

August 2011

Memorandum of Understanding
for
Achieving an Environmentally Sustainable High-Speed Train System in California

Among
California High-Speed Rail Authority
United States Department of Transportation, Federal Railroad Administration
United States Department of Housing and Urban Development, Region 9
United States Department of Transportation, Federal Transit Administration, Region 9
and
United States Environmental Protection Agency, Region 9

1. PURPOSE AND BACKGROUND

This Memorandum of Understanding for Achieving an Environmentally Sustainable High-Speed Train System for California (MOU) establishes the California High-Speed Train (HST) system as a focus area for the Interagency Partnership for Sustainable Communities (Partnership) and commits the signatory agencies to the sustainability goals described below. The California High-Speed Rail Authority (CHSRA), in cooperation with the Federal Railroad Administration (FRA), is developing the approximately 800-mile HST system serving California's major metropolitan areas (HST System). The Partnership was announced on June 16, 2009 by U.S. Department of Housing and Urban Development (USHUD), U.S. Department of Transportation (USDOT), and U.S. Environmental Protection Agency (USEPA). The Partnership established *Livability Principles* (see attachment) to help improve access to affordable housing, increase transportation options, lower transportation costs, and protect the environment in communities nationwide. The signatory agencies recognize the California HST System as a tremendous opportunity to promote the *Livability Principles* as a means to best serve California's communities.

This MOU serves as an umbrella agreement covering broad efforts to promote sustainability within the California HST System. This MOU establishes a framework under which the signatory agencies can work together to promote the *Livability Principles* and achieve an environmentally sustainable HST System in California. This MOU defines common goals, identifies key areas for collaboration, and defines expectations and terms for signatory agencies.

The signatory agencies recognize that a wide range of expertise and place-based knowledge is needed in order to achieve a truly sustainable HST System. As such, the signatory agencies intend to engage local organizations, appropriate private entities, and other state and federal agencies and encourage them to participate in this collaborative process.

2. SIGNATORY AGENCIES

- CHSRA is the State lead agency under California law (California Public Utilities Code § 185000 *et seq.*) with responsibility for planning, constructing, and operating a high-speed passenger train service and is the lead agency for the California Environmental Quality Act (CEQA). California Public Utilities Code Sections 185034 and 185036 authorize CHSRA to enter this MOU.
- FRA is a modal administration of USDOT and is providing grant funding, planning assistance, and oversight for the development of the HST System through the High-Speed Intercity Passenger Rail Program. FRA is also the lead federal agency for the development of the environmental impact statements required under the National Environmental Policy Act (NEPA) for the nine segments which together comprise the HST System.

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- USHUD is participating in the development of the HST System to create strong, sustainable, inclusive communities, and quality affordable homes near proposed HST station locations. USHUD is entering this MOU pursuant to the authority of the Consolidated Appropriations Act, 2010 (Public Law 111-117).
- Federal Transit Administration (FTA) is a modal administration of USDOT and is participating in the development of the HST System to promote and facilitate connectivity to existing and planned local transit systems.
- USEPA is participating in development of the HST System in both regulatory/statutory (e.g., Clean Water Act, NEPA review) and non-regulatory/non-statutory (e.g., technical assistance) roles. This MOU focuses primarily on USEPA's non-regulatory/non-statutory participation through which USEPA seeks to advance the overall sustainability of the HST System and protect human health and the environment. USEPA is entering this MOU pursuant to the authority of Section 102(2)(G) of NEPA, 42 U.S.C. 4332(2)(G), which directs federal agencies to make available to states, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment.

Nothing in this MOU is intended to amend or supersede the Memorandum of Understanding among FRA, CHSRA, USEPA, and the United States Army Corps of Engineers dated December 21, 2010 regarding integration of Clean Water Act Section 404, Rivers and Harbors Act Section 408, and NEPA.

