit District
RTA	regional transportation agencies
SANBAG	San Bernardino Association of Governments
SANDAG	San Diego Association of Governments
SB	Senate Bill
SB	Small Business
SCAG	Southern California Association of Governments
SDCRAA	San Diego County Regional Airport Authority
SHCC	Self-Help Counties Coalition

SJRR	San Joaquin Regional Rail Commission
Socal ICG	Southern California Inland Corridor Group
TAV	Trem de Alta Velocidade (Planned Rio-Sao Paulo HSR)
TC	Transportation California
TCAT	Tulare County Area Transit
TGV	Train à Grande Vitesse (French HSR service)
TIFIA	Transportation Infrastructure Finance and Innovation Act
TOD	transit-oriented development
TRIP	The Road Information Program
UIC	International Union of Railways
UKDT	United Kingdom Department of Transport
UP	Union Pacific Railroad
UPRR	Union Pacific Railroad
USBEA	U.S. Bureau of Economic Analysis
USDOT	U.S. Department of Transportation
VTA	Santa Clara Valley Transportation Authority
YOE	year of expenditure

Executive Summary

Better. Faster. Cheaper.

That has been the charge to the California High-Speed Rail Authority (CHSRA/Authority) in revising the Draft 2012 Business Plan (Draft Plan). Following release of the Draft Plan on November 1, 2011, Governor Jerry Brown affirmed the importance of moving forward with high-speed rail (HSR) as an important investment in California's future. But, he and others called for changes to the Draft Plan so that the utility of the system and its connectivity with regional/commuter rail systems will be improved; so that Californians will realize benefits sooner; and, so that the costs to taxpayers will be reduced.

The responsibility of the Authority, as established in Proposition 1A, is clear—to implement the program approved by the voters.

It is the intent of the Legislature by enacting this chapter and of the people of California by approving the bond measure pursuant to this chapter to initiate the construction of a high-speed train system that connects the San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim, and links the state's major population centers, including Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego...

The Draft Plan laid out a roadmap for how such a high-speed program could be implemented. Following its release, the Authority solicited, reviewed, and considered comments from a broad range of interested parties. Public meetings to receive comments were held in Sacramento, Merced, and Los Angeles. The Draft Plan was the focus of several legislative hearings that included public participation. Numerous meetings and discussions were held around the state with a wide range of stakeholders. Input was received from the California High-Speed Rail Peer Review Group, the Legislative Analyst's Office, and the Bureau of State Audits. More than 250 comments were submitted to the Authority's website and through letters.

There was widespread acknowledgement that the Draft Plan was an improvement over previous versions; that it was realistic, transparent, and that it presented a logical and feasible means of delivering the program through phased implementation. That realism and transparency also meant that the public and decision-makers were confronted with higher cost estimates, longer time frames, and a frank assessment of the current funding outlook, which includes contentious issues at the federal level.

The critiques, commentaries, and suggestions yielded a number of consistent themes:

- Broad support was voiced for a phased implementation strategy to deliver the system
- The cost for the full-build system was too high
- A blended approach to both construction and operations, reducing costs and impacts, is the preferred path forward
- Near-term investment in the "bookends" (the Los Angeles and San Francisco Bay Area metropolitan regions) would produce immediate benefits and enhance the ultimate utility of high-speed rail

- Closing the intercity rail gap across the Tehachapi Mountains between Bakersfield and Palmdale should be a priority to connect the state via rail
- The benefits of the initial investment in the Central Valley were not clear enough and were seen by some as imposing a risk of stranded investment if the program did not continue
- Ridership estimates remain a question for some
- The opportunity to bring in private-sector investment earlier should be re-evaluated
- Some of the technical analyses, such as the presentation of the cost of alternative capacity on freeways and airports, were not clearly presented, leading to misunderstanding or skepticism
- The near-term federal budget scenario raises questions about when and how new federal funding will be provided to support the implementation of the next steps of the program

Key changes from the Draft 2012 Business Plan

The wide array of input, along with further analysis by the Authority, has resulted in significant changes to the Draft Plan. With these changes, the 2012 Revised Business Plan (Revised Plan) provides for an implementation strategy that delivers greater value, broader benefits, and earlier results by more quickly and effectively integrating HSR into an expanded, improved statewide rail network, as shown in Exhibit ES-1.

The overall passenger rail system will be significantly ***better*** because of two commitments in the plan. First is the commitment to build not just an initial construction segment but in fact an Initial Operating Section (IOS) of high-speed rail. This IOS, which can be completed within 10 years, will connect the Central Valley to the Los Angeles Basin. This segment will bring high-speed, electric passenger operations to California, tying together the Central Valley with the Los Angeles Basin as a first step toward a statewide high-speed rail system. Second, the Revised Plan provides for the integration, or blending, of high-speed rail improvements with existing and upgraded rail systems. Passengers will have more options, faster travel times, and greater reliability and safety. By leveraging new infrastructure and systems with existing and upgraded systems, taxpayers will benefit from greater cost efficiency and more effective use of state investment dollars.

Benefits will be delivered ***faster*** through the adoption of the blended approach and through investment in the bookends. Across the state, transportation systems will be improved and jobs will be created through the implementation of those improvements. The Central Valley will see the initial construction of the nation's first high-speed rail system and will benefit from an expanded and integrated passenger rail system that uses that infrastructure. The San Francisco Bay Area will see the benefits of improved safety, reliability, efficiency, and air quality through the long-awaited electrification of the Caltrain corridor, targeted by Caltrain for 2020. Southern California will see near-term improvements in the Metrolink system, better connectivity of transit and rail services in Los Angeles, San Diego, and the Inland Empire through cooperative early investments, using allocations from the \$950 million in Proposition 1A connectivity funds and other sources.

Exhibit ES-1. Summary of key changes in Revised 2012 Business Plan

Revision from Draft Plan	Description	Benefits
Commitment to blended system	Focuses new high-speed infrastructure development between the state's metropolitan regions while using, to the maximum extent possible, existing regional and commuter rail systems in urban areas.	Cost reduction, reduced community impacts, better leverage of resources/ investments
Commitment to blended operations	At all phases of development, seeks to use new and existing rail infrastructure more efficiently through coordinated delivery of services, including interlining of trains from one system to another, as well as integrated scheduling to create seamless connections.	Maximizes benefits of all investments, accelerates improvements, provides seamless travel for users, enhances connectivity to system
Investment in bookends	Makes improvements in existing rail systems in the metropolitan regions prior to or, in some cases, in lieu of, high-speed infrastructure. Connects high-speed rail to already existing modes of transportation.	Delivers improved service—reliability, safety, efficiency—to users of existing rail systems, providing tangible benefits in the near-term and building rail ridership for the long-term
Initial Operating Section (IOS)—South	<p>Based on factors including ridership and revenue forecasts, capital and operating costs, public input, and potential for private-sector investment, the Revised Plan identifies the IOS-South as the preferred implementation strategy. This will close the gap between Bakersfield and Palmdale and connect the Central Valley to the Los Angeles Basin at San Fernando Valley, creating the first fully operational high-speed rail system. This will be coupled with investments in Northern California to provide near-term benefits and lay the foundation for high-speed rail service to San Jose and San Francisco. Upgrades to the existing San Joaquins service will provide further time savings.</p> <p>Cap and trade funds are available, as needed, upon appropriation, as a backstop against federal and local support to complete the IOS.</p>	<p>Clarity of focus for development work, development of funding strategies, engagement with private sector interests, connecting the regions via a statewide rail network</p> <p>Close the rail gap between Northern and Southern California, the state's highest priority for intercity rail</p> <p>Connect the state's largest population (Los Angeles Basin) with the fastest growing part of the state (Central Valley)</p>
IOS First construction segment—put into service	Through collaborative planning and implementation with the California Department of Transportation (Caltrans), Amtrak, Altamont Commuter Express (ACE), BNSF Railway, and Union Pacific, the San Joaquin rail service (fifth busiest in the nation) will be shifted to the first construction segment upon its completion, resulting in a 45-minute time savings; through complementary improvements, this will tie with ACE to provide new, expanded, and improved rail service throughout northern California, connecting the Central Valley with the San Francisco Bay Area and Sacramento regions.	Enhanced utility of initial investment, providing improved service to the more than 1 million San Joaquin riders, and opening up regional rail service

The benefits of investing in high-speed rail will be delivered far *cheaper* than previously estimated. Through the adoption of a blended approach, the Authority has confidence that the cost of delivering the San Francisco-to-Los Angeles/Anaheim system, in accordance with Proposition 1A performance standards, is reduced by almost \$30 billion, now estimated at \$68.4 billion. Under the phased approach, and consistent with Proposition 1A, construction of any segment would only proceed when funding is identified and the Legislature has approved the use of additional state funding.

A blended system with broader, earlier benefits

The most consistent and widespread recommendation from those commenting on the Draft Plan was to fully adopt the “blended” approach in which existing metropolitan rail infrastructure would be used as much as possible and upgraded as needed to provide connections into the urban areas. For example, the legislatively mandated California High-Speed Rail Peer Review Group, in its January 3, 2012, letter to the Legislature (www.cahsrprg.com/index.html), stated the following,

We congratulate the CHSRA on its recognition of the viability of the blended option. Given the adamant environmental opposition to the full build-outs on either end of the system and the enormous added costs involved, we question the value of retaining the full Phase 1 build-out at all in any of the CHSRA’s more immediate plans.

The implementation strategy in the Revised Plan draws on international experience in building high speed rail systems and has been tailored to address the unique circumstances in California through collaboration with state, regional, local, and private transportation partners. It is a phased strategy with three key elements:

- “**Blending**” high speed with existing rail systems to accelerate and broaden benefits, improve efficiency, minimize community impacts, and reduce construction costs while enhancing rail service for travelers throughout the state
- Making **early investments** in the “bookends,” or San Francisco Bay Area and Los Angeles Basin regions, to upgrade existing services, build ridership, and lay the foundation for expansion of the high-speed system
- Delivering **early benefits** to Californians by using and leveraging investments as they are made

After issuing the Draft Plan which introduced the Phase 1 Blended option, the Authority prepared additional analysis on the capital costs, the operating and maintenance plan and costs, and ridership/revenue forecasts for this option. In addition, the Authority collaborated with other transportation providers, including Caltrans, Caltrain, ACE, and Metrolink, to further develop this option for implementation. This additional work and analysis has enabled the Authority to fully embrace the Phase 1 Blended option in this Revised Plan.

For Phase 1, as described in Proposition 1A, the blended system means building the “Bay-to-Basin” system, with new, dedicated HSR infrastructure connecting San Jose and the San Fernando Valley, and then to Los Angeles’ Union Station. Improvements will be made to the existing Amtrak/Metrolink rail corridor between Union Station and Anaheim to improve safety, reliability, capacity, and travel times in that corridor. In the San Francisco Bay Area, the existing Caltrain corridor will be upgraded through

grade separations, electrification, and passing tracks (to be studied) to provide the connection north from San Jose to the new Transbay Transit Center in Downtown San Francisco. This blended system will allow a one-seat ride (meaning passengers will not have to change trains) between San Francisco and Los Angeles and provide greater connectivity with existing regional and local transit systems. These benefits will be the foundation for implementation of a high-speed program in phases, as described in detail in Chapter 2, The Implementation Strategy: Blending, Phasing, Investing in Early Benefits, as follows:

- (1) **Early investments/statewide benefits**—First construction of the IOS, improvements to existing regional/commuter systems, new Northern California unified passenger service, and an accelerated closure of the rail service gap between Northern and Southern California
- (2) **Initial high-speed rail operations**—Completion of the IOS and operation of the first high-speed rail revenue service in the United States
- (3) **The Bay-to-Basin system**—Linking the state’s major metropolitan areas with high-speed rail service while incorporating improved regional service

What does “blended” mean?

The 2012 Business Plan refers to blended systems and blended operations, which describe the integration of high-speed trains with existing intercity and commuter/regional rail systems via coordinated infrastructure (the system) and scheduling, ticketing and other means (operations).

Blended systems—integrated infrastructure investments

Existing rail systems already serve intercity, commuter, and regional trips throughout California. A blended system would leverage these systems by tying them together with a HSR backbone through the Central Valley and connecting to major metropolitan areas. Although improvements to the regional and commuter rail systems are intended to improve or facilitate connections and integration with the high-speed rail system, they do not need to be implemented sequentially. Regional or local improvements to the existing systems, such as elimination of at-grade crossings and the addition of new passing tracks, have independent utility that will benefit regional and commuter passengers prior to connection to the high-speed rail system. Where possible, these improvements should move ahead independently and as quickly as feasible to accelerate benefits to California travelers.

Blended operations—integrated service

The blended system will allow rail operators to take advantage of new and improved infrastructure to enhance existing service, delivering benefits sooner. Blended operations will evolve over time, as infrastructure is developed. Utilization will progress from the operation of existing services over new high-speed rail infrastructure prior to the initiation of revenue service, to the coordination of high-speed and conventional rail services, to the interoperability of high-speed and conventional rail over shared infrastructure. In each phase, the goal will be to maximize and accelerate the benefits of investments in the most cost-effective manner.

- (4) **The Phase 1 system**—Connecting San Francisco, the Central Valley, and Los Angeles/Anaheim through a combination of dedicated high-speed rail infrastructure blended with existing urban systems
- (5) **Phase 2 expansion**—Bringing high-speed rail to Sacramento, San Diego, and the Inland Empire. Through the blended approach to Phase 1, these areas will see improvements in rail service and access to high-speed rail service far earlier than previously planned

Early investments, statewide benefits

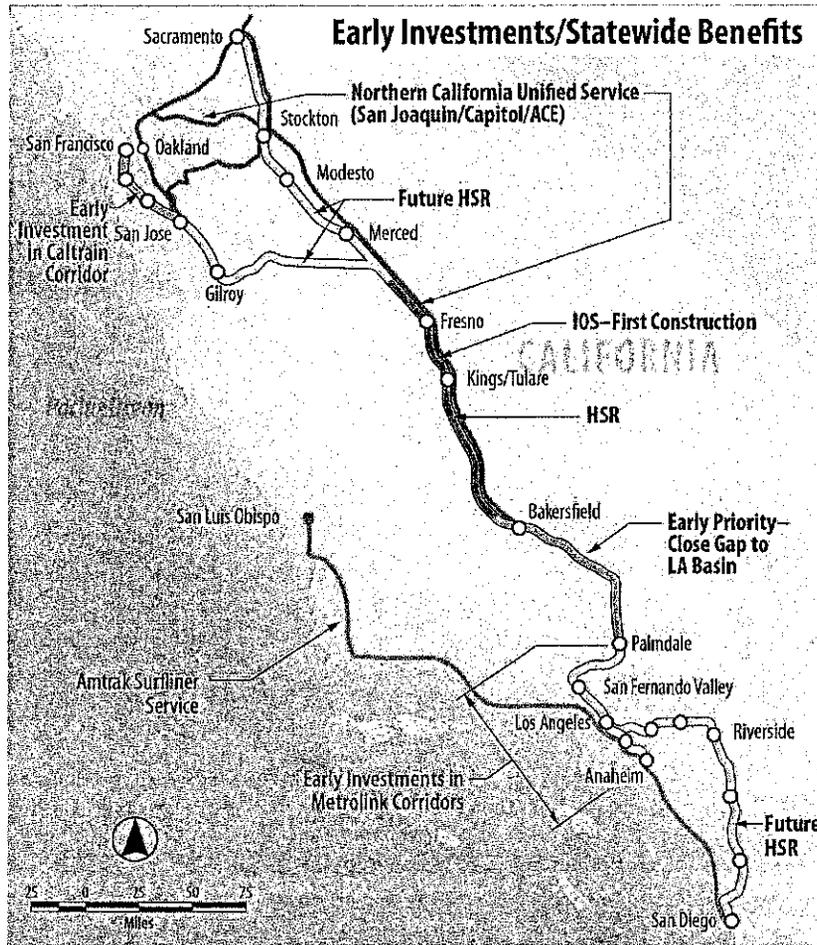
Under the Draft Plan, the initial investments of Proposition 1A bond proceeds and matching federal funds were focused primarily in the Central Valley, with subsequent extensions reaching other areas of the state in phases. This Revised Plan retains the start of construction of new high-speed infrastructure in the Central Valley but introduces simultaneous investments to produce immediate benefits throughout the state (Exhibit ES-2). Working collaboratively with regional transportation partners, advanced investments will be made in the existing Los Angeles Basin and San Francisco Bay Area rail systems. These early improvements will accomplish two key goals:

- First, these improvements will lay the foundation for the high-speed rail system as it expands to reach those areas and connect the state.
- Second, because these improvements can proceed independently of the high-speed rail system, they will provide near-term benefits to travelers in metropolitan areas.

Benefits will be realized sooner and more efficiently, not only in metropolitan Los Angeles and the San Francisco Bay Area, but also in the Los Angeles–San Diego corridor, the Inland Empire, and the Sacramento region—all of which would see improvements much earlier than under any previous plan. This approach represents a significant evolution of thinking about how high-speed rail best fits into California’s transportation system and best serves the people of the state. More specifically, rather than being planned, designed, and implemented largely as a stand-alone system, high-speed rail in California will be integrated into a comprehensive and seamless statewide passenger rail network. Leveraging and partnering with intercity and regional systems results in a wide range of benefits, including the following:

- Accelerated delivery of advantageous investments
- Expanded early benefits for rail passengers
- Reduced costs
- Greater cost-effectiveness
- Fewer construction and operating impacts on communities
- Coordinated planning and investments among state, regional, and local agencies
- Improved transportation and reduced congestion in metropolitan areas
- Reduced air pollution, including greenhouse gas emissions

Exhibit ES-2. Early investments/statewide benefits



- Early Investments/Statewide Benefits
- ◆ Begin construction of IOS HSR infrastructure
 - ◆ Start Northern California unified service
 - ◆ Invest in the “bookends”
 - ◆ Advance early priority:
 - Close rail gap to LA Basin

New Northern California Unified Service

The first construction segment of the IOS will be put into use immediately upon completion for improved service on the San Joaquin intercity line. This service, the fifth busiest Amtrak line in the nation, already serves more than 1 million riders a year and will link with other systems, such as ACE and Caltrain, to create a new, improved network reaching from Bakersfield to the San Francisco Bay Area and Sacramento. Immediately, California’s rail network will be able to carry passengers faster and more reliably than ever before.

Begin building the Initial Operating Section

The IOS of the California high-speed rail system will connect Merced to the San Fernando Valley gateway to Los Angeles. This facility will be transformational in creating a passenger rail nexus between one of the fastest growing regions in the state with the state’s largest population center. Among its many benefits will be the realization of the state’s highest intercity passenger rail priority— closing the state’s single largest gap in intercity rail service—linking north and south at Bakersfield to Palmdale. Immediate steps toward this goal include the prioritization of environmental clearance and other preliminary work necessary for this gap closure.

Improve service in the “bookends”

This will be achieved by putting the \$950 million in Proposition 1A funding for connectivity to work. The Authority will work with the California Transportation Commission, Caltrans, and regional rail systems to gain approval this fiscal year for funds that can be used to make near-term improvements that will tie to eventual HSR service. Millions of travelers throughout the state will benefit from faster, more frequent, and more reliable services associated with the expansion of key transit investments throughout the state.

Additionally, the Authority is working with regional transportation agencies through memoranda of understanding and other mechanism to identify and implement additional improvements beyond the \$950 million in connectivity funds that can provide near-term benefits to commuters on Metrolink and Caltrain and pave the way for the future HSR system.

Electrify the Caltrain corridor

Electrifying Caltrain will result in a faster, more efficient, and more environmentally friendly rail system that will eventually allow for a one-seat ride between San Francisco and Los Angeles.

Electric trains can stop and start faster than diesel trains, which can reduce travel time and/or increase service to stations between San Francisco and San Jose. As Caltrain has already demonstrated, decreased travel time results in increased ridership. As more people ride Caltrain, congestion on freeways and surface streets in the San Francisco Bay Area will be reduced. In addition, the switch to electric power will lower air pollutant emissions from trains by up to 90 percent while significantly reducing power consumption. Electric-powered trains also are significantly quieter, which will benefit those living and working near the rail corridor.

Investing for California’s next generations

The need for a new generation of transportation improvements in California is clear. Today, the state’s transportation systems are straining to meet current demand. Congestion on roads results in \$18.7 billion annually in lost time and wasted fuel. Air flights between the Los Angeles and San Francisco metropolitan areas—the busiest short-haul market in the U.S.—are the most delayed in the country,

with approximately one of every four flights late by an hour or more.

Continued population and economic growth will place even more demands on California’s already overburdened mobility systems. Over the next 30 to 40 years, California is projected to add the equivalent of the current population of the state of New York. There is no question: meeting the demands of that growth will require *major* investments in transportation infrastructure over the next generation. Those investments will measure in the tens of billions of dollars. The question



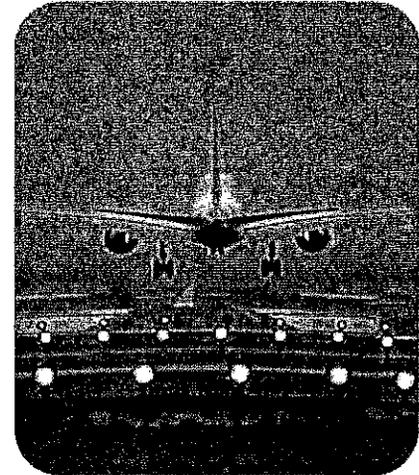
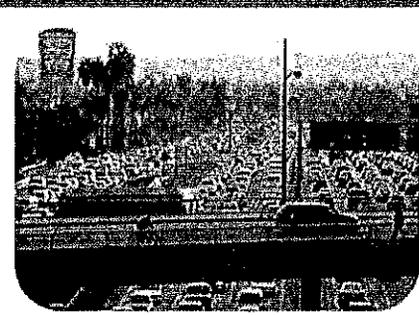
will not be *if* those investments need to be made, but *how* those investments can provide the greatest benefits.

As has been proven around the world, high-speed rail, when integrated into a balanced transportation system, can meet a significant portion of increased demand in a manner that is sustainable and cost-effective.

As detailed in this Revised Plan, a statewide HSR system can be delivered to the citizens of California that will produce economic benefits, enhance and support environmental and energy goals, create near and long-term employment, improve mobility, and save money. Such a system also advances the state toward the attainment of goals established by landmark legislation such as California Senate Bill 375, the Sustainable Communities and Climate Protection Act of 2008, and Assembly Bill 32, the Global Warming Solutions Act of 2006. In its scoping plan for implementation of AB 32, the California Air Resources Board supports implementation of a high-speed rail system as “part of the statewide strategy to provide more mobility choice and reduce greenhouse gas emissions.”¹

Chapter 9 of this Revised Plan, Economic Analysis, shows that the benefits of high-speed rail far outweigh the costs of building, operating, and maintaining it. Californians will begin to see these benefits next year, when initial construction of the IOS will provide a much needed economic boost to the Central Valley, the fastest growing part of the state and the region hardest hit by unemployment. Almost 100,000 job-years of employment will be generated by the initial construction work. The \$2.7 billion initial investment will give the state a net economic impact of \$8.3 to \$8.8 billion—a 3:1 return on its initial investment—and state and local governments would earn more than \$600 million back in tax revenue, or nearly 25 percent of how much the state will spend.

It also has become clear that the key to a successful high-speed rail program is to focus on putting an operational, high-speed segment in place and then using that segment as a building block for the full system. The IOS can be built within 10 years, generating positive cash flows from operations, carrying millions of riders, and serving as a launch pad for private participation in the construction and operation of the system.



With 20 million more people expected to be in California within the next 40 years, we can't build enough highways and airport runways to accommodate the demand.

Joseph C. Szabo, Federal Railroad Administrator

The two keys to cost-effective and timely achievement of a statewide high-speed rail system are as follows:

- Dividing the program into a series of smaller, discrete projects that build upon each other but also provide viable high-speed rail service independently
- Making advance investments in regional and local rail systems to leverage existing infrastructure and benefit travelers by providing interconnecting blended services



Phasing the California State Water Project: "50 Years and Counting"

The California State Water Project is the largest state-built and state-operated multipurpose water and power system in the United States. It encompasses 701 miles of canals and pipelines that provide drinking water for 25 million people and irrigation for 750,000 acres of farmland. It began in 1960 and its expansion continues today, with the newest reservoir beginning construction in 2006.

Funding began with the approval of \$1.75 billion in bonds. Since that time, the 29 contracting agencies that deliver the water locally have made cumulative payments totaling more than \$9 billion.

By implementing the program in phases, work can be matched to available funding. Each segment can be delivered through a business model that transfers significant design, construction, cost, and schedule risks to the private sector and maximizes efficiency by capturing the advantages of private-sector innovation. Importantly, the phased approach means that decisions made today will not tie the state's hands tomorrow. With the state's success in securing over \$3 billion in federal funding, the first step can be taken now toward construction of the IOS. This money will be used to create jobs, obtain right-of-way, position the system for future expansion, and preserve options for future decision makers.

The decision to move ahead with the initial step does not commit the state to proceeding with the full program as outlined in this Revised Plan. By providing decision-makers with the flexibility to change course or timing, the plan preserves flexibility and can adapt to changing economic and budgetary realities or new opportunities. This approach is consistent with how other major infrastructure programs are implemented. The Interstate Highway System was designated in whole at the outset but constructed in phases over more than 50 years based on availability of funds, economic conditions, and other factors. The same has been true with the California freeway system and the state water project. HSR systems in other countries have been delivered this way as well. In Japan, for instance, initial plans provided an outline for full development, but implementation took place in segments, sometimes with years between the completion of one segment and the initiation of the next.

This Revised Plan has been developed by applying this and other successful implementation strategies that have evolved over the last half-century of experience throughout the world.

Starting up a new high-speed service is challenging, as was the case in Japan in 1964; however, it is very rewarding for the country in the longer term Step-by-step extension of high-speed rail construction is common in Japan, too. For example our Tohoku-Shinkansen line, which runs through the northern part of Japan, has been constructed step-by-step. The initial section up to Morioka was completed in 1982, and the line was extended to Hachinohe in 2002 and to Aomori in 2011.

Masaki Ogata, Vice Chairman, East Japan Railway Company

How will California benefit from high-speed rail?

Economy

High-speed rail will bring significant benefits to California, both in the near term and in the long run. Benefits will be realized statewide and will encompass both economic and environmental concerns.

The Central Valley will experience the earliest positive impacts of this investment. Indeed, the economic growth associated with construction of the first segment of the IOS will create jobs in a region that is home to the highest unemployment rate in the state. As noted earlier, moving forward with initial construction will generate approximately 100,000 job-years of employment for people who need them most.

Along these lines, California's construction industry, the sector hardest-hit by the economic recession, will see a boost in business associated with high-speed rail construction.

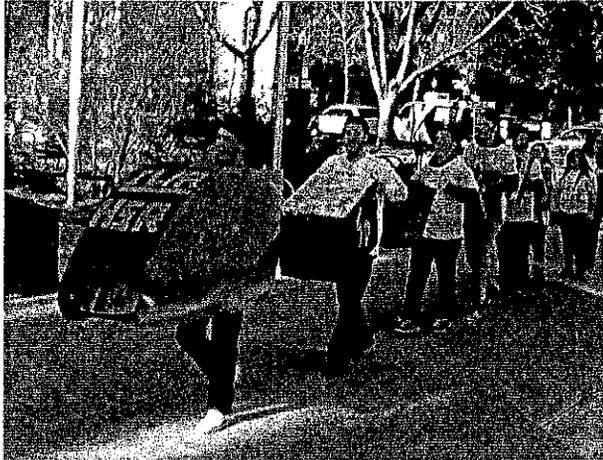
Connecting the Los Angeles and San Francisco metropolitan areas will generate approximately 800,000 to 900,000 job-years and will eventually result in more than 1 million job-years. High-speed rail is a major job generator, both in the short and long terms.

Transportation infrastructure

With the completion of high-speed rail, California's drivers will see significant relief in traffic congestion. HSR will lead to a reduction of 320 billion vehicle miles traveled over the next 40 years. That will translate into 146 million hours saved for Californians each year—time spent doing better things than sitting in traffic. Similarly, airport congestion will be reduced. Ample precedent for this exists around the world.

SFO is a strong supporter of High-Speed Rail. Connecting SFO to HSR will provide outstanding service to our passengers, providing quick and convenient connections to the rest of California. HSR will put SFO on [a] par with other world airports already benefiting from HSR, including Hong Kong, Shanghai, Tokyo, Frankfurt, and Zurich.

John L. Martin, San Francisco Airport Director

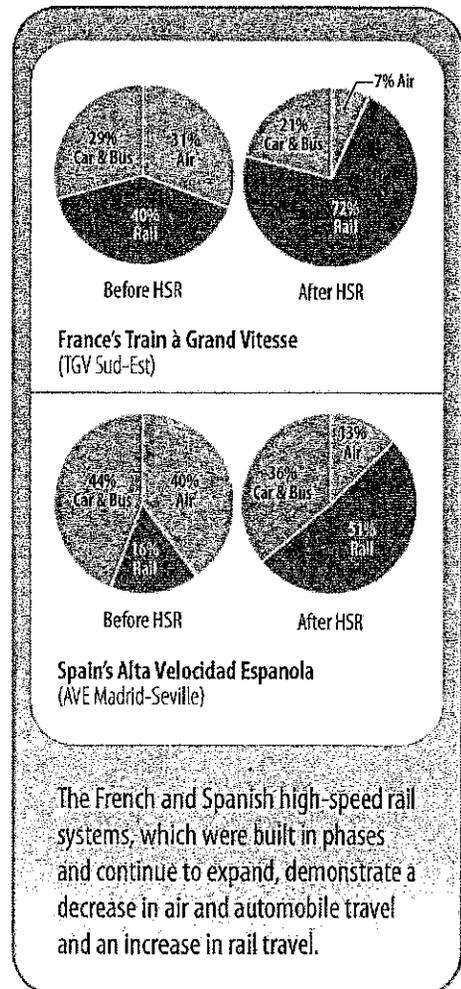


When high-speed rail service was introduced between Madrid and Seville, Spain, the share of trips taken by plane was reduced from 40 percent to 13 percent, and rail trips grew from 16 percent to 51 percent. This reduction in air travel means that limited airport capacity can be used more efficiently for longer-haul routes where aviation is more cost-effective and energy efficient. This type of shift from automobiles and airplanes to high-speed trains has been the consistent experience internationally, from Taiwan to Germany, France, and Spain.

Moreover, HSR also has generated an overall growth in travel, not just a reallocation between modes. The increased mobility from HSR prompts greater travel, generating more economic activity. On the high-speed route between Paris and Lyon, France, for example, half of the trips taken were new trips. The efficiency, reliability, and connectivity between economic centers provided by HSR contribute to long-term economic benefits. With implementation of the HSR system in California, as many as 400,000 long-term jobs could be created as the state’s economy becomes more efficient.

Funding and finance

Funding for the system will come from a mix of federal, state, and private sources and will benefit from innovative program delivery models that allow the private sector to design, build, and operate the system. Specific funding approaches are detailed in this Revised Plan; potential program delivery models are explained as well. Delivery approaches rely on the private sector to perform the final design and to provide operations, ultimately resulting in a concession to operate the full system and private capital to support construction of future phases. This private-sector involvement is feasible because each of the operating sections generates a positive cash flow from operations. Chapter 4, Business Model, includes a discussion of proven delivery and financing methods applicable to the high-speed rail program. Based on projected cash flows from operations, over \$10 billion in potential private-sector capital is anticipated once the IOS is in operation. These funds can provide a significant contribution toward completion of the Bay-to-Basin system.



Phased implementation provides two additional benefits with respect to project funding and finance:

- The funding required to advance any individual section is significantly less than if the system were to be constructed all at once.
- Risk is reduced for each subsequent section because of the successful performance of HSR operations on prior sections. In this way, success feeds on success and enhances the ability to attract private capital and operating expertise.

Exhibit ES-3. Summary of each phased implementation section

Section	Length (approx)	Endpoints	Service Description	Service Start	Cumulative Cost (VOE\$, billions)
Initial Operating Section	300 miles	Merced to San Fernando Valley	<ul style="list-style-type: none"> • One-seat ride from Merced to San Fernando Valley • Closes north-south intercity rail gap, connecting Bakersfield and Palmdale and then into Los Angeles Basin • Begins with construction of up to 130 miles of HSR track and structures in Central Valley • Private sector operator • Ridership and revenues sufficient to attract private capital for expansion • Connects with enhanced regional/local rail for blended operations, with common ticketing 	2022	\$31
Bay to Basin	410 miles	San Jose and Merced to San Fernando Valley	<ul style="list-style-type: none"> • One-seat ride between San Francisco and San Fernando Valley¹ • Shared use of electrified/upgraded Caltrain corridor between San Jose and San Francisco Transbay Transit Center • First HSR service to connect the San Francisco Bay Area with the Los Angeles Basin 	2026	\$51
Phase 1 Blended	520 miles	San Francisco to Los Angeles/ Anaheim	<ul style="list-style-type: none"> • One-seat ride between San Francisco and Los Angeles¹ • Dedicated HSR infrastructure between San Jose and Los Angeles Union Station • Shared use of electrified/upgraded Caltrain corridor between San Jose and San Francisco Transbay Transit Center • Upgraded Metrolink corridor from LA to Anaheim 	2029	\$68

¹ One-seat ride means that passengers do not need to switch trains, even if the train operates over two systems (e.g., moving north on dedicated high speed rail infrastructure and then moving onto Caltrain tracks at San Jose, assuming electrification of Caltrain corridor by 2020 as proposed by Caltrain)

Funding for the initial construction of the IOS will be a combination of federal funding and Proposition 1A funding. As the program proceeds, the state will continue to see significant federal support and private-sector capital investment once operations have commenced. Cap and trade funds are available, as needed, upon appropriation, as a backstop against federal and local support.

Planning scenario

This Revised Plan includes a planning scenario for use in projecting performance of the system. In order to generate key performance data, this planning scenario includes several basic assumptions regarding the Bay-to-Basin and Phase 1 Blended operating sections:

- The system will be completed by 2028.
- The average ticket fare between San Francisco and Los Angeles will be \$81 (83 percent of anticipated airline ticket prices) in 2010 dollars, with up to eight trains per hour during the peak period (four trains per hour from San Francisco, two trains per hour from San Jose, and two trains per hour from Merced).

For this Revised Plan, a planning schedule (Exhibit ES-4) was adopted that extended the date for completion of Phase 1 Blended from 2020 to 2028 to mitigate funding and other risks. Based on this schedule, costs have been inflated to assess the total costs in the year-of-expenditure.

Exhibit ES-4. Construction schedule

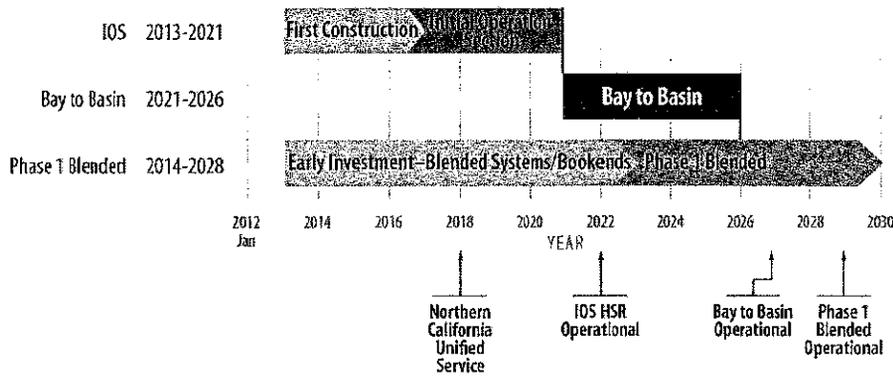


Exhibit ES-5 presents a planning case showing the impact of a 2028 schedule on year-of-expenditure cost.

If required, a Full Build option for Phase 1 could be completed by 2033 at an incremental cost of \$23 billion in year-of-expenditure dollars, for a cumulative cost of \$91.4 billion.

Exhibit ES-5. Planning case showing impact of planning schedule on year-of-expenditure cost

Section	Incremental Capital Cost (billions 2011\$)	Cumulative Capital Cost (billions 2011\$)	Completion of Section	Incremental Year-of-Expenditure Capital Cost	Cumulative Year-of-Expenditure Capital Cost
IOS	26.9	26.9	2021	31.3	31.3
Bay to Basin	14.4	41.3	2026	19.9	51.2
Phase 1 Blended	12.1	53.4	2028	17.2	68.4

Ridership and revenue

As is the case with any similar program, the forecasts of ridership and revenue continue to be the subject of extensive and intense review. Areas of focus include the model used to generate the forecasts, the assumptions and data used as inputs to the model, and the outcomes of the model. A number of steps have been taken to respond to comments and to continue to improve the reliability of the forecasts, and they are reflected in this Revised Plan. Those steps include the following:

- Inputs to the model have been updated and refined to use recent data reflect a broader range of scenarios.
- An independent panel of experts continues to review the model and its inputs.
- Post-model adjustments have been eliminated to reduce the potential for error, bias, or inconsistency.
- The model itself has been tested against actual conditions and external forecasts and demonstrated its reliability.
- Data and reports have been made available for public review.

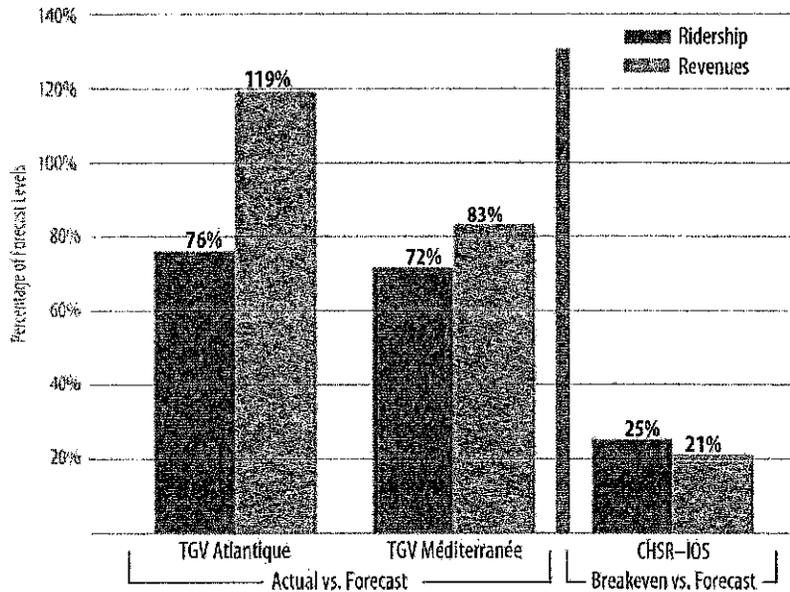
Details of these actions are provided in Chapter 5, Ridership and Revenue. An important step forward to demonstrate the viability of the model and the reliability of its outputs was the use of it to test actual conditions in the Northeast Corridor. This test demonstrated the sensitivity of the model to inputs and the reasonableness of the outcomes.

Another important aspect to consider is the performance of both domestic and international rail systems against their forecasts. Studies have been conducted on toll roads, high-speed rail systems, and quasi-high-speed rail systems. One of the most widely cited is a 2003 Cambridge University report titled *Megaprojects and Risk* by Flyvbjerg, et al. This report found that a common element in projects that failed to reach forecast results was an optimistic assumption of a particular event that would lead to higher ridership. For example, ridership forecasts for the French TGV system assumed significant spikes in motor fuel prices, which would cause more people to leave their cars and use high-speed rail. When the anticipated increase in prices did not occur, ridership did not materialize as projected.

This and other lessons were considered in developing the ridership and revenue modeling for the California high-speed rail program. Accordingly, there is no such reliance on singular and unsubstantiated factors such as an assumed spike in gasoline prices. Key inputs that are drivers of ridership, such as fuel prices, airline ticket prices, and population, are all conservative and based on external sources.

It is also important to understand what the performance of other HSR systems against forecasts might mean for the California system. In particular, international experience illustrates that disciplined management through a private-sector operator leads to stronger financial performance, even in the face of changing circumstances. For example, the French TGV Atlantique line initially was 24 percent below projected ridership, but exceeded revenue forecasts by 19 percent. Similarly, the TGV Méditerranée line ridership fell 28 percent below initial forecasts, but revenues were off by only 17 percent. As shown in Exhibit ES-6, the performance of California’s system against forecasts would have to be approximately three times worse than the French examples to fall below the breakeven point at which the system will function without an operating subsidy.

Exhibit ES-6. Percentage of forecast levels



Three ridership scenarios were modeled in this Revised Plan: Low, Medium, and High. As described in Chapter 5, Ridership and Revenue, conservative assumptions for key factors, such as population and the cost of driving, were used throughout the modeling. Operating and maintenance costs are highly correlated to the number of riders and use of the system; that is, the more riders, the more trains needed and the higher the cost of operating and maintaining them.

Analysis of the three scenarios shows that there is a net positive cash flow from operations (revenues minus operating and maintenance costs) from the first year of operation under each phasing scenario (Exhibit ES-7). This is a consistent finding across operating segments, phases, and development scenarios once an IOS is achieved.

Exhibit ES-7. Operating results for IOS, year 2025

Ridership Scenario	Ridership (millions)	Revenue (millions)	Operating and Maintenance Cost (millions)	Net Cash Flow from Operations (millions)	Operating Subsidy?
High	10.5	\$1,096	\$556	\$540	No
Medium	8.1	\$844	\$499	\$345	No
Low	5.8	\$591	\$376	\$215	No

Projections demonstrate that high-speed rail in California will be viable, even at the very conservative low scenarios. Under all forecasted scenarios, each operating section of the California high-speed rail system is projected to operate without a subsidy. This is not only important in terms of achieving the Proposition 1A criteria, but it supports investment of private capital for construction.

Cost control

Implementation of the program will be affected by a range of external factors over time. As such, this and future business plans should be seen as part of a dynamic process. One area where this will be especially pronounced is the continual process of managing the program to deliver benefits more cost-effectively.

The Authority will maintain and reinforce internal cost-control procedures and use external reviews to regularly evaluate options for reducing costs and accelerating improvements. Ongoing value engineering, collaborative planning, and focused use of procurement tools to incentivize efficiencies are among the tools that will be used.

The role of the private sector

The Authority's long-term business model is founded on a strong public-private partnership relying on the private sector to design, build, operate, and maintain a high-speed system that is funded by a combination of government investments and future revenues from riders that support the investments of capital from the private sector. Risk is transferred to the private sector immediately beginning with design and construction, and the transfer of risk increases as the system is developed and opened to incorporate operating performance and profit and loss.

The private sector will be brought on board through design-build contracts to finalize the design of the first segment of the IOS and then construct it. This will result in the transfer of key risks from the public to the private sector, where they can be better managed—an important part of the program's cost-containment strategy.

As explained in Chapter 7, Financial Analysis and Funding, this Revised Plan assumes capital investment when the IOS is in place and generating revenues. This is the point in the program at which risks have been reduced sufficiently to allow access to more private capital at lower costs. Following up on recent questions posed by stakeholders, the Authority reevaluated private-sector interest in early 2012 by interviewing a number of the respondents who indicated interest in investing in the project and through

one-on-one interviews with firms that responded to the Request for Qualifications for the first construction package. Responses from the Request for Expressions of Interest and recent discussions with interested companies confirmed the private sector's interest in the project and the conditions and timing required to attract the significant private-sector investment reflected in the Revised Plan.

Alternative financing and delivery processes, including early investment by the private sector, continue to be developed and adapted both domestically and in other countries. Although more prevalent outside the United States, innovative public-private partnerships are being introduced and used more frequently here. Adoption of a policy to encourage unsolicited proposals for private-sector involvement in the high-speed rail program will be an important tool to accelerate the development of the IOS and projects related to blended system improvements.

Summary

This Revised Plan considers the comments on the Draft Plan and reflects those calls for change. It presents a **better** way to build the system incrementally and in partnership with regional/commuter rail systems. Implementation of the plan will deliver benefits to Californians **faster**. By leveraging existing systems, it will be significantly **cheaper** to deliver the high-speed rail program. The revisions go beyond these important improvements. By investing in electrification of the San Francisco Peninsula rail system and paving the way for more efficient operations around the state, HSR will help contribute to a **cleaner** transportation system. In addition, focusing early investments on the elimination of high-priority at-grade crossings and other improvements will help make California's growing passenger rail network **safer**.