3. COMMON GOALS

The signatory agencies recognize the need to plan, site, design, construct, operate, and maintain a HST System in California using environmentally preferable practices in order to:

- Protect the health of California's residents and preserve California's natural resources; and
- Minimize air and water pollution, energy usage, and other environmental impacts.

The signatory agencies also recognize the significant and far-reaching benefits of a well-planned HST System in California and share a common vision for a HST System that, when combined with other planning efforts:

- Promotes sustainable housing and development patterns which recognize local goals and interests;
- Integrates station access and amenities into the fabric of surrounding neighborhoods;
- Stimulates multimodal connectivity and thereby increases options for affordable, convenient access to goods, services and employment;
- Reduces per passenger transportation emissions across California, thereby reducing associated environmental and health impacts; and
- Protects ecologically sensitive and agricultural lands.

4. AREAS FOR COLLABORATION

The signatory agencies have identified the following Areas for Collaboration (sections 4.1 to 4.5) to achieve the Common Goals listed above and may, upon mutual agreement, identify additional Areas for Collaboration at any time. If appropriate, specific subject areas may have individual agreement documents among some or all of the signatory agencies. Signatory agencies will evaluate whether the Areas for Collaboration list should be updated on an annual basis.

4.1 Sustainable, Livable Communities: CHSRA, FRA, USHUD, FTA, and USEPA will engage in an open dialogue to ensure that the HST System, where applicable, is consistent with ongoing efforts to promote sustainable, livable communities under the Partnership. In addition, as time and resources allow FRA and CHSRA will obtain review and comment from USHUD, FTA, and USEPA on station planning documents, parking strategies, and approaches to integrate infrastructure into communities in station and non-station areas, among other related topics. When review and comment is requested, USHUD, FTA, and USEPA will respond in a manner that will not delay the CHSRA's design, environmental review, or construction schedule. CHSRA staff and/or contractors will also partner with local and regional organizations to promote best practices in planning for any potential HST impacts, including induced growth in station-areas and neighboring communities. CHSRA will keep FRA, USHUD, FTA, and USEPA informed of HST-related local and regional planning efforts, and the signatory agencies will partner to identify and potentially allocate technical assistance and resources where they are most needed in a manner consistent with funding requirements.

4.2 Material Selection, Design, and Construction: The signatory agencies recognize the opportunity to promote "green building" by minimizing embodied energy, use of natural resources, waste generation, and pollution through selection of environmentally preferable materials, when available, and the use of best practices for design and construction of HST system infrastructure. CHSRA and USEPA will continue their ongoing collaboration to reduce environmental impacts resulting from manufacturing, transport, and use of building materials. The signatory agencies agree to build on existing efforts and work together to promote best practices in material selection, design, and construction of the HST System and induced development.

4.3 Renewable Energy and Energy Efficiency: The signatory agencies recognize that construction and operation of the HST System will require a large amount of energy, and that ample opportunities exist to promote energy efficiency and renewable energy. CHSRA will continue to partner with USEPA to identify such opportunities through development of a strategic energy plan, which will assist CHSRA in achieving its goal of operating the HST System with 100% renewable energy. In addition, signatory agencies will share information on resources and opportunities to promote energy efficiency and generation and/or use of renewable energy.

4.4 Water Resources Management: The signatory agencies recognize the potential for a well-planned HST System to improve watershed health across much of the state, particularly when combined with other planning efforts. The signatory agencies agree that, to the extent feasible, water resources management must be well coordinated and considered from a watershed perspective. The signatory agencies will promote best practices for water efficiency and conservation in siting, planning, design, construction, operation, and maintenance of the HST System. In addition, the signatory agencies will promote environmentally-beneficial "green infrastructure" approaches to stormwater management within the HST footprint and through partnering with local organizations in areas that will likely experience induced development as a result of the HST System, as resources allow.