Contents of the Revised Plan

This Revised Plan addresses the requirements in Section 185033 of the Public Utilities Code and includes summaries of key changes in implementation strategy, ridership, and costs from the 2009 Business Plan. In addition to the major revisions discussed previously, throughout this Revised Plan there are modifications that respond to comments and address technical, editorial, and other issues. Supporting technical documents and appendices have been updated both to reflect and provide expanded explanation of these changes. Those documents will be posted on the Authority's website at www.cahighspeedrail.ca.gov/business_plan_reports.aspx.

As part of the Authority's commitment to transparency and accountability, a new supporting document, *Addressing Comments from Reviewing Entities*, summarizes the comments from the Legislative Analyst Office and the California High-Speed Peer Review Group on the Draft Plan and how the Revised Plan addresses those comments. The Draft Plan remains available as a reference document. Both of these and other supporting technical documents can be found at www.cahighspeedrail.ca.gov/business_plan_reports.aspx.

Central Tenets of the 2012 Business Plan

Analysis

- A thorough re-evaluation and review of ridership models, with international peer review of the model and methodology
- An update of project capital and operating costs using conservative inflation assumptions and a large contingency budget
- A re-examination of whether a revenue guarantee would be required
- A re-thinking of the critical relationships between HSR and local/regional transit systems
- An analysis of whether the system could be built in segments, with each having independent utility
- A reassessment of the federal and state funding environment, particularly over the short term
- A realistic appraisal of when and how private capital will be available

Conclusions

- The ridership model is sound and can be used for business planning. Projections show that the Initial Operating Section will generate a net operating profit.
- The capital costs have grown, as more engineering and environmental analysis has been done. However, the new capital costs are an accurate, current reflection of the cost of building out the segments and the system, with sufficient contingency to address foreseeable changes.
- Under this plan an operating subsidy will not be required. California HSR will be able to sustain operations going forward, consistent with HSR systems around the world. Profits will be able to contribute to future construction costs.

- Criticism that HSR has failed to leverage existing regional rail systems has been justified. The 2012 Business Plan moves toward a much fuller integration with those systems toward realizing the benefit of advanced investment in upgrading those existing lines. The Authority plans to use those systems for strategic connections in the early years and to run "blended service" (i.e., HSR trains running at appropriate urban area speeds on existing or improved tracks where possible).

- It is both desirable and necessary to construct HSR in phases—adding lateral segments and later service-level upgrades. This can be done so that each segment has independent value and so that funding confidence can be achieved before each segment is commenced.

- The Authority realizes that the current funding environment is challenging. However, there are sufficient funds to construct the foundation segment of HSR and secure important rights-of-way. Moreover, progress toward fully funding the all-important Initial Operating Section can be secured from a variety of potential sources.

- The private sector will play a major role in HSR. This project neither can nor should be built entirely with public funds. We expect private-sector operations and maintenance in the near term. Significant private capital is available upon completion of the IOS and demonstration of ridership, and the Authority actively working with the private sector to explore innovative, cost-effective ways to secure private participation for all elements of the program.

End notes

¹ *Climate Change Scoping Plan: A Framework for Change*. Prepared by the California Air Resources Board for the State of California Pursuant to AB 3, The California Global Warming Solutions Act of 2006. December 2008.

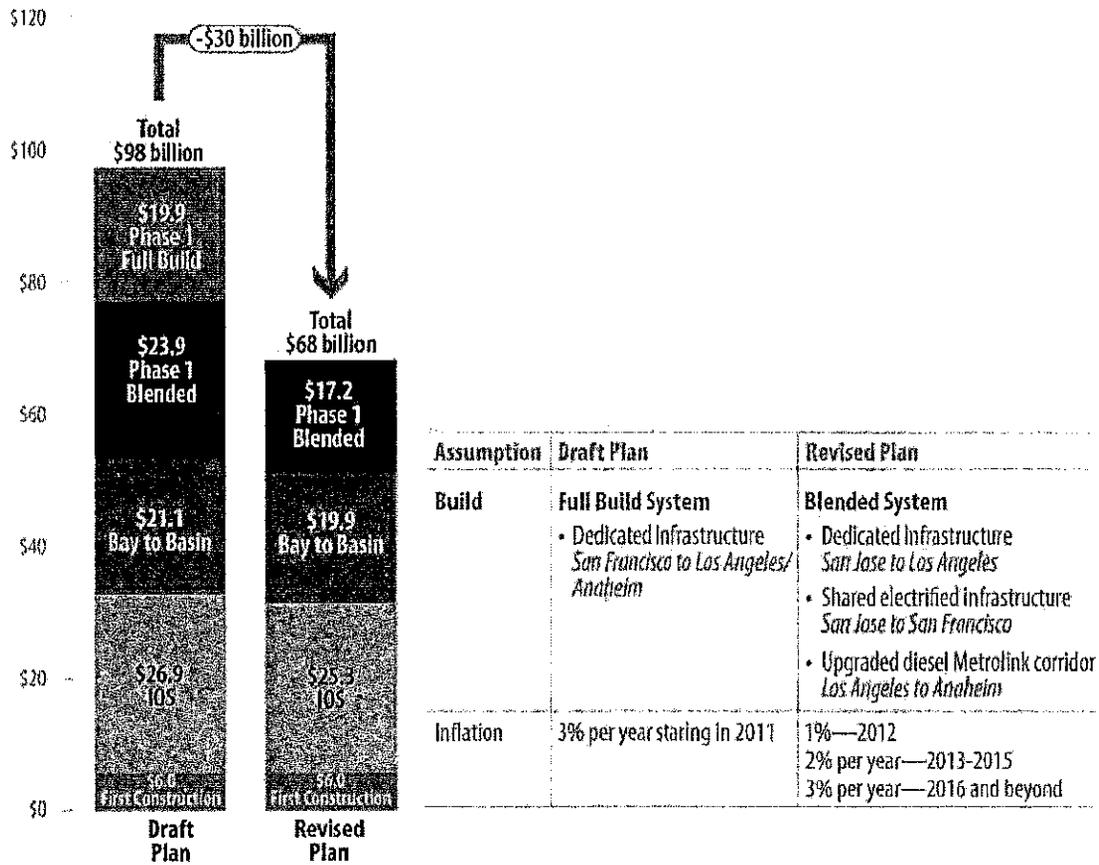
In addition to meeting the federal funding criteria, beginning construction in the Central Valley is an important first step for the HSR system. The “spine” of the statewide high-speed rail system will be created, which can then be extended north and south, creating the first true high-speed rail system in the nation. Starting construction in the Central Valley is a cost-effective way to use initial funding. As detailed in Chapter 3, Capital Costs, the per-mile cost of building this section is significantly lower than the cost per mile of construction in developed and densely populated metropolitan areas. Moving ahead in the Central Valley, which is the fastest-growing area of the state, will allow the acquisition of necessary right-of-way before more development occurs, thus avoiding further increases in land costs or re-routing to avoid impacts on newly established residential areas. The state will own this right of way—an asset of more than \$400 million that will increase in value over time.

The first IOS segment will be built using a design-build approach under which the private sector will assume responsibility for completion of design and construction. This will allow the state to transfer significant design, construction, schedule, and cost risks to the private sector and obtain the benefits of the current highly competitive bidding market. Furthermore, construction in the Central Valley is relatively straightforward from a construction standpoint compared to construction in dense urban areas. This allows local contractors to become familiar with the new requirements related to construction of high-speed infrastructure, which should translate into efficiencies in later stages. It also will enable small and disadvantaged businesses to begin developing valuable experience that will help position them to be involved in future extensions to the system.

The segment will become operational by allowing Caltrans to operate expanded San Joaquin service between Bakersfield and Merced on the first IOS section. To achieve this, track connections would be built to connect to the BNSF Railway line at the northern and southern ends of the first constructed segment. Relatively minor investments would be made in rail systems (signaling, positive train control) and other investments to augment the base infrastructure so that the San Joaquin service can operate on it. Combined with improvements described earlier, this would allow trains to travel at speeds up to 125 mph or more in the Central Valley, which would reduce travel times on the San Joaquin service between Northern and Southern California—already one of Amtrak’s five busiest corridors in the country—by at least 45 minutes and likely well over one hour.

Planning for early interim service on the IOS segment is already underway, with the goal of commencing Amtrak operations as soon as possible after construction is complete in 2017. The Authority is already collaborating with its transportation partners to identify and address the technical and policy issues that would be associated with developing early service. Through this process, agreements will be worked out on a range of issues, including how and where the service would operate, how it would be integrated with other systems, and how to transition to revenue HSR service as the IOS is completed.

Exhibit 3-1. Phase 1 construction cost comparison—Draft and Revised Business Plan (YOE\$)



Presentation of capital costs

The capital costs for the high-speed rail system are presented in this chapter in two ways:

- **Constant dollars**—Estimates are initially provided in 2011 dollars to serve as a baseline for conversion to YOE dollars and for comparison with other projects.
- **Year-of-expenditure dollars**—Estimates are then converted into year-of-expenditure dollars by using the baseline 2011 costs and projecting them into the future, using the schedule and implementation approach described in Chapter 2, The Implementation Strategy: Blending, Phasing, Investing in Early Benefits.

A range of costs is associated with each phase of the program because until final environmental approval of all preferred alignments, stations, and maintenance facilities is received, a number of key decisions will remain unresolved. When those decisions are finalized, the final costs also will be determined. For example, for the Central Valley alone, more than 20 alignment options have yet to be finalized, and each option has different costs. To show the range of potential costs, the low cost estimate includes the cumulative lowest cost options, and the high cost estimate includes the cumulative highest cost options, both including environmental mitigation.

Initial Operating Section

The IOS is approximately 300 miles long and will permit operation of high-speed rail from Merced to the San Fernando Valley. In addition to constructing the first segment of the IOS between Merced and Bakersfield and extending the tracks to the San Fernando Valley, the IOS includes passenger stations, maintenance and support facilities, traction electrification systems, and train control and communication systems for the entire system, as well as the necessary high-speed trains required for service. Exhibit 3-3 presents construction costs for the IOS broken out by FRA cost category in 2011 dollars.

Exhibit 3-3. Cost to construct IOS—Central Valley to San Fernando Valley (base year fiscal year 2011 dollars)

FRA Standard Cost Categories	Low-cost Option (millions)	High-cost Option (millions)
10—Track structures and track	\$14,319	\$17,275
<i>Civil (10.04–10.06, 10.08, 10.18)</i>	\$1,470	\$1,712
<i>Structures (10.01–10.03, 10.07)</i>	\$11,719	\$14,298
<i>Track (10.09, 10.10, 10.14)</i>	\$1,132	\$1,267
20—Stations, terminals, intermodal	\$618	\$618
30—Support facilities: yards, shops, administrative buildings	\$433	\$433
40—Sitework, right-of-way, land, existing improvements	\$4,667	\$5,341
<i>Purchase or lease of real estate (40.07)</i>	\$1,461	\$1,523
50—Communications and signaling	\$518	\$559
60—Electric traction	\$1,699	\$1,830
70—Vehicles	\$871	\$871
80—Professional services (applies to categories 10–60)	\$2,805	\$3,309
90—Unallocated contingency	\$935	\$1,103
100—Finance charges	\$0	\$0
Total	\$26,865	\$31,339

Subtotals for information only

Finance, *Engineering News Record* Construction Cost Index historical and forecast indexes, and medium/long-term federal inflation targets.

The planning schedule (Exhibit 3-6) was used to develop year-of-expenditure estimates.

Exhibit 3-6. Construction schedule

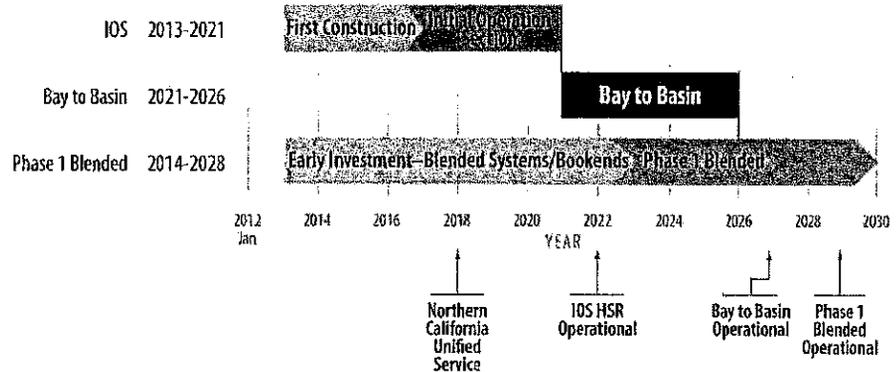


Exhibit 3-7 and Exhibit 3-8 show cost estimates in 2011 and year-of-expenditure dollars for the low-cost options and the high-cost options previously shown in Exhibit 3-3, Exhibit 3-4, and Exhibit 3-5.

Exhibit 3-7. Year-of-expenditure cost for the low-cost options

Section	Incremental Capital Cost (billions 2011\$)	Cumulative Capital Cost (billions 2011\$)	Completion of Section	Incremental Year-of-Expenditure Capital Cost	Cumulative Year-of-Expenditure Capital Cost
IOS	26.9	26.9	2021	31.3	31.3
Bay to Basin	14.4	41.3	2026	19.9	51.2
Phase 1 Blended	12.1	53.4	2028	17.2	68.4

Exhibit 3-8. Year-of-expenditure cost for the high-cost options

Section	Incremental Capital Cost (billions 2011\$)	Cumulative Capital Cost (billions 2011\$)	Completion of Section	Incremental Year-of-Expenditure Capital Cost	Cumulative Year-of-Expenditure Capital Cost
IOS	31.3	31.3	2021	36.6	36.6
Bay to Basin	17.7	49.0	2026	24.3	60.9
Phase 1 Blended	13.3	62.3	2028	18.8	79.7

Funding

Description

A number of risks exist related to funding. Failure to receive the anticipated amount of public funding at the requisite time could threaten the pace of development and ultimately the viability of the full program. In addition, the amount and timing of public funding impacts many other aspects of the program, including the chosen business model, project schedule, phased implementation, staffing and management approach, and technical aspects, such as operating speed and travel time.

Potential impact

The impact to the program could be wide ranging and include the following:

- Delay or inability to complete the program
- Significant increase to program costs
- Loss of stakeholder support

Mitigation and management approach

The Authority acknowledges the risk associated with the receipt of public funding and has taken a number of steps to mitigate and manage this risk. The Authority's risk mitigation and management approach includes the following:

- **Securing backup funding for the full IOS.** The Authority has been working with state stakeholders, including the California Department of Finance, to develop backup funding support for the full IOS should federal funding support fall short of the amount needed to complete the IOS. Cap-and-Trade funds are available, as needed, upon appropriation, as a backstop against federal and local support to complete the IOS. This is a major milestone in the mitigation efforts to decrease the risk related to funding the IOS.
- **Developing the system in functional phases and placing completed sections into immediate service.** The phased implementation of the system mitigates the risk of funding delays by providing decision points for state policy makers to determine how and when the next steps should proceed while leaving a fully operational phase that generates economic benefits. For example, the completion of the first IOS construction segment will be used by Amtrak San Joaquin service and potentially other operators. Similarly, when the gap between Bakersfield and Palmdale is closed, it will be available for immediate use by others. Once the full IOS is commissioned there will be fully operational high-speed rail service that is forecast to generate a strong level of net operational cash flow from the start of operations. This would allow the timing of the schedule to deliver Bay to Basin to be flexible to match the availability of funding. For more information, see Chapter 2, The Implementation Strategy: Blending, Phasing, Investing in Early Benefits.
- **Focusing on maintaining stakeholder support for the program.** This involves, among other things, completing the environmental documentation for the statewide program, achieving 15 percent design for selected ARRA program sections, and environmental processing leading to issuance of the environmental clearance for two program sections.

EXHIBIT “C”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

Corridor Program Name: CA-MERCED/FRESNOHSR-DESIGN/BUILD Date of Submission: 10/01/09 Version Number: 1

High-Speed Intercity Passenger Rail (HSIPR) Program

Track 2–Corridor Programs:

Application Form

Welcome to the Application Form for Track 2–Corridor Programs of the Federal Railroad Administration’s High-Speed Intercity Passenger Rail (HSIPR) Program.

This form will provide information on a cohesive set of projects—representing a phase, geographic segment, or other logical grouping—that furthers a particular corridor service.

Definition: For purposes of this application, a “Corridor Program” is “a group of projects that collectively advance the entirety, or a ‘phase’ or ‘geographic section,’ of a corridor service development plan.” (Guidance, 74 Fed. Reg. 29904, footnote 4). A Corridor Program must have independent utility and measurable public benefits.

In addition to this application form and required supporting materials, applicants are required to submit a Corridor Service Overview.

An applicant may choose to represent its vision for the entire, fully-developed corridor service in one application or in multiple applications, provided that the set of improvements contained in each application submitted has independent utility and measurable public benefits. The same Service Development Plan may be submitted for multiple Track 2 Applications. Each Track 2 application will be evaluated independently with respect to related applications. Furthermore, FRA will make its evaluations and selections for Track 2 funding based on an entire application rather than on its component projects considered individually.

We appreciate your interest in the HSIPR Program and look forward to reviewing your entire application. If you have questions about the HSIPR program or the Application Form and Supporting Materials for Track 2, please contact us at HSIPR@dot.gov.

Instructions for the Track 2 Application Form:

- Please complete the HSIPR Application electronically. See Section G of this document for a complete list of the required application materials.
- In the space provided at the top of each section, please indicate the Corridor Program name, date of submission (mm/dd/yyyy), and an application version number assigned by the applicant. The Corridor Program name must be identical to the name listed in the Corridor Service Overview Master List of Related Applications. Consisting of less than 40 characters, the Corridor Program name must consist of the following elements, each separated by a hyphen: (1) the State abbreviation of the State submitting this application; (2) the route or corridor name that is the subject of the related Corridor Service Overview; and (3) a descriptor that will concisely identify the Corridor Program’s focus (e.g., HI-Fast Corridor-Main Stem).

the subsequent 800-mile Full System adding Sacramento and San Diego. (See map in Supporting Documents.) A brief description of the California HST system follows the Merced/Fresno Design/Build narrative; more extensive information is contained in the CA-Phase I HSR Program-PE/NEPA/CEQA application, and on the Authority's website www.cahighspeedrail.ca.gov.

The Merced/Fresno corridor would start south of downtown Merced in the vicinity of the Mission Avenue and SR99 junction, close to the existing UPRR line which it will parallel to a junction with the high-speed line coming in from the west from the Bay Area. (The exact site, expected between Chowchilla and Fresno, is to be finalized in the PE/CEQA/NEPA work). The corridor design and construction will make provision for this high-speed connection, and will continue southward to the north side of Fresno ending before SR180 close to the UPRR line through Fresno. The corridor will also be coordinated with the continuation sections north and south to the new HST stations in Merced and Fresno. These require significant lengths of specialized viaduct and structure for high-speed service and will be funded outside this Program request.

The line will be built predominantly at-grade with roads that cross the line placed on a new bridge over the high-speed line, and where appropriate over the adjacent UPRR and parallel roads, or consolidated with these new bridge crossings. Approximately five existing major road crossings of the UPRR main line will be separated, and 11 will be consolidated with them. Additional stream, small river, and other crossings will be built on culverts or short bridges capable of handling high-speed 220 mph service as planned, as well as heavier US-standard passenger trains at 125 mph. Unlike the long structures needed in the metro Fresno and Merced sections, the cost for the added strength for heavier trains on these short structures is less than 5% of their cost and is included in the Program. Equally important, the cost of building at-grade alignment, with suitable sub-grade preparation for both high-speed light-weight operation as planned and 125 mph heavier trains is not significantly more than for the former alone.

The Program will fund the full alignment, sub-grade preparation and track structure to operate light-weight trains at the design speeds of over 220 mph, as well as the heavier US-standard passenger trains at 125 mph. Train controls and communications, and line electrification will be provided suitable space by the Program, but their installation will be done in separate funding.

In addition to the final design and construction of the line described above, the Program will fund acquisition of: land for the alignment, temporary easements for access and construction activities, and land needed for storage of equipment and materials for periodic maintenance and renewal of the alignment. However the Program will not acquire land that may be identified in the PE/CEQA/NEPA work preceding this design/build Program for electric power substations and related facilities outside of the standard alignment right of way, or for central control and vehicle maintenance activities that may be identified in the pre-construction work above.

The statewide system will provide a new state-of-the-art intercity transportation service.

The California HST program will be a new transportation service creating major benefits for mobility, economic activity, air quality, and land use development, as documented in the 2005 CAHST Statewide Program EIS/EIR and the 2008 Bay Area-Central Valley Program EIS/EIR.

Existing commuter, Amtrak, and freight rail services will benefit from grade separations, fencing and other safety improvements where services closely parallel each other. Amtrak, commuter rail, and other transit services will see growth in traffic where HST travelers use them to get to and/or from their final destinations.

In fully implementing the new system, a new fleet of FRA-approved trainsets will be capable of reliable and safe 220 mph day-to-day operation. Schedules, up to five times faster than current rail services, would be competitive with air in many major markets. A California-specific fare structure may include different fares based on class of service and reflect time of day, week, and seasonal peaks, as well as advance booking. In general fares will be higher than current rail and bus fares and driving cost, reflecting value in time saved, but not higher than air fares. Service quality will be a major improvement over current modes of transportation, with near 100% on time performance, smooth comfortable rides, and the highest safety of any mode, as shown by the nearly 50 years of fatality-free high-speed rail transportation in Japan. Station amenities will be appropriate for the various user markets.

Formal planning of the HST has been a continuous process of over a decade.

Following implementation attempts in the 1980s, state studies and a temporary commission, a permanent state agency – the California High-Speed Rail Authority – was established in 1996 to move high-speed rail forward. The Authority conducted a state-wide planning effort, bringing in local/regional MPOs, cities, and other interested parties, then a formal EIS/EIR process with the FRA as federal lead agency and with state appropriations paying the cost of developing the Statewide Programmatic EIS/EIR Federal Record of Decision and State Notice of Decision issued in 2005. The subsequent Bay Area-Central Valley Program EIS/EIR was finished in July 2008.

The California HST Corridor Program is included in the State Long Range Transportation Improvement Plan, and the State Rail Plan, as well as in MPO plans for the Bay Area MTC, SACOG, Central Valley, SCAG, SANBAG, and SANDAG.

The Merced/Fresno Corridor Program provides independent utility.

In the event of significant delays or abandonment of the HST program, the Merced/Fresno Program would have created rail crossing benefits, as well as provided the potential for significant improvement to the existing San Joaquin intercity passenger rail

service operated by Amtrak and underwritten in part by the state.

The HST cost-effectively meets Purpose and Need as defined in the Bay Area–Central Valley statewide program EIR/EIS.

The high-speed train system will cost about half as much to build as alternative investments providing the same capacity—about 3,000 freeway miles, five airport runways, and 90 departure gates over the next two decades. The HST will provide reliable and rapid service to the major areas of the state from northern to southern California.

The California HST will use technologies that are decidedly innovative for US passenger rail network, although proven in high-speed rail passenger service around the globe. These include full grade separation, trainsets, control systems, other core system elements, structure design and construction practices, intrusion and hazards detection, operations rules, and preventive maintenance practices that provide the highest level of safety assurance and allow safe operations at speeds today of 320 kph, and planned operations at 350 kph (220 mph).

Opportunities for shared use of railroad rights-of-way and public lands will be of mutual benefit.

Use of railroad properties in this corridor is mostly limited to opportunities for sharing corridors and rights-of-way. The Authority will reach agreement with each private or public railroad or asset owner and will not involve operation on tracks used by operating railroads in this corridor.

Use of public lands is generally limited to grade-separated crossings of public roads and highways and use of rail facilities designed for the HST. Agreements will be reached with each public owner on terms and conditions of use.

The Phase 1 System will provide service from San Francisco to Anaheim; the Full System will include extensions to Sacramento and San Diego.

The Phase 1 System will operate over a 520-mile length from the San Francisco Transbay Terminal to Anaheim. Stations to be considered include: San Francisco (Transbay Terminal and potentially 4th & King for some service); Millbrae; Redwood City or Palo Alto options; San Jose Diridon Station; Gilroy or Morgan Hill; Merced; Fresno; Potentially Visalia/Hanford; Bakersfield; Palmdale or Lancaster; Sylmar or Santa Clarita; Burbank; LAUS; Norwalk or Fullerton; and ARTIC.

The Full System will extend service from Sacramento to Merced, and from Redondo Junction into San Diego. Stations to be considered include: Sacramento; Stockton; Modesto; City of Industry; Ontario; Riverside or Corona or San Bernardino; Murrieta; Escondido; University City; and San Diego (downtown Santa Fe or new Lindberg intermodal facility).

The Authority is poised for and capable of managing the construction and operations.

The California HST System will be built with a mix of state, federal, private, and local funds, under the direction of the Authority, a state agency. The state will acquire and own the right-of-way, using its eminent domain power as needed. The infrastructure and systems will be built and installed in a series of competitively tendered design-build packages, some of which may include maintenance and/or operations of the system. The Authority, with its management team of experienced high-speed rail planning, engineering, and construction management consultant firms, has the organizational structure and the capacity to move the HST system into construction and operations.

(5) Describe the service objective(s) for this Corridor Program (check all that apply):

- Additional Service Frequencies
- Improved Service Quality
- Improved On-Time performance on Existing Route
- Reroute Existing Service
- Increased Average Speeds/Shorter Trip Times
- New Service on Existing IPR Route
- New Service on New Route
- Other (Please Describe): HST on fully-grade separated, dedicated tracks designed to 250-mph

(6) Right-of-Way-Ownership. Provide information for all railroad right-of-way owners in the Corridor Program area. Where railroads currently share ownership, identify the primary owner. *If more than three owners, please detail in Section F of this application.*

Type of Railroad	Railroad Right-of-Way Owner	Route Miles	Track Miles	Status of agreements to implement projects
Class 1 Freight	Adjacent to but not in UPRR Right-of-Way	50	50	Host Railroad Consulted, but Support no

delivering projects on-time and on-budget. The Authority will use traditional performance bonding and create incentives for contractors to fulfill contract obligations. Additionally, CHSRA will address potential jurisdiction of the Surface Transportation Board (STB) over any aspect(s) of the HST project and work to ensure timely completion all prospective regulatory oversight responsibilities consistent with the project delivery schedule.

The Authority's construction staging approach will provide independent utility sections that could function as operable segments prior to Phase 1 completion. This will further mitigate stakeholder risk.

- Frequency of Service (stations served, stopping patterns per hour during peak and off peak period);
- Travel Time Objectives (between city pairs);
- On Time Performance Targets (number of trains arriving at their final terminal stations on time as a percent of total trains operated);
- Service Quality Standards (e.g., cleanliness of interior and exterior of trains and stations, on board announcements, station announcements etc.);
- Operating and Safety Rules Qualification & Compliance; and
- Efficiency and Cost Effectiveness.

Service, operations and safety performance-based categories will be defined with quantified measureable objectives and there may be incentives for innovative approaches and for exceeding certain performance goals.

As explained above, it is intended that the operator franchise will submit a financial plan which will contribute to the building and/or operations of the line.

2C. Selection of Operator – If the proposed operator railroad was not selected competitively, please provide a justification for its selection, including why the selected operator is most qualified, taking into account cost and other quantitative and qualitative factors, and why the selection of the proposed operator will not needlessly increase the cost of the Corridor Program or of the operations that it enables or improves. *Please limit response to 3,000 characters.*

Not applicable.

2D. Other Stakeholder Agreements – Provide relevant information on other stakeholder agreements including State and local governments. *Please limit response to 3,000 characters.*

To complement high-speed train service in California, the Authority is pursuing partnerships with local and regional agencies and transit providers to propose mutually beneficial or joint use relationships. In addition to the Memorandum of Understanding (MOU) and Cooperative Agreements (CA with owners of right of way or potential operating agreements, the Authority has worked proactively to engage every area that will benefit from high-speed rail service in the state. The following represents a list of local entities with whom the Authority has engaged in an MOU or CA, related to the Merced-Fresno section:

- Council of Fresno County Governments and the Authority entered into a cooperative agreement to provide funding for the Authority to study possible rail consolidation and its impacts on the high-speed system. The Fresno County of Governments agreed to reimburse the Authority for the costs associated with the study in the corridor not to exceed \$250,000.

In addition to stakeholder agreements from local governments, the Authority has signed MOUs with the relevant foreign governments including the following:

- Ministry of Land, Infrastructure and Transport of Japan
- German Ministry of Transport, Building and Housing
- Italian Ministry of Infrastructure and Transportation
- French Ministry for Ecology, Energy, Sustainable Development and Land Planning
- Spanish Ministry of Development

2E. Agreements with operators of other types of rail service - Are benefits to non-intercity passenger rail services (e.g., commuter, freight) foreseen? Describe any cost sharing agreements with operators of non-intercity passenger rail service (e.g., commuter, freight). *Please limit response to 3,000 characters.*

An initial MOU with Burlington Northern for the LOSSAN corridor and Central Valley to exchange information has been signed. The Authority is currently working with Burlington Northern to establish a more detailed MOU dealing with the operations within their boundaries and the rules and regulations that are needed.

The Authority is similarly working with the California Division of Rail concerning operating rules and regulations as they are affected in the LOSSAN corridor and the Central Valley.

(3) Financial Information

3A. Capital Funding Sources. Please provide the following information about your funding sources (if applicable).

EXHIBIT “D”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



CRAIG KOHLRUSS/THE FRESNO BEE

A rider boards a southbound San Joaquin Amtrak train Monday. Amtrak's San Joaquin trains posted a record year in 2012, attracting more than 1.1 million riders in the federal fiscal year that ended Sept. 30. That's up 7.2% over 2011. *FRESNO BEE 1/2/13*

By Tim Sheehan
The Fresno Bee

Amtrak's San Joaquin line, the Valley's only passenger train service, posted record ridership in 2012, attracting more than 1.1 million passengers last year.

The record number of people riding the rails comes even as controversy continues to boil over plans to run high-speed trains through the region from San Francisco to Los Angeles.

The Amtrak San Joaquins — six daily trains northbound and six southbound between Bakersfield and the Bay Area and Sacramento — also saw revenue from ticket sales rise in the 2012 fiscal year to about \$38.7 million. That's a boost of about \$3 million, or 8.3%, over 2011.

The growth in ridership on the Valley trains corresponds to similar increases seen by Amtrak nationwide — a record 31.2 million passengers, said Christina Leeds, an Amtrak spokeswoman.

Much of the growth nationwide was

in the Northeast Corridor and on the West Coast. Three of Amtrak's six busiest corridors were in California — the Pacific Surfliner trains that run from San Diego to San Luis Obispo, the Capitol Corridor line that links Sacramento to San Jose, and the San Joaquins, which saw a 7.2% jump in ridership.

Amtrak attributes the growth to improving passenger services including e-tickets and WiFi aboard its trains, and travelers who are weary of high fuel prices for automobiles as well as congested highways and airports.

Amtrak's station in downtown Fresno, along the BNSF Railway tracks near Fresno City Hall, saw a significant increase in passenger activity on the 12 daily trains that ply the San Joaquin Corridor.

Amtrak reported that more than 394,000 passengers either boarded or got off trains in Fresno last year, up from almost 372,000 in 2011. Passenger counts also increased at all of the other

See **AMTRAK**, Page A4

Amtrak California ridership, revenue

Train ridership on Amtrak's San Joaquin line reached more than 1.1 million last year — a record for the route.

Service	2012		2011	
	Ridership	Revenue	Ridership	Revenue
Pacific Surfliner	2,640,342	\$58.6 mil	2,786,972	\$55.3 mil
Capitol Corridor	1,746,397	\$27.9 mil	1,708,618	\$25.7 mil
San Joaquin	1,144,616	\$38.7 mil	1,067,441	\$35.7 mil
San Joaquin station boardings / alightings			2012	2011
	Sacramento*		1,186,958	1,175,046
	Lodi		8,439	7,422
	Stockton (downtown)		40,056	38,401
	Stockton (San Joaquin St.)		277,926	260,115
	Modesto		118,226	104,647
	Merced		125,316	114,401
	Madera		24,770	21,739
	Fresno		394,074	371,875
	Hanford		210,682	199,291
Corcoran		29,072	27,424	
Wasco		21,117	18,209	
Bakersfield		507,058	476,767	

* Sacramento serves both the San Joaquin and Capitol Corridor lines

Source: Amtrak

THE FRESNO BEE

AMTRAK

Continued from A1

istle-stops in the central San Joaquin Valley, including Merced, Madera, Hanford and Corcoran.

Yet despite the rising ridership and revenue from ticket sales, the San Joaquins — along with Amtrak's other California lines and many others across the country — remain money-losing propositions. In its 2013 budget projections, the National Railroad Passenger Corp. — the formal name for Amtrak — estimated a loss of \$5.79 for every passenger riding on the San Joaquin trains.

Of 45 Amtrak passenger train lines across the U.S., only five make money. Among the money losers, only three lose less per passenger than the San Joaquins.

The San Joaquins, along with the Pacific Surfliner and Capitol Corridor trains, are run by Amtrak under contracts with Cal-

trans, the Department of Rail, which subsidizes the service. Caltrans supports the San Joaquin Corridor to the tune of about \$90 million a year.

Valley leaders are maneuvering to take policy-making decisions from Caltrans by forming a new regional rail agency, the San Joaquin Joint Powers Authority. The authority would be modeled after the Capitol Corridor, a similar joint agency comprising transportation agencies along that route.

Amtrak's San Joaquin line has grown from eight trains per day in 1998 to 12 last year under the California Department of Transportation's rail administration.

But the Capitol Corridor line quadrupled during the same time, from eight daily trains to 32, under a consortium of Sacramento-area rail leaders who wrested control from the state and became more responsive to travelers' needs, say Valley officials

who hope to do the same.

Local control could "result in improved service and increases in ridership and revenue," Modesto Mayor Garrad Marsh wrote in a letter to Gov. Jerry Brown. Marsh also predicted more jobs and better air quality with improved train service.

Six of the region's transportation agencies must sign on to make the new authority a reality. Five in the north end of the corridor — from Contra Costa, Merced, Sacramento, San Joaquin and Stanislaus counties — already have agreed.

Fresno, Tulare, Madera and Alameda counties have yet to vote. Those in Kings and Kern counties, where opposition to high-speed rail runs high, may not go along, but their participation is not required.

So sure are leaders of a sixth partner joining in January or February that the

future authority has scheduled a March 22 public kickoff meeting in Merced.

The local push to take over the San Joaquin Corridor is not directly related to high-speed rail, although the bullet-train system would lean on regional commuter rail lines to bring passengers to it.

Smaller towns along the route fear that the California High-Speed Rail Authority's proposed plans will not only bypass their communities but also close down the Amtrak service on which their residents rely.

Earlier this year, however, Caltrans officials pledged to maintain Amtrak service on the existing corridor.

► Modesto Bee staff writer Garth Stapley contributed to this report. The reporter can be reached at (559) 441-6319, tsheehan@fresnobee.com or @tsheehan on Twitter.

FURNITURE REFINISHING
Wood'n Stuff
A PROFESSIONAL WOODWORKING SHOP
REFINISHING

EXHIBIT “E”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

GAO

Testimony
Before the Committee on
Transportation and Infrastructure,
House of Representatives

For Release on Delivery
Expected at 9:30 a.m. EST
Thursday, December 6, 2012

**HIGH-SPEED
PASSENGER RAIL**

**Preliminary Assessment of
California's Cost Estimates
and Other Challenges**

Statement of Susan A. Fleming, Director
Physical Infrastructure Issues



G A O

Accountability * Integrity * Reliability

awarded for the initial construction in the Central Valley in 2013. The bids for the first 30-mile construction package are due in January 2013 and will provide a check on how well the Authority has estimated the costs for this work as well as provide more information on potential risks that cost estimates of future segments may encounter.

California High-Speed Rail Project Faces Financial and Other Challenges

In addition to challenges in developing reliable cost estimates, the California high-speed rail project also faces other challenges. These include obtaining project funding beyond the first construction segment, continuing to refine ridership and revenue estimates beyond the current forecasts, and addressing the potential increased risks to project schedules from legal challenges associated with environmental reviews and right-of-way acquisitions.

Challenges To Securing Project Funding

One of the biggest challenges facing California's high-speed rail project is securing funding beyond the first construction segment. While the Authority has secured \$11.5 billion from federal and state sources for project construction, almost \$57 billion in funding remains unsecured. A summary of funding secured to-date can be found in Table 1.

Table 1: Funding Secured for Constructing the High-Speed Rail Project

(Dollars in billions)	
State high speed rail bonds	\$8.2 ^a
Federal HSIPR grants	3.3 ^b
Total secured funding	\$11.5

Source: GAO analysis of FRA grant information and the California High Speed Rail Authority April 2012 Revised Business Plan.

^aThe Authority expects approximately \$8.2 billion in proceeds from the \$9.95 in authorized Proposition 1A high-speed rail bonds to be available for construction of high-speed rail. The remainder is for connectivity projects and engineering and environmental work.

^bApproximately \$3.3 billion of \$3.5 in obligated HSIPR grants is available for construction of high-speed rail project. The remainder is for engineering and environmental work.

As with other large transportation infrastructure projects, including high-speed rail projects in other countries, the Authority is relying primarily on public financial support, with \$55 billion or 81 percent of the total construction cost, expected to come from state and federal sources. A summary of the Authority's funding plan can be found in table 2.

Table 2: California's Funding Plan for Construction of the High-Speed Rail Project, according to the April 2012 Revised Business Plan

(Dollars in billions)

Funding source	First construction	Initial operating segment	Bay-to-Basin	Phase 1 blended	Total	
Federal	\$3.3	\$20.3	\$8.4	\$10.0	\$42.0	(61%)
State high-speed rail bond	2.7	4.4	0.0	1.1	8.2	(12)
Locally generated	0.0	0.7	1.2	3.1	5.0	(7)
Subtotal public	6.0	25.4	9.6	14.2	55.2	(81%)
Private investment	0.0	0.0	10.1	3.0	13.1	(19)
Operating cash flow	0.0	0.0	0.2	0.0	0.2	(0)
Subtotal private investment and operating cash flow	0.0	0.0	10.3	3.0	13.3	(19%)
Total	\$6.0	\$25.4	\$19.9	\$17.2	\$68.5	(100%)

Source: GAO analysis of California High Speed Authority's April 2012 revised business plan.

Of the total \$55 billion in state and federal funding, about \$38.7 billion are uncommitted federal funds, an average of over \$2.5 billion per year over the next 15 years. Most of the remaining funding is from unidentified private investment once the system is operational—a model that has been used in other countries, such as for the High Speed One line in the United Kingdom. As a result of the funding challenge, the Authority is taking a phased approach—building segments as funding is available. However, given that the HSIPR grant program has not received funding for the last 2 fiscal years and that future funding proposals will likely be met with continued concern about federal spending, the largest block of expected funds is uncertain. The Authority has identified revenues from California's newly implemented emissions cap and trade program in the event other funding is not made available, but according to state officials, the amounts and authority to use these funds are not yet established.¹⁷

¹⁷California's Legislative Analyst's Office has evaluated the risks of applying cap and trade revenues to the high-speed rail project. See Legislative Analyst's Office, *The 2012-2013 Budget: Funding Requests for High Speed Rail* (Sacramento, CA: Apr. 17, 2012).

EXHIBIT “F”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster
Chairman

Washington, DC 20515

Nick J. Rahall, III
Ranking Member

Christopher P. Bertram, Staff Director

February 22, 2013

James H. Zeln, Democrat Staff Director

The Honorable Daniel R. Elliot III
Chairman
Surface Transportation Board
395 E St., SW
Washington, DC 20423

Dear Chairman Elliott:

I write as Chairman of the Subcommittee on Railroads, Pipelines, and Hazardous Materials regarding the California High-Speed Rail Authority's (Authority) planned construction of a passenger rail line to connect the San Francisco Transbay Terminal to Los Angeles Union Station (project). As you may know, the Authority expects to begin construction on the initial construction segment of the project this summer.

Under the Interstate Commerce Act, as amended, the Surface Transportation Board (Board) must approve the construction and operation of rail lines. The Board has jurisdiction over such activity if it involves transportation by rail carriers (1) between a place in a state and a place in another state, and (2) between a place in a state and another place in the same state, as long as it is carried out as part of the interstate rail network. I understand that whether the Board has jurisdiction over construction and operation of an intrastate passenger rail line is a fact-specific determination. Therefore, in similar situations in the past, entities have come before the Board to determine jurisdiction and, if necessary, apply for construction authority prior to beginning any construction-related activities.

As I understand it, the Authority has not sought such a determination by the Board regarding its proposed project. The Authority's *California High-Speed Rail Program Revised 2012 Business Plan* states, however, that the project will connect to Amtrak, and existing intercity passenger rail service, and provide coordinated ticketing and marketing. While I pass no judgment on whether the Board has jurisdiction over the construction of the project—indeed, that is a determination properly left to the Board—I believe it is imperative that the authorities set forth in the Interstate Commerce Act, including the requirement for construction authority, be followed. I therefore request that the Board take all reasonable action to ensure the Authority is complying with the Interstate Commerce Act.

If you or your staff have any questions or need further information, please contact [REDACTED]
[REDACTED] of the Subcommittee on Railroads, Pipelines, and Hazardous Materials at [REDACTED]

Sincerely,

A handwritten signature in black ink, appearing to read "JD", written over a faint, illegible background.

Jeff Denham

Chairman

Subcommittee on Railroads, Pipelines, and Hazardous
Materials

EXHIBIT “G”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



U.S. Department
of Transportation
**Federal Railroad
Administration**

Grant/Cooperative Agreement

1. RECIPIENT NAME AND ADDRESS California High-Speed Rail Authority 925 L St Ste 1425 Sacramento, CA 95814-3704		2. AGREEMENT NUMBER: FR-HSR-0009-10-01-05	3. AMENDMENT NO. 5
1A. IRS/VENDOR NO.		4. PROJECT PERFORMANCE PERIOD: FROM 08/17/2010 TO 09/30/2017	
1B. DUNS NO. 011075376		5. FEDERAL FUNDING PERIOD: FROM 08/17/2010 TO 09/30/2017	
7. CFDA#: 20.319	6. ACTION Administrative Supplement/Change		
8. PROJECT TITLE California High-Speed Train Program ARRA Grant	9. TOTAL OF PREVIOUS AGREEMENT AND ALL AMENDMENTS		2,552,556,231.00
	10. AMOUNT OF THIS AGREEMENT OR AMENDMENT		0.00
	11. TOTAL AGREEMENT AMOUNT		2,552,556,231.00
12. INCORPORATED ATTACHMENTS THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS, INCORPORATED HEREIN AND MADE A PART HEREOF: Amended Terms and Conditions, Attachment 1			
13. STATUTORY AUTHORITY FOR GRANT/ COOPERATIVE AGREEMENT American Recovery and Reinvestment Act of 2009, Public Law 111-5 (February 17, 2009)			
14. REMARKS			
GRANTEE ACCEPTANCE		AGENCY APPROVAL	
15. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Mr. Jeff Morales		17. NAME AND TITLE OF AUTHORIZED FRA OFFICIAL Ms. Gina Matrassi-ao	
16. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL Electronically Signed	16A. DATE 12/05/2012	18. SIGNATURE OF AUTHORIZED FRA OFFICIAL Electronically Signed	18A. DATE 12/05/2012
AGENCY USE ONLY			
19. OBJECT CLASS CODE: 41010		20. ORGANIZATION CODE: 9013000000	
21. ACCOUNTING CLASSIFICATION CODES			
DOCUMENT NUMBER	FUND	BY	BPAC
FR-HSR-0009-10-01-00	2709120718	2010	91010029Y0
FR-HSR-0009-10-01-00	2709120718	2011	91010029Y0
			AMOUNT
			0.00
			0.00

3. OMB Circular A-122, “Cost Principles for Nonprofit Organizations” (applies to private non-profit organizations)
4. Federal Acquisition Regulation, 48 C.F.R. Chapter I, Subpart 31.2, “Contracts with Commercial Organizations” (applies to for-profit organizations)

These identified circulars and regulations are hereby incorporated into this Agreement by reference as if fully set out herein.

17. Buy America:

The Grantee shall comply with the Buy America provisions set forth in 49 U.S.C. §24405(a) for the Project requiring the use of steel, iron, and manufactured goods produced in the United States, in accordance with the conditions therein set forth.

2. Attachment 1A is deleted in its entirety, and the following is substituted therefor:

PRIIA Clauses for Corridor Programs, Attachment 1A

Section 1. Railroad Agreements.