4.5 Systemwide Sustainability Policy: The signatory agencies will collaborate on developing a system-wide, holistic, sustainability policy, which will inform the planning, siting, design, construction, operation, and maintenance of the HST System. The policy may be based on existing research and publications and may be included by reference in future CHSRA environmental documents (Station Area Plans, Contractor Specifications, NEPA Environmental Impact Statements, CEQA Environmental Impact Reports, etc.).

5. EXPECTATIONS

5.1 At the time of the execution of this agreement, the signatory agencies agree to identify staff members and/or contractors who will collaborate through meetings, document review, and other tasks as time and resources allow.

5.2 As time and resources allow, FRA and CHSRA staff members and/or contractors are expected to obtain review and comment from USHUD, FTA, and USEPA on plans and other information relevant to the above Areas for Collaboration and/or other topics relevant to achieving a sustainable HST System in California. When review and comment are requested, USHUD, FTA, and USEPA will respond in a manner that will not delay CHSRA's design, environmental review, or construction schedule.

5.3 FRA, USHUD, FTA, and USEPA staff members are expected to identify agency programs and resources, as well as ongoing Partnership efforts, that may be used to promote sustainability within the California HST System and, where appropriate, work to align efforts.

5.4 Signatory agency staff members and/or contractors are expected to consider their existing external networks (including research organizations, non-profit organizations, and public agencies) and to identify programs or experts that may be able to contribute to the sustainability of the HST System.

6. GENERAL PROVISIONS

6.1 Nothing in this MOU is intended to diminish, modify, or otherwise affect the statutory or regulatory authorities of the signatory agencies.

6.2 Documents, data, maps, and other information provided pursuant to this MOU may be pre-decisional (*e.g.*, intra-agency or inter-agency memoranda or letters, administrative draft documents, etc.), privileged, or prohibited from disclosure pursuant to applicable law. Unless prohibited under Freedom of Information Act or the California Public Records Act (as applicable), any signatory agency receiving such information agrees to treat it as confidential and not to transmit or otherwise divulge this information without prior approval of the agency providing such information.

6.3 A signatory agency's participation in this MOU is not equivalent to serving as a cooperating agency as defined by regulations promulgated by the Council on Environmental Quality, 40 C.F.R. Part 1500, which is a separate process established through a formal written agreement between a cooperating agency and the Federal lead agency.

6.4 As required by the Anti-deficiency Act, 31 U.S.C. Sections 1341 and 1342, all commitments made by Federal agencies in this MOU are subject to the availability of appropriated funds. This MOU is neither a fiscal nor a funds obligation document. Nothing in this MOU, in and of itself, obligates Federal agencies or CHSRA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with agency budget priorities.

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The non-Federal signatory to this MOU agrees not to submit a claim for compensation for services rendered to any Federal agency in connection with any activities it carries out in furtherance of this MOU, unless separately and specifically authorized by separate agreement(s) such as grant/cooperative agreements. This MOU does not exempt the non-Federal parties from Federal policies governing competition for assistance agreements. Any transaction involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

The obligations under this MOU of the State of California or its political subdivision are subject to the availability of appropriated funds. No liability shall accrue to the State of California or its political subdivision for failure to perform any obligation under this MOU in the event that funds are not appropriated.

6.5 The execution of this MOU does not represent a legally binding agreement. Rather, it implies that the signatories will strive to reach, to the best of their abilities, the objectives stated in this agreement.

6.6 This MOU does not confer any right or benefit, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person, or against the State of California, its agencies, political subdivisions, its officers or any person.

6.7 Each entity will bear its own expenses in connection with the preparation, negotiation, and execution of this MOU.

7. MODIFICATION AND TERMINATION

7.1 This MOU may be amended at any time by the written agreement of all signatory agencies.

7.2 Any signatory agency may terminate participation in this MOU upon 30 days written notice to all other signatory agencies.

7.3 This MOU will terminate five years after the date of signature by the last signatory agency, unless extended in writing by all signatory agencies.