The Grantee represents that it has entered into and will abide by, or will enter into and abide by, a written agreement, in form and content satisfactory to FRA, with any railroad owning property on which the Project is to be undertaken, in accordance with 49 U.S.C. 24405(c)(1) and section 4.2.6 of the High Speed Intercity Passenger Rail (HSIPR) Program Interim Guidance published in the Federal Register on July 1, 2010 (75 FR 38344). Such agreement shall provide for compensation for use, assurance regarding the adequacy of infrastructure capacity, a commitment to keeping railroad collective bargaining agreements in full force and effect, and compliance with liability requirements consistent with 49 U.S.C. 28103. The Grantee shall not enter into or agree to any substantive changes to the FRA approved written agreement with the railroad on which the Project is undertaken without FRA’s prior written consent. The Grantee may not obligate or expend any funds (federal, state or private) for final design and/or construction of the Project, or commence any part of the final design and/or construction for the Project, or any component of the Project, without receiving FRA’s prior written approval of the executed railroad agreement satisfying the requirements of this section.

Section 2. Service Outcome Agreements with Infrastructure Owners and Operators.

a. The Grantee represents that it has or will have satisfactory continuing control over the use of Project improvements and the capability and ability to maintain the Project improvements for the useful life of the Project, in accordance with 49 U.S.C. 24402(b)(1) and (c)(1)(B). Satisfactory continuing control may be established by either the direct ownership of Project improvements or through a written agreement(s) in form and content satisfactory to FRA with the owners of infrastructure on which the Project is to be undertaken and the proposed service operator of any rail passenger service that benefits

EXHIBIT “H”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

Submission 586 (Jerry S. Wilmoth, Union Pacific Railroad, October 12, 2011)



Jerry Wilmoth
General Manager Network Infrastructure

586-1

October 12, 2011

California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Re: Union Pacific Railroad Comments to Merced to Fresno Draft EIR/EIS

Dear High-Speed Rail Authority:

Union Pacific Railroad Company (Union Pacific) submits the following comments related to the Merced to Fresno Draft Environmental Impact Report/Statement (DEIR) in accordance with the guidelines on the California High-Speed Rail Authority's (Authority) website. Replies or requests for additional information from Union Pacific should be addressed to the undersigned.

1. Failure to Accurately and Consistently Address Union Pacific's Property Rights.

As Union Pacific has already stated in previous comments, no part of the high-speed rail system may be located on Union Pacific's property. This has not changed -- Union Pacific requires preservation of its entire operating right of way.

One of the difficulties in reviewing the DEIR is that it contains incomplete and contradictory information about property issues touching on Union Pacific's rights. While the DEIR makes statements about not encroaching on Union Pacific's property, its drawings show unmistakable encroachments in the Fresno and Merced station areas. A stark example is an emergency vehicle access road for the Authority's use that would be located on the Union Pacific right of way near the Fresno station. The Authority's plans show this emergency vehicle access road crossing Union Pacific's mainline tracks at grade at two locations. For safety and public policy reasons, Union Pacific opposes the addition of any new grade crossings over its tracks.

Another example of a possible encroachment is that drawings related to the BNSF Alternative are mislabeled in a way that shows part of Union Pacific's right of way belonging to BNSF. This error misleads a person reviewing the plans to believe that the high-speed rail alignment will be adjacent to BNSF right of way along a three-mile stretch leading into the Merced station when in fact this section of the high-speed rail alignment is adjacent to Union Pacific's property.

California High-Speed Rail Authority
Re: UPRR Comments to Merced to Fresno Draft EIR/EIS
October 12, 2011
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Other examples of encroachments and inconsistencies exist, but it is not possible to fully evaluate and comment on them because the Authority's materials do not provide sufficient detail to identify property lines and measurements. This is a pervasive problem throughout the DEIR. From Union Pacific's review, it does not appear that right of way boundaries are depicted on any of the Authority's maps, and they are shown with insufficient precision on its drawings. To offer one example of the problem, Sheet T3003-A depicts features near the proposed Merced station. The drawing makes no reference to Union Pacific property or facilities, but this station would be located immediately adjacent to and apparently encroach upon the Union Pacific right of way. Remarkably, the DEIR does not address the extent of such potential acquisitions. To the contrary, it states that the plans call for no encroachments at all and relies on avoidance of encroachments as a basis for avoiding environmental impacts.

As a further example of this kind of inconsistency, the DEIR asserts that encroachments will be avoided while also stating that the project design "[u]ses shared right-of-way when feasible." (DEIR Executive Summary, p. S-9.) While this statement may be intended to refer to sharing right of way with other operators, the DEIR does not say so. Clarity on this point is essential.

2. Failure to Acknowledge Acquisitions for Eminent Domain Purposes.

Union Pacific reserves the right to make further comments and defend its interests against any eminent domain or other action related to the Authority's plans that would involve an encroachment upon or acquisition of Union Pacific's operating property. Union Pacific will not surrender or convey any property that could be used to support freight railroad operations.

Compliance with the California Environmental Quality Act (CEQA) is a prerequisite for the exercise of eminent domain authority. Accordingly, the Authority cannot attempt to condemn any Union Pacific property in reliance on an EIR that claims to avoid any acquisitions of such property. If this document is finalized without addressing such acquisitions and the Authority later wishes to pursue condemnation, a Supplemental EIR/EIS would be necessary.

3. Failure to Evaluate Impacts of Alignments Adjacent to Union Pacific's Right of Way.

There are three alternative high-speed rail alignments identified between Merced and Fresno: the UPRR/SR 99 Alternative, the BNSF Alternative, and the Hybrid Alternative. All three alternative alignments are adjacent to Union Pacific's Fresno Subdivision in the Fresno and Merced areas. In the Fresno area, the high-speed rail line passes over Union Pacific's main line at Herndon (San Joaquin River) and parallels the railroad's right of way on the west all the way into the Fresno station. At Merced the BNSF alternative utilizes the west side of Union Pacific's right of way from the south city limits.

The UPRR/SR 99 alternative is adjacent to Union Pacific almost the entire distance between these station areas. The BNSF alternative is adjacent to BNSF's main line between these areas. The Hybrid alternative is essentially the UPRR/SR 99 alignment with a wide bypass around downtown Madera, some of which would utilize the BNSF main line.

In short, even if there were no encroachments, all three alternatives would materially impact Union Pacific's right of way and operations. Yet the DEIR fails to recognize or evaluate any potential impacts, temporary or permanent, on Union Pacific's operations.

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UNION PACIFIC RAILROAD 10021 Foothills Blvd., Roseville, CA 95747 ph. (916) 789-6360



CALIFORNIA
High-Speed Rail Authority



U.S. Department
of Transportation
Federal Railroad
Administration

Submission 586 (Jerry S. Wilmoth, Union Pacific Railroad, October 12, 2011) - Continued

California High-Speed Rail Authority
Re: UPRR Comments to Merced to Fresno Draft EIR/EIS
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586-1

As the HST alternatives do not encroach on the freight rail corridors, they would not have a direct effect on freight operations. After construction, freight operation would continue as it currently does and vehicle miles would change in accordance with service plans of the UPRR and BNSF. No effects on freight rail operations are anticipated. DEIR Section 3.2 Transportation, p. 36.

This conclusion is false. All three alternative alignments place the high-speed rail line immediately adjacent to Union Pacific's main line at various locations. Such placement permanently forecloses any expansion by Union Pacific on that side of its right of way. This would include both capacity expansion and new spurs to industrial and agricultural shippers.

Moreover, the DEIR is vague about just how close the project alignment would be to Union Pacific's line. Under the heading of "UPRR Adjacency" (p. 2-41), the DEIR states that "the alternative is designed to avoid the existing UPRR operations right-of-way and active rail spurs to the greatest extent possible." There is no clear explanation of the configuration or minimum separation where space constraints may bring the lines into close proximity, or even encroachments where avoidance is not possible. As an example, Figure 2-29 merely shows a 100 foot separation in one short segment. Even where the high-speed rail line would be 125 feet or more from Union Pacific's main line, the buffer zone would not be usable for capacity or customer service. The DEIR fails to recognize or evaluate these impacts.

These are substantial issues, but they are not new – Union Pacific raised them in previous comments. Any constraints on freight rail capacity and expansion opportunities impact state and federal public policies and Union Pacific's commercial interests. For the DEIR to summarily conclude that the proposed high-speed rail project would have no effect on freight rail operations shows that the Authority has not sufficiently investigated, analyzed, and addressed these issues.

4. Failure to Address Construction Encroachments and Adjacency Impacts

During construction of the high-speed rail line, impacts on adjacent freight rail operations could be significant. The DEIR states that "common construction impacts on all HST alternatives [include]: . . . Areas adjacent to freeways and/or existing rail lines where existing overcrossings would be modified or relocated" (p. 3.2-30) and that construction staging includes "structure construction to accommodate staged access of traffic across highway and rail right-of-way" (p. 3.2-33). The DEIR also notes that: "After construction, freight operation would continue as it currently does" (p. 3.2-35). Yet there is no analysis of impacts on freight rail during construction itself, beyond those brief statements, and no mitigation is provided for such impacts. Work on the high-speed rail line not only could physically affect Union Pacific's property, but also could affect the ability to conduct freight operations. Given the close proximity of the Union Pacific line, measures to avoid or reduce such impacts are essential.

To further illustrate this deficiency, one would anticipate that the Authority may wish to access the high-speed rail line from Union Pacific's property at some locations during construction. This would require acquiring temporary access rights from Union Pacific and may disrupt freight operations. Yet, while the DEIR (p. 3.2-30) acknowledges encroachments and the need for temporary construction easements affecting parking areas, roadways, pedestrian lanes, bicycle lanes and parks, this list does not include freight railroad lines (p. 3.2-30).

California High-Speed Rail Authority
Re: UPRR Comments to Merced to Fresno Draft EIR/EIS
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Union Pacific notes that the Draft EIR/EIS for the Fresno to Bakersfield section of the high-speed rail project acknowledges the potential construction impacts on freight operations and the need for temporary "shoofly" tracks to divert freight rail lines as a specific mitigation measure:

10. Protection of freight and passenger rail during construction. Repair any structural damage to freight or public railways, and return any damaged sections to their original structural condition. If necessary, during construction, a "shoofly" track would be constructed to allow existing train lines to bypass any areas closed for construction activities. Upon completion, tracks would be opened and repaired, or new mainline track would be constructed, and the "shoofly" would be removed. Draft EIR/EIS, Fresno to Bakersfield Section, page 3.2-83.

Similar language would appear to be necessary to include in the DEIR for the Merced to Fresno section.

586-2

5. Failure to Evaluate Safety Risks and Mitigation

In addition to inadequate evaluation of operational impacts, the DEIR fails to adequately discuss and evaluate the safety impacts inherent in high-speed operation. Along significant portions of all three alternative alignments, the high-speed corridor will be immediately adjacent to Union Pacific's right of way. Elsewhere, the plans call for high-speed trains to operate within 100 feet of Union Pacific freight trains. The DEIR does not clearly identify the proposed separation between track centerlines and right of way lines for each of the three alternatives. The failure to clearly identify separations and encroachments prevents Union Pacific from fully evaluating the safety implications of the different high-speed alignments.

The Authority proposes placing no safety barriers of any kind along the high-speed rail right of way where adjacent freight tracks are more than 102 feet away. (DEIR Section 3.11 Safety and Security, p. 23.) Where freight tracks are closer, the DEIR merely offers that some type of barrier "may" be required. It lists types of barriers that may be appropriate but provides almost no information about the standards to which they would be built. This leaves the railroad unable to evaluate and comment on the sufficiency of the suggested barriers.

The Federal Railroad Administration will likely require definite barriers and other safety measures between high-speed rail and freight trains. The DEIR fails to mention the jurisdiction and potential involvement of the FRA.

Union Pacific notes that the Authority's decision to require no barriers when freight and high-speed rail tracks are at least 102 feet apart appears to be based entirely on the use of random factual assumptions rather than an engineering study or other reliable authority. The Authority likewise cites no study or other authority for its standard that would permit freight and high-speed tracks to be as close to each other as 29 feet as long as a barrier is in place between them. The distance separating tracks is among the most important safety considerations for this project. Standards related to track spacing and the plans based on them cannot be valid and reasonable unless they are based on reliable authorities.

Submission 586 (Jerry S. Wilmoth, Union Pacific Railroad, October 12, 2011) - Continued

California High-Speed Rail Authority
Re: UPRR Comments to Merced to Fresno Draft EIR/EIS
October 12, 2011
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586-2

The deficiencies related to safety described above render the DEIR inadequate for all of the proposed alternative alignments. In short, while the DEIR acknowledges the possibility of high-speed rail and freight derailments (pp. 3.11-15, 23), it provides inadequate analysis of the risk that a derailment on one system may pose to trains and people on the other.

586-3

6. Any Flyover Must Comply With Union Pacific's Engineering Standards.

All three of the Authority's proposed alignments call for the high-speed tracks to cross over the Union Pacific right of way on a flyover structure at Herndon. If the Castle Air Base site is selected for the high-speed rail maintenance facility, the DEIR calls for additional construction at the north end of Merced, including an additional flyover of the Union Pacific tracks and some parallel high-speed rail operation. The drawings attached to the DEIR lack sufficient detail to permit Union Pacific to fully evaluate the proposed design of these flyovers. Any such structure must meet Union Pacific's engineering standards. These standards require that a flyover clear-span the right of way with no intermediate support structures and maintain a minimum vertical clearance of 23 feet 4 inches between the top of the freight rail and the bottom of the flyover structure for the full width of the right of way. A copy of Union Pacific's vertical clearance standard is enclosed for reference. Any pier located within 15 feet of Union Pacific's property must meet AREMA heavy pier construction (crash wall) standards. Footings for piers may not encroach onto Union Pacific's property.

586-4

586-5

586-6

7. The Authority's Plans for Grade-Separated Road Crossings May Not Preclude Future Grade Separation of Adjacent Union Pacific Tracks.

The Authority's plans call for multiple grade-separated road crossings. Where these grade separations are constructed near Union Pacific's right of way, they may prevent future grade separation of crossings on Union Pacific's line. For example, in Madera, the design of at least one high-speed rail flyover above a public street will leave insufficient space for construction of a future grade separation of an existing public grade crossing. Federal and state public policies as well as Union Pacific's safety standards call for elimination of grade crossings wherever practicable. The Authority's project must be designed in such a way that grade separation of nearby freight lines remains possible.

8. Failure to Ensure Sufficient Area for Required Freight Operational Activities.

Union Pacific conducts a number of activities on its rights of way that are ancillary to the operation of trains. Many of these activities are undertaken to comply with standards administered by the Federal Railroad Administration. For example, under 49 C.F.R. Part 213, Union Pacific must comply with minimum safety requirements for railroad tracks, signal systems, roadbeds, and adjacent areas. Certain requirements imposed by the California Public Utilities Commission also apply to conditions on a railroad right of way. In addition to following these regulatory standards, Union Pacific has adopted its own standards for the safe and efficient operation of the railroad.

In areas of proximity between the Union Pacific right of way and the high-speed rail alignment, sufficient space must be maintained for such operational and maintenance activities. Space must also be preserved for access and activities related to improvements that Union Pacific makes to its property from time to time, including construction of new facilities. Union Pacific reserves the right to make more specific comments about these issues as the Authority clarifies its proposals through a revised DEIR.

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California High-Speed Rail Authority
Re: UPRR Comments to Merced to Fresno Draft EIR/EIS
October 12, 2011
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9. Failure to Adequately Address Other Environmental Issues.

Union Pacific notes several other elements of the DEIR that appear to be deficient but are of a more technical nature that would require significant discussion to fully address here. Given the necessity for the Authority to revise and recirculate the DEIR to correct the deficiencies described above, Union Pacific elects only to briefly flag these additional issues in these comments. It does so in an effort to help guide the Authority's further development of its documentation and to preserve Union Pacific's ability to address these issues in more detail if they remain unaddressed in the revised DEIR and if their resolution may have a possible effect on Union Pacific's interests.

A. The DEIR does not adequately address land use, displacement, and environmental justice impacts of the proposed project. This is another consequence of the lack of consistency and clarity about potential land acquisitions that would be required for the Authority's project.

B. The DEIR does not adequately address impacts on natural resources, such as sensitive species and habitat, wetlands, hydrology, and water quality that could result from the Authority's efforts to avoid safety and operational problems due to overlapping or close alignments.

C. The Authority appears to omit, understate, or under-analyze several aspects of construction, maintenance, and operation of the proposed project that will have an impact on the DEIR's air-quality analysis.

10. Conclusion.

For the sake of efficiency, after the Authority addresses the deficiencies described in these comments, Union Pacific invites the Authority to share its proposed plans with Union Pacific for informal review in order to identify potential issues and solutions before circulating a revised DEIR.

Sincerely,

Jerry S. Wilmoth
General Manager Network Infrastructure

Attachment - 1) UPRR Vertical Clearance Standards

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EXHIBIT “I”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



DJ Mitchell II
Assistant Vice President
Passenger Operations

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P.O. Box 961034
2600 Lou Menk Drive
Fort Worth, Texas
76161-0034
(817) 352-1230
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dj.mitchell@bnsf.com

April 16, 2013

Mr. Joseph J. Metzler
Manager- Operations and Maintenance
Project Management Team for CAHSRA
On the behalf of the NCRPWG
Parsons Brinckerhoff
303 Second Street
Suite 700 North
San Francisco, CA 94107

RE: PB-BNSF-3146--California High Speed Rail Authority-Rail Service Concepts for 2018-2025 BNSF Network Capacity Models

Dear Mr. Metzler:

This is in reference to your letter and the request you forwarded in February on behalf of the California High Speed Rail Authority for modeling and review of various proposed passenger rail blended service plans

We have generally reviewed and looked over these plans, but we are at a point in our understanding of intercity passenger rail planning in the San Joaquin Valley that we are at present unable to proceed to more specific planning or review of these materials. This is in light of frankly a great deal of ambiguity and contradictions in the different materials that have been forwarded, in the public statements being made and in the absence of any kind of understanding or agreement with the public agency sponsors of these programs. It is unclear what plans are ready to be progressed on behalf of the Authority and under what terms we should consider them.

In that regard, six intercity rail service options have been forwarded which may be internally inconsistent with respect to the extent to which they would involve BNSF right of way, trackage, or the construction of new railroad sometimes adjacent to and sometimes over BNSF right of way. It is also unclear the extent to which these options would use conventional FRA compliant rolling stock at speeds below 90 MPH or other alternatives.

With respect to truly high speed passenger rail service, elements of the options under consideration appear to be inconsistent with materials or plans that the Authority has submitted in descriptions to the Surface Transportation Board for exemption, and what the Authority has submitted for environmental review. Thus, there appears to be too much ambiguity at this time for a productive review of these plans.

In order to progress this effectively, we ask that the Authority provide us with a draft engineering agreement that contains a scope of work and budget that can be reviewed and for the Authority to specify the corridor alignment that is the realistic plan they might be advancing. As we have emphasized since our first discussions with prior officers of the Authority, it will also be essential



to address the safety implications, risk mitigation strategy and liability associated with any construction near or adjacent to our track as well as for future operations. We would then be in a better position to have meaningful discussions on how this could progress. BNSF has not agreed to or acquiesced in any proposed or potential alignment or change in service in the San Joaquin Valley involving our railroad, whether on, near, or adjacent to, our current right-of-way, or which could affect current or future rail service on our line, or could affect access to our line by present or future freight customers. In order for BNSF to progress any particular segment we will need to understand how these issues are addressed as to the entire proposed line through the San Joaquin Valley.

By the same token, we are not clear with whom we are actually negotiating or what agency would be the responsible entity progressing these plans, whether they are for truly high speed service or for what is being called Blended Service. For that reason I am copying Frank Vacca of CAHSRA and Bill Bronte of Caltrans to help us understand how all of this is to progress, and please feel free to forward this letter to the various parties copied on your initial letter to us as appropriate. With respect to the Authority's two Blended Service options and Caltrans' three service options A, B, and C, we believe it is necessary for the appropriate public agency intercity passenger rail sponsors to make some key decisions:

- Determine which one of the five conventional train speed options should be used as the foundation for any additional service agreement negotiations;
- Confirm that the service option selected consists of Amtrak service as part of its existing network and normal operations, whether operating on BNSF track or facilities constructed by the Authority;
- Identify a lead agency with which BNSF would negotiate;
- Provide BNSF with a projected timeline for the implementation of the proposed additional service; and,
- Confirm, as discussed in recent meetings, that Design-Build will not be used as a project delivery method where CHSRA construction will impact BNSF property or customers.

The different options and scenarios of your various alternative plans, some of which are very aggressive levels of passenger train service, could require significantly different capital infrastructure requirements to permit service and analysis of impacts on future freight service capacity and even access to our own line as a result of potential parallel structures along the right-of-way. In a similar vein, if the agencies envision something along the lines of the Amtrak metrics and standards to apply to this service for measurement of on-time performance, that will also involve significantly increased infrastructure and capital investment to ensure future intercity passenger rail service compatible with the preservation of freight capacity and mobility.

While we appreciate the work Parsons Brinckerhoff has been doing on this project, it is now essential that we have direct contact with whatever authority we would be negotiating definitive agreements if these projects are to be progressed. Therefore, as indicated earlier, we are copying Messrs. Vacca and Bronte for their determination of which agency we should be working with



on which agreement for which service. When we are advised with whom at the appropriate agency we should discuss how best to progress this, we can plan a follow-up call or meeting to include myself and Rick Weicher as we coordinate these efforts for BNSF, consistent with our previous direct meetings with prior representatives for and officers of the California High Speed Rail Authority.

Sincerely,

A handwritten signature in black ink, appearing to read "DJ Mitchell II", written over a circular scribble.

DJ Mitchell II
Passenger Operations

- cc: Frank Vacca, Chief Program Manager, California High-Speed Rail Authority
Bill Bronte, Division Chief, Division of Rail, Caltrans
Karen Greene Ross, Assistant Chief Counsel, California High-Speed Rail Authority
Gil Mallery, Parsons Brinkerhoff
Rick Weicher, BNSF Railway
Walt Smith, BNSF Railway

EXHIBIT “J”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

California High-Speed Train Project



Request for Proposal for Design-Build Services

RFP No.: HSR 11-16

Book 3, Part E, Subpart 4 - Right-of-Way Acquisition Plan

Revision(s)	Date	Description
0	03/22/2012	Initial Release
1	04/30/2012	Addendum 1
2	07/01/2012	Addendum 3
3	08/22/2012	Addendum 4
4	11/13/2012	Addendum 6
5	12/17/2012	Addendum 7
6	1/7/2013	Addendum 9

Legend

-  HST Track Footprint
-  Roadways, Drainage, and Wayside Items Footprint
-  Elevated HST Alignment
-  Trench HST Alignment
-  Existing Railroad
-  City Limit



**PRELIMINARY DRAFT/SUBJECT TO CHANGE
ALIGNMENTS ARE NOT DETERMINED**

Photo: Bing Maps, 2012

EXHIBIT “K”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



Resolution # HSRA 12-04

Approval of the Term Sheet, Stipend and RFP scoring criteria for Construction Package # 1

Whereas, the California High-Speed Rail Authority (Authority) may enter into design build contracts with private and public entities pursuant the Public Utilities Code §185036;

Whereas, the Authority is engaged in a procurement process leading to the award of a Design Build contract along the Initial Construction section in the Central Valley from north of the San Joaquin River and south to approximately East American Way through the City of Fresno (Construction Package #1).

Whereas, a Request for Qualifications was issued by the Authority and a shortlist of the most highly qualified Offerors has been established, who may submit proposals for the Construction Package #1.

Whereas, to aid the HSR Authority in the final development of the Request for Proposals (RFP) documents, a term sheet containing a summary of the major material terms and conditions for the Construction Package #1 contract was developed and presented to the Board for approval.

Whereas, the HSR Authority is requesting approval to pay a stipend in the amount up to \$2 million for each acceptable proposal submitted to the Authority by any shortlisted Offeror that is not awarded the contract or in case of termination of the RFP, proven costs not to exceed \$2 million.

Whereas, the HSR Authority is requesting approval of a two-step RFP evaluation criteria to include a technical evaluation resulting in the qualification of three of the five proposer teams followed by a combined technical/price evaluation of these top three proposer teams.

Therefore it is resolved,

The Executive Director/Chief Executive Officer or a designee of the Executive Director/Chief Executive Officer is hereby authorized and directed to proceed with the RFP using the term sheet presented for Construction Package #1, a Design Build Project along the Initial Construction section in the Central Valley which begins north of the San Joaquin River and continues south to approximately East American Way through the City of Fresno.

The Executive Director/Chief Executive Officer is hereby authorized and directed to make appropriate non-substantive changes to the Construction Package #1 RFP terms contained on the term sheet in consultation with the Board Chair as part of the RFP evaluation and contract negotiation process.

The Executive Director/Chief Executive Officer is hereby authorized to include a stipend in the amount of up to \$2 million per proposal as part of the procurement for Construction Package #1 subject to the appropriate conditions set forth in terms of the RFP and above.

The Executive Director/Chief Executive Officer is hereby authorized to use a two-step RFP evaluation process that includes a technical evaluation resulting in the qualification of three of the five proposer teams followed by a combined technical/price evaluation of these top three proposer teams.

Vote:

Date:

o000o

EXHIBIT “L”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



CALIFORNIA
HIGH-SPEED RAIL
AUTHORITY

BRIEFING: MARCH 2012 BOARD MEETING AGENDA ITEM #3

TO: Chairman Richard and Board Members

FROM: Thomas Fellenz, Chief Counsel

DATE: March 1, 2012

RE: Terms and Conditions, Stipend and RFP Scoring criteria applicable to the Design Build [DB] construction for the Central Valley Initial Construction Section

Background/Discussion:

The initial operating segment (IOS) of the California High Speed Train System will run through the Central Valley and includes the initial construction section (ICS) from Fresno to Bakersfield. Construction of the ICS will involve four design build contracts for the final design and construction of all High Speed Rail (HSR) trackway civil infrastructure up to the top of the ballast. A fifth ICS design build contract will be entered into for the trackwork along the entire length of the ICS.

The Authority has started a two-phase best value procurement process for the first of the five ICS design build contracts, designated Construction Package #1. The first Request for Qualifications (RFQ) phase is complete, resulting in the shortlisting of five qualified design build teams which are now invited to participate in the second Request for Proposal (RFP) phase. The proposals submitted by the teams in response to the RFP will be evaluated and scored resulting in a recommendation to the Board to enter into a \$1.5 to \$2.0 billion design build contract with the selected team, expected to take place in early 2013.

To aid the HSR Authority in the final development of the Request for Proposals documents, a term sheet containing a summary of the major material terms and conditions for the Construction Package #1 design build contract was developed and is presented to the Board for approval.

To partially compensate for the cost of the preparation of the Proposals submitted, the HSR Authority can pay a stipend to those proposer teams not awarded the contract. HSR staff recommends a stipend be paid for each acceptable proposal submitted to the Authority by any shortlisted Offeror that is not awarded the contract or in case of termination of the RFP, proven costs not to exceed \$2 million.

In the evaluation of the proposals it is in the best interests of the HSR Authority to assure technically competent proposals and assure the best value is received. HSR staff is recommending a two-step RFP evaluation process that includes a technical evaluation resulting in the qualification of three of the five proposer teams followed by a combined technical/price evaluation of these top three proposer teams.

Recommendations:

Approve the term sheet, the RFP scoring criteria, and the stipend for Construction Package #1 per the terms in the attached Board resolution.

Attachments:

Construction Package #1 Term Sheet
Resolution # HSRA 12-04



CALIFORNIA High-Speed Rail Authority

RFP No. 11-016

**Construction Package #1
Initial Construction Section
of the
California High-Speed Train System
Design-Build Contract Term Sheet**

This document provides background information and summarizes certain terms anticipated to be in the Contract Documents for Construction Package #1 of the Initial Construction Section of the California High-Speed Train System. This document is not a restatement or interpretation of the contract requirements. There are numerous details, exceptions and qualifications associated with the provisions of the Contract Documents that can only be ascertained by reviewing the Contract Documents.

This document is subject to revision as Authority considers how best to allocate risk and responsibilities for the Project.

1. Contract Overview	
Project	Construction Package #1 of the Initial Construction Section of the California High-Speed Train System. The Project consists of Construction Package #1A (including Construction Package #1A Option 1) and options for Construction Packages #1B and #1C. Refer to the "Scope Options" provision under Section 4 (Payment) and the "Notice to Proceed" provision under Section 5 (Commencement of Work; Completion Deadlines) below.
Authority	California High-Speed Rail Authority
Contractor	Contractor will be determined through the procurement.
Contractor-Related Entity	<ol style="list-style-type: none"> 1. Contractor; 2. If Contractor is a joint venture, partnership or limited liability company, any joint venture member, partner or member of the Contactor; 3. Any Subcontractors; 4. Their employees, agents and officers; and 5. All other Persons for whom Contractor may be legally or contractually responsible.
Contract Documents/ Order of Precedence	<p>The Contract Documents consist of the following documents, in the following descending order of precedence:</p> <ol style="list-style-type: none"> 1. Design-Build Contract (signature document) 2. Special Provisions (Book 2, Part A) 3. General Provisions (Book 2, Part B) 4. Scope of Work (Book 2, Part C) 5. Final Environmental Documents and Mitigation Monitoring Plan 6. Third Party Agreements and Permits 7. Approved Design Variances 8. HSR Design Criteria Manual 9. HSR Directive Drawings 10. HSR CADD Manual 11. HSR Plans Preparation Manual 12. Proposal (provided that if Authority determines that the Proposal contains a provision that is more restrictive/beneficial to Authority than is specified elsewhere in the Contract Documents, that Proposal provision shall take precedence) <p>ATCs, amendments and Change Orders will have the priority just above the document that is being amended.</p>
Federal Requirements	The Contract will comply with High-Speed Intercity Passenger Rail (HSIPR) Program requirements (including the American Recovery and Reinvestment Act of 2009 (ARRA) requirements).
DBE/SBE Requirements	The Contract will address DBE/SBE requirements. . Contractor shall comply with the Authority SBE Policy and Plan goal of 30% small business participation. Contractor shall also comply with 41 C.F.R Part 60, 49 C.F.R. Part 26, Executive Order 11246 and Title VI of the Civil Rights Act of 1964.

2. Work	
General Responsibility	Contractor will be solely responsible for all materials, services and efforts necessary to achieve Final Acceptance on or before the Final Acceptance Deadline, and such materials, services and efforts are included in the Contract Price, except as otherwise specifically provided in the Contract Documents.
Design Liability	<p>Construction Packages #1A (not including Construction Package #1A Option 1) and #1B will include Preliminary Design to approximately 30% and Construction Packages #1A Option 1 and #1C will include Preliminary Design to approximately 15%.</p> <p>Contractor assumes full responsibility and liability with respect to design of the Project, including identifying and correcting any errors, omissions, inconsistencies or other defects in the Preliminary Design, if Contractor chooses to follow the Preliminary Design.</p>
Standards	<p>Contractor will design and construct the Project in conformity with the HSR Design Criteria Manual (subject to any variances requested by Contractor and approved by Authority during the procurement).</p> <p>The design will conform to all professional engineering principles generally accepted as standards of the industry in the State, will be suitable for its intended purpose and will be free of defects.</p> <p>Construction will be performed in a workmanlike manner and will conform to the standards of care and diligence normally practiced by recognized construction firms performing construction of a similar nature in the State.</p>
Permits and Approvals	<p>Authority has obtained or will obtain the following permits and governmental approvals (Authority-Provided Approvals):</p> <ol style="list-style-type: none"> 1. Merced to Fresno EIR/EIS 2. Fresno to Bakersfield EIR/EIS <p>Contractor will be responsible for obtaining all other permits and governmental approvals, including final versions of any draft approvals obtained by Authority.</p> <p>Contractor will comply with all conditions imposed by and undertake all actions required by and all actions necessary to maintain in full force and effect all permits and governmental approvals, except to the extent that such responsibility is expressly assigned in the Contract to another Person.</p>
Right of Way (ROW)	<p>Authority will obtain the ROW identified in the ROW acquisition plan incorporated in the Contract by the deadlines provided in the ROW acquisition plan. Contractor must agree to the ROW acquisition plan and must certify that the Contractor is able to construct the Project in accordance with the ROW acquisition plan. Contractor may be entitled to a Change Order for additional costs and a time extension, including overhead, profit and delay damages, due to failure of Authority to provide a parcel by the specified deadline. The Contractor will work proactively with the Authority's representative to resolve right-of-way acquisition plan changes and to adjust its construction schedule to accommodate these changes.</p> <ol style="list-style-type: none"> 1. Contractor may request additional ROW and temporary construction interests in its Proposal. To the extent Authority concurs, Authority will acquire such additional property. The additional property will be

	<p>factored in Authority's evaluation of the Proposal.</p> <ol style="list-style-type: none"> 2. Contractor may request additional ROW during the term of the Contract. If Authority determines that such additional ROW is necessary to build the Project, then Authority will acquire such additional property. 3. Contractor may request additional ROW as part of a Value Engineering Change Proposal (VECP), in which case the additional ROW costs will be addressed as part of the VECP. In this case, Contractor will be required to provide surveys, appraisals and other documentation to allow Authority to proceed with the acquisition. 4. If additional ROW is necessary as a result of an Authority-directed change, the additional ROW costs will be addressed in the Change Order for the Authority-directed change. <p>Contractor is responsible for acquiring, at its cost, any temporary construction interests not requested in its Proposal.</p> <p>Authority will require up to 24 months to acquire any ROW not identified on the ROW acquisition plan.</p>
<p>Utilities</p>	<p>Contractor is responsible for removing, relocating or otherwise adjusting all Utilities as needed for the Project, except where the applicable master agreement assigns such work to the Utility Owner. Contractor is also responsible for reimbursing relocation work by Utility Owners having "prior rights" (i.e., the legal right to reimbursement for relocation work) and collecting payments owing from Utility Owners. It is anticipated that master agreements will be in place with all impacted Utility Owners before the Proposal due date.</p> <p>Contractor's costs for certain relocations will be chargeable against the Utility/Third Party Provisional Sum (whether incurred for work performed by Contractor or for reimbursing a Utility Owner for its work). All other such costs are included in the Contract Price, except where the Utility Owner does not have prior rights (in which case Contractor will collect reimbursement directly from the Utility Owner). If Contractor's allowable costs exceed the Utility/Third Party Provisional Sum, Authority will reimburse Contractor for 50% of the excess. Authority will retain any positive balance remaining in the Utility/Third Party Provisional Sum after Project completion. The Utility/Third Party Provisional Sum is subject to increase as provided in the "Utilities" provision under Section 3 (Change Orders) below.</p> <p>A draft Task Order will be included in the RFP for each identified Relocation. Cost liability for each Relocation will be determined by Authority and the Utility Owner and indicated in the draft Task Orders. Contractor will also be able to rely on certain other information in the draft Task Orders.</p> <p>See the "Utilities" provision under Section 3 (Change Orders) below for information regarding Change Orders.</p>
<p>Third Party Agreements</p>	<p>Authority anticipates executing agreements with public agencies regarding non-utility facilities by June 2012. The Contract will address Contractor's obligations regarding those agreements. Generally, the Contractor will be responsible for fulfilling the Authorities obligations under the agreements with the Authority continued participation.</p>

Railroad Agreements	<p>Authority anticipates executing agreements with railroads by June 2012. The Contract will address Contractor's obligations regarding those agreements. Generally, the Contractor will be responsible for fulfilling the Authorities obligations under the agreements with the Authority continued participation.</p>
Hazardous Materials	<p>Contractor is responsible for remediating any hazardous materials discovered on the Site. See the "Hazardous Materials" provision under Section 3 (Change Orders) below for information regarding Change Orders.</p> <p>As between Contractor and Authority, Authority will be considered the generator and arranger for hazardous materials other than hazardous materials brought onto the Site by any Contractor-Related Entity or hazardous materials where the removal or handling involved negligence, willful misconduct or breach of contract by any Contractor-Related Entity. Whenever Authority has such arranger liability, Contractor's remediation plans will be subject to the prior written approval of Authority and Authority will have exclusive decision-making authority regarding selection of the destination facility to which such hazardous materials will be transported. Authority will comply with the applicable standards for generators and arrangers with regard to such hazardous materials, including the responsibility to sign manifests for the transport of hazardous wastes. Authority will indemnify, save, protect and defend Contractor from third party claims, causes of action and losses arising out of or related to generator or arranger liability for such hazardous materials.</p> <p>As between Contractor and Authority, Contractor will be considered the generator and arranger for hazardous materials brought onto the Site by any Contractor-Related Entity or hazardous materials where the removal or handling involved negligence, willful misconduct or breach of contract by any Contractor-Related Entity.</p>
Nonconforming Work	<p>Authority may require nonconforming Work to be remedied, removed or replaced. Contractor is responsible for taking all necessary actions to close out any non-conformances to the satisfaction of Authority. Authority may, but is not obligated to, accept nonconforming Work without requiring it to be fully corrected, in which case the Contract Price will be decreased accordingly.</p>
Verification and validation	<p>Contractor is required to implement a verification and validation management plan following the principals of EN50126. As part of self-certification the Contractor shall engage a qualified Independent Checking and Site Engineer to verify and validate each of the Contractor's submissions to the Authority. The ICSE will report to the Authority.</p>
Quality	<p>Contractor is required to establish and implement an Authority-approved Quality Management Plan following the principals of ISO 9001, including quality assurance and quality control.</p> <p>Authority may:</p> <ol style="list-style-type: none"> 1. Audit Contractor, at any time, to verify and validate compliance with Contractor's Quality Management Plan; 2. Witness any quality control or quality assurance test, acceptance test or inspection; and 3. Conduct independent tests and/or assessments of any material or equipment to be incorporated in the Work.

3. Change Orders	
Change Orders	<p>An Authority signed Change Order or directive order is required for any Contract Price increase or time extension.</p> <p>Authority may issue a unilateral directive order and Contractor will proceed immediately with the Work as directed in the order, pending the execution of a formal Change Order (or, if the order states that the Work is within the original scope of the Work, Contractor will proceed with the Work as directed but will have the right pursuant to the disputes provision to request that Authority issue a Change Order with respect to the order).</p> <p>Contractor may request a Change Order only for those events and situations that the Contract Documents expressly contemplate that a Change Order is permitted.</p> <p>Contractor is required to provide prompt notice of the event or situation followed by a Change Order proposal including the anticipated price impacts, time impacts, scope of work and any changes to the Contract Documents.</p> <p>Each Change Order proposal must contain a sworn certification by Contractor (and Subcontractor(s), for any Subcontractor involved in the Work or event contemplated by the Change Order) including that the Change Order is made in good faith and in accordance with the terms of the Contract, the amount of time and/or compensation requested accurately reflects the appropriate adjustments and includes all known and anticipated impacts that may be incurred as a result of the event giving rise to such proposed change. Each Change Order proposal involving Subcontractor Work must include a sworn certification including that Contractor has investigated the basis for the Subcontractor's claims and has determined that all such claims are justified as to entitlement and amount of money and/or time requested.</p> <p>Change Orders are subject to strict procedural requirements, including requirements regarding timely notice of the event or situation giving rise to a Change Order.</p>
Authority-Directed Changes	<p>Authority may at any time require Contractor to make changes to the Work or its schedule. Contractor may be entitled to a Change Order for additional costs and a time extension, including delay damages, overhead and profit, resulting from the changes.</p>
Differing Site Conditions	<p>Contractor may be entitled to a Change Order for additional costs and a time extension, excluding delay damages but including overhead and profit, due to Differing Site Conditions.</p> <p>Differing Site Conditions are defined as:</p> <ol style="list-style-type: none"> 1. Subsurface or latent physical conditions encountered at the exact boring locations included in the Contract that differ materially from those indicated for such locations in the Contract; or 2. Unknown physical conditions at the Site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. <p>Differing Site Conditions exclude:</p> <ol style="list-style-type: none"> 1. Conditions which Contractor had, or should have had, actual or constructive knowledge as of the Proposal due date.

	<ol style="list-style-type: none"> 2. Utility facilities, hazardous materials, non-contaminated water and any conditions which constitute or are caused by Force Majeure. 3. Conditions that could have been discovered by reasonable Site investigation or review of other available information prior to the Proposal due date. 4. Variations in soil moisture content or groundwater levels from that represented in reports, borings or tests included in the Contract.
<p>Force Majeure</p>	<p>Contractor may be entitled to a Change Order for additional costs directly attributable to changes in the Work and a time extension, including overhead and profit on any actual damages but excluding delay damages, due to Force Majeure.</p> <p>Force Majeure is defined as any of the following events, provided it is beyond the control and not due to an act or omission of Contractor or Authority and could not have been avoided by due diligence or use of reasonable efforts by Contractor:</p> <ol style="list-style-type: none"> 1. Earthquake exceeding 3.5 on the Richter scale; 2. Tidal wave; 3. Epidemic, blockade, rebellion, war, riot, act of terrorism or civil commotion; 4. Discovery at, near or on the Site of any archaeological, paleontological, cultural, biological or other protected resources, provided that the existence of such resources was not disclosed in the Contract; 5. Lawsuit seeking to restrain, enjoin, challenge or delay construction of the Project or the granting or renewal of any governmental approval of the Project; and 6. Strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence occurring within the vicinity of the Project where each participant in such occurrence is not a Contractor-Related Entity. <p>Force Majeure excludes:</p> <ol style="list-style-type: none"> a. Fire or other physical destruction or damage, including lightning, explosion, drought, rain, flood, earthquakes equal to or under 3.5 on the Richter scale, hurricane, storm or action of the elements or other acts of God; b. Except as provided in subparagraph 3 above, explosion or malicious or other acts intended to cause loss or damage or other similar occurrence; c. Strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence (unless all participants in such occurrence are not a Contractor-Related Entity); and d. All other matters not caused by or beyond the control of Authority or a Contractor-Related Entity and not listed in subparagraphs 1 through 6 above. <p>Refer to the Builder's Risk Policy described in the "Insurance" provision under Section 6 (Security, Indemnities, Insurance, Maintenance, Risk of Loss, Warranties) below.</p>

<p>Permits and Approvals</p>	<p>Contractor may be entitled to a Change Order for additional costs and a time extension, excluding delay damages but including overhead and profit, due to:</p> <ol style="list-style-type: none"> 1. Changes in the final Authority-Provided Approvals from the draft requirements included in the RFP. 2. Suspension, termination, interruption, nonrenewal, denial, or failure to obtain any Authority-Provided Approval (except for modifications to such approvals or any new such approvals required to allow Contractor's design concepts to be incorporated into the Project).
<p>Change in Law</p>	<p>Contractor may be entitled to a Change Order for additional costs and a time extension, excluding delay damages but including overhead and profit on actual damages, due to a change in one or more applicable laws or the adoption of a new law after the date 30 days prior to the Proposal due date, excluding the following:</p> <ol style="list-style-type: none"> 1. Changes in law proposed or otherwise reasonably foreseeable 30 days prior to the Proposal due date. 2. Changes in law relating to taxes. 3. Changes in law that do not require a material modification in the Work or do not require Contractor to obtain a new major environmental approval (unless the Project or Contractor is specifically targeted by the change in law).
<p>Utilities</p>	<p>Contractor may be entitled to a Change Order for additional costs resulting from certain inaccuracies in the RFP regarding existing utilities, provided that if Contractor fails to discover the inaccuracy during the first 180 days following NTP-1 (for the Base Work), NTP-SO1 (for Scope Option 1 Work) or NTP-SO2 (for Scope Option 2 Work), Contractor is entitled to receive only 50% of its increased costs. To the extent Contractor discovers inaccuracies within such 180-day period regarding utilities addressed by the Utility/Third Party Provisional Sum, the Utility/Third Party Provisional Sum will be increased by mutual agreement to reflect any resulting additional costs. (See the "Notice to Proceed" provision under Section 5 (Commencement of Work; Completion Deadlines) below.) Contractor is entitled to overhead and profit but is not entitled to delay damages and disruption damages other than damages for idle time of undepreciated or rented equipment.</p> <p>Contractor may be entitled to a time extension for delays resulting from:</p> <ol style="list-style-type: none"> 1. Inaccuracies regarding Utilities which entitle Contractor to additional compensation. 2. A Utility Owner's failure to complete any relocation task by the applicable deadline to the extent there is no executed task order, in which case the Contract will provide that the parties share the risk 50/50. To the extent there is an executed task order, Contractor will not be entitled to a time extension under the Contract (although Contractor may be entitled to relief under the executed task order). <p>There will be no change in compensation, nor any time extension, for any of the following:</p> <ol style="list-style-type: none"> a. Reallocation of responsibility for relocation work between Contractor and a Utility Owner. b. Any Betterments (provided that Contractor will be entitled to collect

	<p>compensation for any added Betterments directly from the Utility Owner).</p> <p>c. Contractor's increased relocation costs for performing work or reimbursing Utility Owners for their work resulting from a Contractor-initiated change in the Project design.</p>
Hazardous Materials	<p>Contractor may be entitled to a Change Order for its direct remediation costs, excluding overhead, delay damages and profit, and a time extension, in the event Contractor encounters any hazardous materials. To the extent the hazardous materials are within a category for which unit prices were provided in the Proposal, if any, compensation will be based on the unit prices.</p> <p>The following are excluded:</p> <ol style="list-style-type: none"> 1. Investigation or characterization of hazardous materials or preparation of a remediation plan. 2. Hazardous materials brought onto the Site by any Contractor-Related Entity or hazardous materials where the removal or handling involved negligence, willful misconduct or breach of contract by any Contractor-Related Entity. 3. Hazardous materials that could have been avoided by reasonable design modifications or construction techniques. 4. Hazardous materials on additional properties requested by Contractor. 5. Hazardous materials (including lead and asbestos) encountered during the demolition of buildings, fixtures or other improvements on the Site.
Profit and Overhead	<p>Profit and overhead will be paid at 10% of the direct costs plus, if the Work is subcontracted, 5% of the direct costs, regardless of the number of lower-tier subcontractors involved in any and all changed Work. This amount will fully compensate Contractor (and all subcontractors) for administration, general superintendence, overhead, profit and all other expenses not otherwise directly recoverable with respect to a Change Order.</p>
Limitation on Contract Price Increases	<p>Any increase in the Contract Price will exclude:</p> <ol style="list-style-type: none"> 1. Costs caused by breach of contract or fault or negligence, or act or failure to act of any Contractor-Related Entity. 2. Costs which could reasonably have been avoided by Contractor, including by resequencing, reallocating, or redeploying its forces to other portions of the Work or to other activities unrelated to the Work (including any additional costs reasonably incurred in connection with such reallocation or redeployment). 3. Costs for (a) any rejected Work that failed to meet the requirements of the Contract Documents and (b) any necessary remedial Work.
Limitation on Time Extensions	<p>Any extension of a Completion Deadline will exclude any delay to the extent that it:</p> <ol style="list-style-type: none"> 1. Did not impact the Critical Path affecting a Completion Deadline. 2. Was due to the fault or negligence, or act or failure to act of any Contractor-Related Entity. 3. Could reasonably have been avoided by Contractor, including by resequencing, reallocating or redeploying its forces to other portions of the Work (provided that if the request for extension involves an

	<p>Authority-caused delay, Authority shall have agreed, if requested to do so, to reimburse Contractor for its costs incurred, if any, in resequencing, reallocating, or redeploying its forces).</p> <p>4. Was concurrent with any other delay for which Contractor is not entitled to an extension.</p> <p>Contractor will be required to demonstrate to Authority's satisfaction that the change in the Work or other event or situation which is the subject of a Change Order seeking a change in a Completion Deadline has caused or will result in an identifiable and measurable delay of the Work which has impacted the Critical Path activity affecting a Completion Deadline.</p> <p>Before March 1, 2017, only those events and situations that the Contract Documents expressly contemplate that a time extension is permitted are eligible for extension of the Completion Deadlines. On or after March 1, 2017, only Authority-caused delays are eligible for extension of the Completion Deadlines.</p>
<p>Delay Damages and Disruption Damages</p>	<p>Contractor is entitled to reimbursement of delay damages only for those events and situations that the Contract Documents expressly contemplate that delay damages are permitted, generally consisting of those events and situations caused by Authority.</p> <p>Delay damages are limited to direct costs actually and reasonably incurred by Contractor directly attributable to the delay of the Completion Deadline. Home office overhead is excluded from delay damages and not compensable under the Contract. Before Contractor may obtain any increase in the Contract Price to compensate for any delay damages, Contractor must demonstrate to Authority's satisfaction that:</p> <ol style="list-style-type: none"> 1. The Project Schedule in fact sets forth a reasonable method for completion of the Work. 2. The change in the Work or other event or situation that is the subject of the requested Change Order has caused or will result in an identifiable and measurable delay of the Work and impact the Critical Path affecting the Completion Deadline. 3. The Delay Damage was not due to any breach of contract or fault or negligence, or act or failure to act of any Contractor-Related Entity, and could not reasonably have been avoided by Contractor, including by resequencing, reallocating or redeploying its forces to other portions of the Work or other activities unrelated to the Work (subject to reimbursement for additional costs reasonably incurred in connection with such reallocation or redeployment). 4. The delay for which compensation is sought is not concurrent with any other delay for which Contractor is not entitled to delay damages. 5. Contractor has suffered or will suffer actual costs due to such delay, each of which costs shall be documented in a manner satisfactory to Authority. <p>Disruption Damages, whether from a single event or continual, multiple or repetitive events, are not allowed or recoverable under the Contract (except as stated above for certain utility-related delays). Disruption Damages include costs of (i) rearranging Contractor's Work plan not associated with an extension of a Completion Deadline and (ii) loss of efficiency, momentum or productivity.</p>

	Contractor may also be entitled to compensation for idle time of certain equipment as described in the "Utilities" provision of this Section 3 (Change Orders) above.
Alternative Technical Concepts	Contractor will be solely responsible for obtaining third party approvals required to implement approved Alternative Technical Concepts. If Contractor fails to obtain such approval or if it fails in any other way to implement the approved Alternative Technical Concepts, Contractor will comply with the corresponding baseline requirements without any increase in the Contract Price or extension of Completion Deadlines.
Value Engineering	Contractor may submit, for approval by Authority, Value Engineering Change Proposals (VECPs) that would reduce the cost of the Project without impairing essential functions or characteristics of the Project as determined by Authority. VECPs cannot be based solely on a change in quantities. Authority and Contractor will share any cost savings on a 50/50 basis. Note: if additional ROW is required by a VECP, or ROW requirements are reduced, that will be factored into the savings sharing.
4. Payment	
Contract Price	The lump sum firm fixed Contract Price will be determined through the procurement.
Provisional Sums	The Utility/Third Party Provisional Sum is the amount of \$ _____ [to be provided]. Refer to the "Utilities" provision under Section 2 (Work) above. The Community Betterments Provisional Sum is the amount of \$ _____ [to be provided]. Authority will have the option to use the Community Betterments Provisional Sum through Authority-directed changes.
Warranty Options	Refer to the "Warranties" provision under Section 6 (Security, Indemnities, Insurance, Maintenance, Risk of Loss, Warranties) below.
Scope Options	Authority may exercise two options to include the corresponding scope in the Project by issuing a notice to proceed for each option (see the "Notice to Proceed" provision under Section 5 (Commencement of Work; Completion Deadlines) below): <ul style="list-style-type: none"> 1. Scope Option 1: Construction Package #1B. 2. Scope Option 2: Construction Package #1C. The option prices will be determined through the procurement.
Retainage	Retainage will be withheld under the Contract at the rate of 5% of all invoices paid up to a cap of \$10,000,000.00.
Cash Flow Curve	The Cash Flow Curve established by the Proposal constitutes a cap on cumulative milestone payments. Payment of any amounts included in an invoice which exceed the maximum aggregate amount payable under the Cash Flow Curve will be deferred (without interest) until funds are available under the Cash Flow Curve. The Contract will provide a process for the Contractor to propose changes annually to the Cash Flow Curve for Authority approval.
Payment Milestones	Payment will be made monthly based on 100% completed milestones. Contractor shall determine and describe the payment milestones in its proposal.

5. Commencement of Work; Completion Deadlines	
Notice to Proceed	<p>Contractor will not proceed with any Work under the Contract without a written notice to proceed for such Work from Authority. Any Work performed or expenses incurred by Contractor prior to Contractor's receipt of a written notice to proceed for such Work is Contractor's risk.</p> <ol style="list-style-type: none"> 1. NTP-1 authorizes Work on Construction Package #1A (including Construction Package #1A Option 1) (Base Work). 2. NTP-SO1 authorizes Work on Construction Package #1B (Scope Option 1 Work). 3. NTP-SO2 authorizes Work on Construction Package #1C (Scope Option 2 Work). <p>Authority may issue NTP-1 within 180 days after the Proposal due date without escalation and Authority may issue NTP-1 between 180 days and 360 days after the Proposal due date upon application of a prescribed escalation that will be set forth in the RFP (except to the extent that such failure is caused by Contractor). Either party may terminate the Contract if NTP-1 has not been issued within 360 days after the Proposal due date.</p> <p>The Contract will contain deadlines by which Authority must issue NTP-SO1 and NTP-SO2 if it desires to exercise those scope options for the prices set forth in the Proposal.</p>
Prerequisites for Start of Construction	<p>Contractor will not start construction of any portion of the Project until all the following prerequisites have been fully satisfied with respect to the Work proposed to be constructed:</p> <ol style="list-style-type: none"> 1. Authority has issued NTP-1 (for Base Work), NTP-SO1 (for Scope Option 1 Work) or NTP-SO2 (for Scope Option 2 Work). 2. All governmental approvals necessary for construction of such portion of the Project have been obtained and all conditions of such governmental approvals that are a prerequisite to commencement of such construction have been performed. 3. All insurance policies, OCIP enrollments and payment and performance bonds required to be delivered to Authority under the Contract have been submitted to Authority and remain in full force and effect. 4. All necessary rights of access for such portion of the Project have been obtained. 5. Released for construction documents have been issued for that portion of the Work. 6. Any additional conditions for construction set forth in the Contract have been fully satisfied.
Completion Deadlines	<p>Substantial Completion generally consists of completion of all physical Work other than punch list items and that the Project can be used without damage to the Project or any other property on or off the Site, and without injury to any Person. The Substantial Completion Deadline is 36 months after NTP-1.</p> <p>Final Acceptance consists of completion of all Work including all punch list items and documentation. The Final Acceptance Deadline is 38 months after NTP-1.</p>

Liquidated Damages	<p>Liquidated damages will be assessed if Contractor fails to achieve Final Acceptance by the Final Acceptance Deadline as follows:</p> <ol style="list-style-type: none"> 1. Before March 1, 2017: \$20,000/day 2. On or after March 1, 2017: \$1 million/day <p>Liquidated damages will be subject to a cap equal to 10% of the initial Contract Price.</p> <p>Assessment of liquidated damages for delay will not preclude Authority from exercising its other rights and remedies set forth in the Contract other than the right to collect damages associated with such delay.</p>
Float	Float belongs to the Contractor.
6. Security, Indemnities, Insurance, Maintenance, Risk of Loss, Warranties	
Surety Bonds	<p>A payment bond in the amount of 100% of the sum of the Contract Price and all Provisional Sums and a performance bond in the amount of 50% of the sum of the Contract Price and all Provisional Sums are required upon execution of the Contract.</p>
Guaranty	<p>If Contractor is a limited liability company, each limited liability company member will be required to provide a guaranty of Contractor's obligations. If Contractor or its members submitted parent company financial statements in response to the RFQ or RFP, each such parent company will be required to provide a guaranty of Contractor's obligations. Authority may also require an additional performance guaranty based on the financial information provided in response to the RFQ or RFP.</p> <p>The guaranty will require the guarantor to financially support, unconditionally, all obligations of Contractor under the Contract during the Contract term, including the warranty period(s).</p>
Indemnities	<p>Contractor will fully defend, indemnify and hold harmless Authority and all of its directors, officers, employees, and agents and their respective successors and assigns ("Indemnified Persons") from any and all claims, demands, causes of action, damages, losses, and expenses (including attorney's fees) of whatsoever nature, character, or description that any person or entity has or may have arising out of or related to:</p> <ol style="list-style-type: none"> 1. The breach of, alleged breach of, failure to perform or alleged failure to perform the Contract, including without limitation breach of warranty, by any Contractor-Related Entity; 2. The failure or alleged failure by any Contractor-Related Entity to comply with any applicable laws; 3. The negligent act, omission, misconduct, or fault, or the alleged negligent act, omission, misconduct, or fault of any Contractor-Related Entity; 4. Any service or design, or product called for in any service or design, provided by any Contractor-Related Entity that infringes or allegedly infringes any patent, copyright, trademark, service mark, trade dress, utility model, industrial design, mask work, trade secret or other proprietary right of a third party; 5. Any and all claims by any governmental or taxing authority claiming taxes based on gross receipts, purchases or sales, the use of any

	<p>property or income of any Contractor-Related Entity with respect to any payment for the Work made to or earned by such Contractor-Related Entity under the Contract Documents;</p> <ol style="list-style-type: none"> 6. Any and all stop notices and/or liens filed in connection with the Work, including all expenses and attorneys' fees incurred in discharging any stop notice or lien, provided that Authority is not in default in payments owing to Contractor with respect to such Work; 7. Any release or threatened release of hazardous materials (a) brought onto the Site by any Contractor-Related Entity or (b) where the removal or handling involved negligence, willful misconduct or breach of contract by any Contractor-Related Entity; or 8. The claim or assertion by any contractor of inconvenience, disruption, delay or loss caused by interference by any Contractor-Related Entity with or hindering the progress or completion of work being performed by other contractors or failure of any Contractor-Related Entity to cooperate reasonably with other contractors. <p>Contractor will fully defend, indemnify and hold harmless the Indemnified Persons from any and all claims, demands, causes of action, damages, losses, and expenses (including attorney's fees) of whatsoever nature, character, or description that any person or entity has or may have arising out of or related to errors, omissions, inconsistencies, inaccuracies, deficiencies or other defects in the design documents, regardless of whether such errors, omissions, inconsistencies, inaccuracies, deficiencies or other defects were also included in the Preliminary Design. Contractor will acknowledge that the Preliminary Design does not constitute "design furnished" by Authority for purposes of anti-indemnity laws.</p>
<p>Insurance</p>	<p>Authority will procure a project professional liability insurance policy in the amount of \$25,000,000 that covers the professional duties, services and activities required under the Contract. Participation in this program is mandatory for Contractors and Subcontractors at all tiers who are performing professional duties, services or activities, or who have a pollution legal liability exposure that is covered by this policy.</p> <p>Authority will provide an Owner Controlled Insurance Program (OCIP) for Work performed on the project site:</p> <ol style="list-style-type: none"> 1. General Liability Policy. Limits of \$2,000,000 per occurrence and \$4,000,000 annual aggregate. Contractor or Subcontractor of any tier making a claim under the General Liability Policy will be responsible for the deductible of \$10,000 per occurrence. 2. Workers' Compensation and Employer's Liability Insurance. Statutory limits on Workers' Compensation Insurance and Employer Liability Limits of: <ul style="list-style-type: none"> - \$1,000,000 Bodily Injury with Accident – Each Accident - \$1,000,000 Bodily Injury by Disease – Policy Limit - \$1,000,000 Bodily Injury by Disease – Each Employee <p>Authority will provide a Builder's Risk Policy with limits of the replacement cost. Contractor or Subcontractor at any tier making a claim under the Builders' Risk Policy will be responsible for the deductible of \$100,000 per occurrence per location (or pro rata share thereof).</p> <p>Authority reserves the right to terminate or modify any insurance provided</p>

	<p>upon providing 45 days advance written notice to Contractor and each Subcontractor. Upon any termination or modification, Contractor and each Subcontractor will be required to obtain replacement insurance coverage acceptable to Authority. In such event, Contractor will be entitled to a Change Order for the reasonable cost of the replacement insurance.</p> <p>Contractor is required to provide the following insurance:</p> <ol style="list-style-type: none"> 1. Automobile Liability Insurance. Limits of: <ul style="list-style-type: none"> - \$1,000,000 Bodily Injury – Per Person - \$2,000,000 Bodily Injury – Per Accident - \$1,000,000 Property Damage – Per Accident - \$2,000,000 Combined Single Limit 2. Workers' Compensation and Employer's Liability Insurance for non-OCIP workers. Statutory limits on Workers' Compensation Insurance and Employer Liability Limits of: <ul style="list-style-type: none"> - \$1,000,000 Bodily Injury with Accident – Each Accident - \$1,000,000 Bodily Injury by Disease – Policy Limit - \$1,000,000 Bodily Injury by Disease – Each Employee 3. Commercial General Liability Insurance for occurrences outside of OCIP. Combined Bodily Injury and Property Damage Limit of \$1,000,000 per occurrence, \$2,000,000 General Aggregate. 4. Excess/Umbrella Liability Insurance of not less than \$100,000,000 per occurrence in excess of the underlying coverage.
<p>Maintenance / Risk of Loss During Construction</p>	<p>Contractor is responsible for maintenance and risk of loss of the Project. Refer to the Builder's Risk Policy described in the "Insurance" provision above.</p>
<p>Warranties</p>	<p>Contractor warrants that:</p> <ol style="list-style-type: none"> 1. The Work conforms to the requirements of the Contract. 2. All design Work conforms to all professional engineering principles generally accepted as standards of the industry in the State, is suitable for its intended purpose and is free of errors, omissions, inconsistencies, inaccuracies, deficiencies or other defects. 3. The construction Work is performed in a workmanlike manner and conforms to the standards of care and diligence normally practiced by recognized construction firms performing construction of a similar nature in the State. 4. Materials and equipment furnished under the Contract, except Authority-furnished property, are of good quality and, except if otherwise set forth in the Contract, when installed, is new. 5. The Project is fit for the purposes intended. 6. The Project remains in the same condition as it is in at Final Acceptance excluding normal wear and tear and any damage caused by other contractors working at the Site. <p>The initial warranty period commences upon Substantial Completion and continues for a period of two years from Final Acceptance.</p> <p>Authority has five options to extend the warranty period by one year for each option. The warranty option prices will be determined through the</p>

procurement. Authority will exercise its warranty options, if at all, prior to the expiration of the initial two year warranty.

The warranties on any repair or replacement will extend beyond the original warranty period if necessary to provide at least a one-year warranty period from the date of acceptance of the repairs or replacement.

Upon Final Acceptance, the Contractor will have the right to replace the performance bond with a replacement bond in the amount of 10% of the sum of the Contract Price and all Provisional Sums in a form satisfactory to the Authority in its sole discretion guaranteeing due and punctual performance of Contractor's obligations under the Contract that survive Final Acceptance, or with such other security as is approved by Authority in its sole discretion.

Contractor's and Subcontractors' warranties are assignable by Authority immediately upon providing written notice to Contractor.

7. Defaults, Remedies, Suspensions, Terminations

<p>Contractor Defaults</p>	<ol style="list-style-type: none"> 1. Contractor refuses or fails to commence the Work within the time required by the Contract. 2. Contractor refuses or fails to prosecute the Work or any separable part in accordance with the Contract Documents and with the diligence that will ensure its completion within the time specified in the Contract. 3. Contractor refuses or fails to provide sufficient resources to complete the Work in an acceptable manner and without delay or promptly pay its Subcontractors. 4. Contractor refuses or fails to complete the Work within the time specified in the Contract. 5. Contractor assigns or transfers the Contract Documents or any right or interest therein, except as expressly permitted in the Contract. 6. Contractor or any guarantor becomes insolvent, generally does not pay its debts as they become due, admits in writing its inability to pay its debts, or makes an assignment for the benefit of creditors. 7. Insolvency, receivership, reorganization or bankruptcy proceedings shall have been commenced by or against Contractor or any guarantor and not dismissed within 60 days. 8. Contractor fails to provide and maintain the performance and payment bonds, any guaranty and the insurance as required hereunder. 9. Any material representation or warranty made by Contractor or any guarantor in the Contract Documents or in any certificate, schedule, instrument or other document delivered pursuant to the Contract Documents is false or materially misleading when made. 10. Contractor violates any law in performance of the Work. 11. Any guarantor revokes or attempts to revoke its obligations under its guaranty, or otherwise takes the position that such instrument is no longer in full force and effect. 12. Contractor breaches any other agreement, representation or warranty contained in the Contract Documents, or Contractor fails to perform any other obligation under the Contract Documents.
<p>Cure Periods</p>	<p>Contractor and its surety under the performance bond is entitled to the</p>

	<p>following notice and cure periods:</p> <ol style="list-style-type: none"> 1. No notice or cure period with respect to a breach described under paragraphs 9, 10 and 11 of the "Contractor Defaults" provision above. 2. 30-day cure period with respect to a breach described under paragraphs 1 through 8 and 12 of the "Contractor Defaults" provision above. <p>If Contractor is unable to cure the applicable default within the time period specified, but in Authority's reasonable determination (i) Contractor has diligently and continuously undertaken efforts to cure such default and (ii) such failure to cure is beyond the control of Contractor, Authority may extend the cure period in accordance with its discretion up to 60 days.</p>
Authority Remedies	<p>Upon an event of default, Authority may terminate Contractor's right to proceed with the Work or Authority may take over the Work and complete it by contract or otherwise. The rights and remedies of Authority provided for under the Contract are in addition to any other rights and remedies provided by law.</p>
Consequential Damages	<p>Contractor and Authority will not be liable for punitive damages or special, indirect or incidental consequential damages, whether arising out of breach of the Contract, tort (including negligence) or any other theory of liability, and each party releases the other party from any such liability. The foregoing limitation on liability for consequential damages will not apply to or limit any right of recovery respecting the following:</p> <ol style="list-style-type: none"> 1. Losses (including defense costs) to the extent covered by (a) the proceeds of insurance required to be carried under the Contract or (b) the proceeds of insurance actually carried by or insuring Contractor under policies solely with respect to the Project and the Work; 2. Losses arising out of fraud, criminal conduct, intentional misconduct, recklessness, bad faith or gross negligence; 3. Contractor's or Authority's indemnities under the Contract; 4. Contractor's obligation to pay liquidated damages in accordance with the Contract; 5. Specific amounts owing under the express provisions of the Contract; and 6. Losses arising out of releases of hazardous materials by Contractor or Authority.
Suspension	<p>Authority may order Contractor to suspend all or any part of the Work for the period of time that Authority deems appropriate.</p> <ol style="list-style-type: none"> 1. Suspension for cause. No adjustment will be made for suspensions: <ul style="list-style-type: none"> - required to correct conditions unsafe for Project personnel or the general public; - required to comply with any governmental approval, law or otherwise carry out the requirements of the Contract; or - to the extent that performance would have been suspended or delayed by any other cause, including the fault or negligence of Contractor for which an equitable adjustment is provided for or excluded under any other provision of the Contract.

	<p>2. Suspension for convenience. Contractor is entitled to a Change Order for additional costs (including overhead and delay damages but excluding profit) and a time extension for suspensions beyond a 240-hour cumulative period.</p>
Termination for Convenience	<p>Authority may, whenever the interests of Authority so require, terminate the Contract, in whole or in part, for the convenience of Authority.</p> <p>Contractor and all Subcontractors will not be entitled to anticipatory or unearned profit or consequential or other damages as a result of a termination or partial termination for convenience.</p>
8. Other Contract Provisions	
Dispute Resolution	<p>Any disputes will be required to go through a formal partnering process and be adjudicated by a dispute resolution board before a party can bring the dispute to binding arbitration. The standing dispute resolution board will consist of one member selected by Authority and approved by Contractor, one member selected by Contractor and approved by Authority, and a third member who will be the chairperson will be selected by the first two members subject to the approval of the parties. Decisions of the dispute resolution board will be binding up to \$1,000,000.00. Disputes not resolved through this process may be submitted to binding arbitration.</p>
Coordination	<p>Contractor will coordinate with Authority and other contractors performing work on or near the Site. Contractor will conduct its Work without interfering with the work being performed by other contractors.</p> <p>If Contractor asserts that any of Authority's other contractors have interfered with the Work, then Contractor's sole remedy will be to seek recourse against such other contractors.</p>
Escrowed Proposal Documents (EPDs)	<p>Contractor's detailed Proposal pricing information will be kept by Authority in a locked cabinet with Contractor controlling the key. The EPDs are available for joint review by Contractor, Authority and the DRB or other dispute resolvers in connection with approval of the schedule of values, negotiation of Change Orders, resolution of disputes and to determine whether the EPDs are complete.</p> <p>Concurrently with submission of quotations or revisions to quotations provided in connection with proposed amendments to the Contract and concurrently with approval of each Change Order, if appropriate, one copy of all documentary information used in preparation of the quotation or Change Order will be added to the cabinet to be held with the other EPDs. Contractor will require each Subcontractor whose Subcontract price equals or exceeds \$5,000,000 to submit to Contractor a copy of all documentary information used in determining its subcontract price, immediately prior to executing the subcontract or change orders or amendments thereto, to be held in the same manner as the EPDs and which shall be accessible by Contractor, Authority, the DRB and other dispute resolvers, on terms substantially similar to those that apply to Contractor.</p> <p>The EPDs will be maintained until: (a) expiration of Contractor's warranties or termination of the Work; (b) all disputes regarding the Contract have been settled; and (c) final payment on the Contract has been made by Authority and accepted by Contractor.</p>

Assignment	<p>Contractor may not assign the Contract, any part of the Contract or any monies due or to become due under the Contract without the prior written approval of Authority.</p> <p>Authority may assign without Contractor's consent all or any portion of the Contract, payment and performance bonds and guaranties to any entity that succeeds to the governmental powers and authority of Authority.</p>
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Resolution # HSRA 12-04

Approval of the Term Sheet, Stipend and RFP scoring criteria for Construction Package # 1

Whereas, the California High-Speed Rail Authority (Authority) may enter into design build contracts with private and public entities pursuant the Public Utilities Code §185036;

Whereas, the Authority is engaged in a procurement process leading to the award of a Design Build contract along the Initial Construction section in the Central Valley from north of the San Joaquin River and south to approximately East American Way through the City of Fresno (Construction Package #1).

Whereas, a Request for Qualifications was issued by the Authority and a shortlist of the most highly qualified Offerors has been established, who may submit proposals for the Construction Package #1.

Whereas, to aid the HSR Authority in the final development of the Request for Proposals (RFP) documents, a term sheet containing a summary of the major material terms and conditions for the Construction Package #1 contract was developed and presented to the Board for approval.

Whereas, the HSR Authority is requesting approval to pay a stipend in the amount up to \$2 million for each acceptable proposal submitted to the Authority by any shortlisted Offeror that is not awarded the contract or in case of termination of the RFP, proven costs not to exceed \$2 million.

Whereas, the HSR Authority is requesting approval of a two-step RFP evaluation criteria to include a technical evaluation resulting in the qualification of three of the five proposer teams followed by a combined technical/price evaluation of these top three proposer teams.

Therefore it is resolved,

The Executive Director/Chief Executive Officer or a designee of the Executive Director/Chief Executive Officer is hereby authorized and directed to proceed with the RFP using the term sheet presented for Construction Package #1, a Design Build Project along the Initial Construction section in the Central Valley which begins north of the San Joaquin River and continues south to approximately East American Way through the City of Fresno.

The Executive Director/Chief Executive Officer is hereby authorized and directed to make appropriate non-substantive changes to the Construction Package #1 RFP terms contained on the term sheet in consultation with the Board Chair as part of the RFP evaluation and contract negotiation process.

The Executive Director/Chief Executive Officer is hereby authorized to include a stipend in the amount of up to \$2 million per proposal as part of the procurement for Construction Package #1 subject to the appropriate conditions set forth in terms of the RFP and above.

The Executive Director/Chief Executive Officer is hereby authorized to use a two-step RFP evaluation process that includes a technical evaluation resulting in the qualification of three of the five proposer teams followed by a combined technical/price evaluation of these top three proposer teams.

Vote:

Date:

o000o

EXHIBIT “M”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

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CALIFORNIA HIGH-SPEED RAIL AUTHORITY
MONTHLY MEETING

TRANSCRIPT OF PROCEEDINGS

Sacramento City Hall
915 I Street, City Council Chambers
Sacramento, California 95814

Thursday, March 1, 2012
10:03 a.m.

BRITTANY FLORES
CERTIFIED SHORTHAND REPORTER
LICENSE NO. 13460

1 with and they have experience in Design-Build, and so
2 they have been plugged in for months on this process and
3 given us a lot of feedback.

4 I want to talk about the best value selection
5 process that we're moving forward with. It's for the
6 selection of the proposal meeting that will move on to
7 award --

8 MS. SCHENK: I'm sorry. Going back to the
9 legal --

10 MR. FELLEENZ: Oh, yes.

11 MS. SCHENK: -- for a moment. Sorry. Just
12 had a little sidebar here. It's amazing with all the
13 lawyers that we got this done.

14 MR. FELLEENZ: Yes, I know.

15 MS. SCHENK: So you are the lead attorney
16 for us on all this in coordinating all the --

17 MR. FELLEENZ: Yes.

18 MS. SCHENK: And it all comes back to you?

19 MR. FELLEENZ: Right. Yes.

20 MS. SCHENK: Okay. Because I want to know
21 who to blame.

22 MR. FELLEENZ: Yes, it does. I have been
23 very actively involved with all the consultant groups
24 that I mentioned, the PMT, PMO, KPMG --

25 MS. SCHENK: The whole alphabet.

1 MR. FELLEENZ: Everybody, yeah. So I have
2 been trying to coordinate that -- or have been
3 coordinating that. So it's been quite a big effort.

4 MS. SCHENK: Okay.

5 MR. FELLEENZ: There's many, many conference
6 calls and face-to-face meetings. It's been -- it's
7 very, very intense to try to put something this complex
8 together.

9 MS. SCHENK: Well, you must be doing
10 something right with all the lawyers on this board and
11 there's no questions. So please move on.

12 MR. FELLEENZ: The selection process for the
13 best value -- or proposal is going to be a best value
14 selection and it's a technical and price component, and
15 we had a lot of internal discussion on what the best way
16 to approach this is so that we end up with a strong
17 technical proposal team as well as a very fair and
18 competitive price. So we looked to the federal
19 acquisition regulations and followed those, and we
20 looked at also examples of technical price waiting for
21 Design-Build contractors selection for other types of
22 projects throughout the United States.

23 And so we settled on this approach. We're going
24 to have -- there are five proposal teams, and we hope,
25 are confident, that there will be five proposals

1 submitted, and so the first evaluation process will be
2 to go through and have technical evaluation. These are
3 the weightings that we'll put on the various subject
4 areas that we'll be looking at, project approach,
5 safety, exceptional engineering, ability to meet the
6 schedule, anticipated problems and solutions, and
7 quality of self-certification. And you can see the
8 representative weightings that they have.

9 These are broad categories, and within them,
10 there are other categories. So for instance, you don't
11 see, here, the small business program because that's
12 going to be part of the project approach. So there are
13 many subcategories within these major categories. When
14 the technical evaluation in the Design-Build procurement
15 is done, usually there are very broad categories like
16 this. We're going to have this first approach, we're
17 going to rate them, and we're going to take the top
18 three out of the five to move onto the next part of the
19 competition for selection.

20 If we have only four proposals, we -- again,
21 we'll just go with the top three. If we had two
22 proposals -- or pardon me, three proposals, we'll just
23 select the top two to move onto the next price
24 component. Okay. So that's -- we narrow the field to
25 the top three, and then we move onto the top two

1 technical if there's only three.

2 And then we move onto what's called the price
3 consideration, although, it actually folds back into
4 technical proposals we received, but now we only weight
5 it at thirty percent and the price component is a full
6 seventy percent. So the same five -- or no, six
7 categories are in the technical proposal piece. That's
8 thirty percent. By creating the competition for the
9 technical piece, we think we're going to get strong
10 technical proposals, and we're going to get some very
11 well thought out plans from these proposal teams. And
12 we're making it very competitive, because, you know, if
13 you are not in the top three, you'll be dropped off.
14 And then we move to the price, and because it's more
15 heavily weighted in price than in second phase, we think
16 we'll get some good competition and get a very fair and
17 reasonable price.

18 And as I mentioned before, we looked at other
19 projects throughout the United States and the
20 Design-Build Institute. We are following principals in
21 that manual. There's a quote there that shows one type
22 of procurement approach that could be taken. Although,
23 ours will be a little different than that, but we look
24 into the Design-Build institute for guidance, and then
25 also we looked at these particular projects as good

1 examples. This is a Caltrans Design-Build program where
2 for their largest Design-Build project, which is the
3 Gerald Desmond Bridge, they had this scoring plan, which
4 was seventy to eighty percent price and twenty to thirty
5 percent technical, and that project was about \$700
6 million. And Denver's RTD, Denver Eagle P3 rail
7 project, had a price and technical split as you see,
8 between sixty and forty. And then finally, Dallas Area
9 Rapid Transit Orange Line had a 35 point price and 65
10 point technical.

11 So you can see there are many variations that you
12 could select, but we chose this method, because we
13 thought we would accomplish the goals of the Authority
14 best.

15 I want to move on to stipends.

16 MS. SCHENK: Well, are there any questions
17 or comments I'll take at this point? Yes.

18 MR. HARTNETT: As to the ability to evaluate
19 the proposals that are -- I know that you and I talked
20 about that but can you provide us with a little more
21 detail how -- who's involved in the evaluation process
22 and how that works.

23 MR. FELLEENZ: Okay. This is similar to the
24 RFQ evaluation process that we just went through, and it
25 will mimic it except it will be much more time

1 MS. SCHENK: Thank you for your comments.

2 Okay. So I think what we'll do --

3 MR. UMBERG: We don't want to do anything
4 without our lawyer present.

5 MS. SCHENK: Here he is. All right. So now
6 we're at the point where we're ready for a motion on the
7 resolution.

8 MR. HARTNETT: I move we adopt the
9 resolution as submitted.

10 MR. RICHARDS: Second.

11 MS. SCHENK: Are there any additional
12 comments? Hearing none, we're ready to -- you look
13 puzzled, Mr. Fellenz, is there something that you'd like
14 to say?

15 MR. UMBERG: I'm sorry. No.

16 MR. FELLEENZ: No.

17 MS. SCHENK: All right. We're good. Will
18 the secretary call the role, please.

19 MS. MOORE: Mr. Richards

20 MR. RICHARDS: Yes.

21 MS. MOORE: Ms. Schenk.

22 MS. SCHENK: Yes.

23 MS. MOORE: Mr. Balgenorth.

24 MR. BALGENORTH: Yes.

25 MS. MOORE: Mr. Burns.

1 MR. BURNS: I'm going to abstain.

2 MS. MOORE: Mr. Hartnett.

3 MR. HARTNETT: Yes.

4 MS. MOORE: Mr. Umberg.

5 MR. UMBERG: Aye.

6 MS. SCHENK: Okay. So I think we can resume
7 and call our Chair back into the room.

8 Okay. He's on his way. Well, why don't we
9 continue until he comes in. Next item is the Item
10 Number 4.

11 MR. FELLEENZ: Item Number 4 is a request for
12 the board to adopt a policy on subcontractor
13 identification for Design-Build contracts. To prevent
14 prime contractors from using a subcontractor's bid, to
15 prepare his bid and then shop that bid to get a lower
16 price, the California subcontractors ask for -- requires
17 bidders for public contractors to list the names of all
18 subcontractors who will perform the work in the amount
19 in excess of one half of one percent of the prime
20 contractor's bid.

21 Since Design-Build contract will require the
22 contractor to furnish the design of the project,
23 complete specifications will not be available prior to
24 the submission of the proposals. So it's, therefore,
25 impossible for the contractors to obtain firm bids from

EXHIBIT “N”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

California High-Speed Train Project



Request for Proposal for Design-Build Services

RFP No.: HSR 11-16 Addenda Change Log for Addendum No. 4

Released:
August 22, 2012

This change log contains the list of changes, additions and deletions to the initial release of RFP HSR 11-16, as issued on March 22, 2012, including Addendums 1, 2, and 3 to the following documents:

- Book 1, Instructions to Proposers, Certifications and Forms
- Book 2, Contract Requirements
 - Part C.1 – Scope of Work
 - Part C.2 – Attachment 1 - Limits of Work Table
 - Part C.3 – Attachment 2 - Limits of Work Map
 - Part C.3 – Attachment 2a - Caltrans Limit of Work Map
 - Part C.3 – Attachment 2b - Caltrans Scope of Work Map
 - Part C.5 – Attachment 4 - Elements Scope Matrix
 - Part C.6 – Attachment 5 - Mandatory Standard Specifications Listing
- Book 3, Supplemental Contract Documents
 - Part C.1 - Design Criteria Manual
 - Part D.1 – Master Agreements and Task Orders
 - Part E.1 - Directive Drawings
 - Part E.4 – Right-of-Way Acquisition Plan
- Book 4, Reference Materials
 - Part A.1 - Option 1 Design Plans
 - Part A.2 – CP01A Design Plans
 - Part A.3 - CP01B-Design Plans
 - Part A.4 - CP01C-Design Plans
 - Part B.3 - Geotechnical Data Reports
 - Part B.6 - Structures Report
 - Part C.1 - Standard Specifications

Addenda Change Logs

Addendum No.: 4

RFP Document: Book 1, Part A-C, Instructions to Proposers, Certifications, and Forms

New Document

Revised Document

Change Log Only

Change No.	Description	Location
1	Inserted row to table at the bottom of the cover page to record Addendum No. 4 issuance.	B.1, Pt A – Cover page
2	Deleted the following definition for "Technically Competitive Proposers" from after the definition for "Surety" under Section 2, Definitions: <i>"Those proposers that submit the Technical Proposals rated high enough to be evaluated with their Price Proposals. The number of Technically Competitive Proposers is at the sole discretion of the Authority, but will not exceed three (3) Proposers."</i>	B.1, Pt A.2, Page 6
3	Changed the due dates for the following items in Table 1, RFP Schedule under Section 3, Procurement and Project Schedules: <ul style="list-style-type: none"> • <i>Deadline for Proposer Questions from July 27, 2012 to September 14, 2012</i> • <i>Proposal Deadline from September 17, 2012 to November 2, 2012</i> • <i>Deadline to submit Escrowed Proposal Documentation (See 8.2.5) from September 20, 2012 to November 5, 2012</i> • <i>Anticipated Contract Award from December 2012 to January 2013</i> 	B.1, Pt A.3, Page 7
4	Changed approximate dates for the following activities in Table 2, Anticipated Project Implementation Schedule as follows: <ul style="list-style-type: none"> • <i>Initial Notice to Proceed from February to March 2013</i> • <i>Final Acceptance from April to May 2016</i> 	B.1, Pt A.3, Page 7



Addendum No.: 4RFP Document: Book 1, Part A-C, Instructions to Proposers, Certifications, and Forms New Document Revised Document Change Log Only

Change No.	Description	Location
6	<p>Deleted the third bullet under Section 8.1.2, RFP – Second Step Evaluation Process:</p> <p><i>“Determine the Technically Competitive Proposers (not to exceed 3 Proposers) based on evaluation of the Technical Proposals”</i></p> <p>Deleted the following from the end of the fourth bullet:</p> <p><i>“submitted by the Technically Competitive Proposers”</i></p> <p>Deleted <i>“Technically Competitive Proposers”</i> from the fifth bullet and <i>“Technically Competitive”</i> from the sixth bullet.</p>	B.1, Pt A.8.1.2, Page 33
7	<p>Deleted the following as the eighth paragraph under Section 8.2.5, Escrowed Proposal Documentation:</p> <p><i>“EPDs of Proposers who are not determined to be Technically Competitive Proposers will be returned unopened by the Authority with the Price Proposal.”</i></p> <p>Delete <i>“Technically Competitive”</i> from the first line of the ninth paragraph under 8.2.5, Escrowed Proposal Documentation.</p>	B.1, Pt A.8.2.5, Page 37
8	<p>Deleted the following from the end of the second paragraph under Section 9.1, Overview:</p> <p><i>“Price Proposals are opened and evaluated only for those Proposers whose Technical Proposals are ranked highest after the Technical Proposal evaluation (the “Technically Competitive Proposers”). No more than 3 Price Proposals submitted in response to an RFP will be evaluated.”</i></p> <p>Deleted all instances of <i>“Technically Competitive Proposers”</i> from the third paragraph under Section 9.1, Overview</p>	B.1, Pt A.9.1, Page 43



EXHIBIT “O”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



Press Release

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DATE: April 12, 2013



California High-Speed Rail Authority Announces Bid Results on Central Valley Construction Project

SACRAMENTO, Calif. – The California High-Speed Rail Authority (Authority) has identified Tutor Perini/Zachry/Parsons, a Joint Venture, as the best scoring team for the design-build contract to begin construction of the Madera to Fresno segment, the first section of the high-speed rail system.

The Authority had estimated the cost for the design-build contract to be between \$1.2 billion and \$1.8 billion. The Authority determined that Tutor Perini/Zachry/Parsons, a California-based Joint Venture, who bid \$985,142,530, was the “apparent best value.” The ranking and score of all five proposals are attached.

“Today is a significant milestone,” said Jeff Morales, CEO of the Authority. “We received proposals from five world class teams and are moving forward to deliver a world class program. It’s time to get to work in the Central Valley and create thousands of jobs.”

In the competitive bidding process, five teams submitted proposals to the Authority for the first design-build contract. Design-build combines project design and construction in a single contract. The proposals were evaluated and ranked based on 30 percent for technical merit and 70 percent for cost. Factors such as an understanding of the project, schedule capability, project approach and safety were part of the technical scoring.

In November 2011, the Authority issued a Request for Qualification for potential design-build teams interested in the contract. Five teams met the threshold and began competing for the contract. In January 2013, the five teams submitted their proposals, which were objectively reviewed by an evaluation panel comprised of California state personnel.

The design-build contract will include the Authority’s adopted 30 percent goal for small business participation in the work. The Authority is committed to small businesses playing a major role in delivering the high-speed rail program.

The Authority will continue to work through the ongoing procurement process and a contract will be presented to the Authority’s Board of Directors in the coming weeks.

For more information on the procurement process for the design-build contract please visit <http://www.cahighspeedrail.ca.gov/construction.aspx>

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About California High-Speed Rail Authority

The California High-Speed Rail Authority (Authority) is responsible for planning, designing, building and operation of the first high-speed rail system in the nation. By 2029, the system will run from San Francisco to the Los Angeles basin in under three hours at speeds capable of over 200 miles per hour. The system will eventually extend to Sacramento and San Diego, totaling 800 miles with up to 24 stations. In addition, the Authority is working with regional partners to implement a statewide rail modernization plan that will invest billions of dollars in local and regional rail lines to meet the state’s 21st century transportation needs. To learn more visit the Authority’s website at cahighspeedrail.ca.gov and join us on [facebook.com/CaliforniaHighSpeedRail](https://www.facebook.com/CaliforniaHighSpeedRail) and follow us at twitter.com/cahsra/.



April 12, 2013

California High-Speed Rail Authority

RFP No. HSR 11-16

Apparent Best Value

Proposer	Total Proposal Price	Price Proposal Score (maximum 70 points)	Technical Proposal Score (maximum 30 points)	Total Proposal Score
Tutor Perini/Zachry/Parsons, A Joint Venture	\$985,142,530.00	70.00	20.55	90.55
Dragados/Samsung/Pulice, A Joint Venture	\$1,085,111,111.00	63.55	26.13	89.68
California Backbone Builders	\$1,365,770,098.00	50.49	27.71	78.20
California High-Speed Rail Partners	\$1,263,309,632.23	54.59	20.70	75.29
California High-Speed Ventures	\$1,537,049,000.00	44.87	21.41	66.27

The above matrix identifies the Total Proposal Scores for determining the Apparent Best Value Proposer. The California High-Speed Rail Authority (Authority) has determined that Tutor Perini/Zachry/Parsons, a Joint Venture, is the Apparent Best Value Proposer. The Authority will proceed with the procurement with the Apparent Best Value Proposer. If the Authority is unable to achieve final contract award with the Apparent Best Value Proposer, it may proceed with the next most highly ranked Proposer. Due to the ongoing procurement, no further information will be disclosed at this time.

EXHIBIT “P”

**PROTEST/OPPOSITION STATEMENT
OF
KINGS COUNTY WATER DISTRICT AND
RIVERDALE PUBLIC UTILITY DISTRICT
TO
PETITION FOR EXEMPTION OF
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**



April 12, 2013

California High-Speed Rail Authority

RFP No. HSR 11-16

Apparent Best Value

Proposer	Total Proposal Price	Price Proposal Score (maximum 70 points)	Technical Proposal Score (maximum 30 points)	Total Proposal Score
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The above matrix identifies the Total Proposal Scores for determining the Apparent Best Value Proposer. The California High-Speed Rail Authority (Authority) has determined that Tutor Perini/Zachry/Parsons, a Joint Venture, is the Apparent Best Value Proposer. The Authority will proceed with the procurement with the Apparent Best Value Proposer. If the Authority is unable to achieve final contract award with the Apparent Best Value Proposer, it may proceed with the next most highly ranked Proposer. Due to the ongoing procurement, no further information will be disclosed at this time.