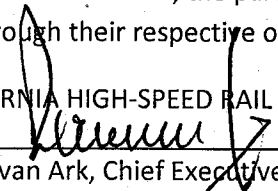
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8. SIGNATORIES

This MOU will become effective on the date of signature by the last signatory agency.


IN WITNESS THEREOF, the parties hereto have executed this Memorandum of Understanding, acting by and through their respective officers.

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

By: 
Roelof van Ark, Chief Executive Officer

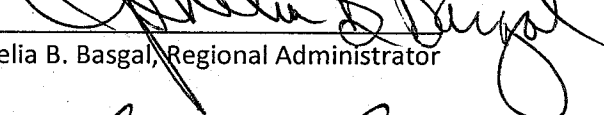
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U.S. DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration
By: 
Joseph C. Szabo, Administrator

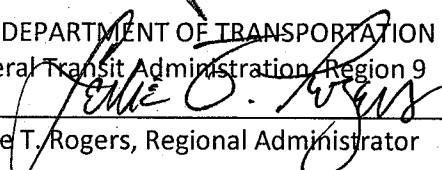
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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Region 9

By: 
Ophelia B. Basgal, Regional Administrator

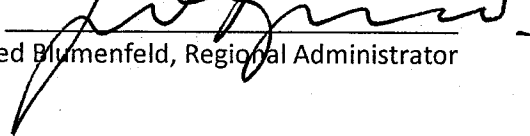
Date: 9/19/11

U.S. DEPARTMENT OF TRANSPORTATION
Federal Transit Administration, Region 9

By: 
Leslie T. Rogers, Regional Administrator

Date: 9/19/11

U.S. ENVIRONMENTAL PROTECTION AGENCY
Region 9

By: 
Jared Blumenfeld, Regional Administrator

Date: 9/22/11

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9. WITNESSES

The following entities support development of the HST System in a sustainable manner, consistent with the Common Goals stated above in Section 3. The witness entities will contribute to the development of a sustainable HST System when appropriate and when resources allow.

IN WITNESS THEREOF, the party hereto has demonstrated support for the goals established by this Memorandum of Understanding.

CALIFORNIA STRATEGIC GROWTH COUNCIL

By: Heather Fargo
Heather Fargo, Executive Policy Officer

Date: 9-14-11

ALLIANCE FOR SUSTAINABLE ENERGY, LLC

In Its Capacity as Managing and Operating Contractor for the
National Renewable Energy Laboratory
Under Department of Energy Contract No. DE-AC36-08GO28308

By: Casey Porto

Date: 9/8/11

Casey Porto, Senior Vice President for Commercialization and Deployment

ATTACHMENT: LIVABILITY PRINCIPLES

U.S. Department of Housing and Urban Development (USHUD), U.S. Department of Transportation (USDOT), and U.S. Environmental Protection Agency (USEPA) announced the Interagency Partnership for Sustainable Communities (Partnership) on June 16, 2009. The Partnership represents an unprecedented agreement to coordinate federal housing, transportation and environmental investments, protect public health and the environment, promote equitable development, and help address the challenges of climate change.

The Partnership established the following principles:

- Provide more transportation choices. Develop safe, reliable, and economical transportation choices to decrease household transportation costs, reduce our nation's dependence on foreign oil, improve air quality, reduce greenhouse gas emissions, and promote public health.
- Promote equitable, affordable housing. Expand location- and energy-efficient housing choices for people of all ages, incomes, races, and ethnicities to increase mobility and lower the combined cost of housing and transportation.
- Enhance economic competitiveness. Improve economic competitiveness through reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers, as well as expanded business access to markets.
- Support existing communities. Target federal funding toward existing communities—through strategies like transit oriented, mixed-use development, and land recycling—to increase community revitalization and the efficiency of public works investments and safeguard rural landscapes.
- Coordinate and leverage federal policies and investment. Align federal policies and funding to remove barriers to collaboration, leverage funding, and increase the accountability and effectiveness of all levels of government to plan for future growth, including making smart energy choices such as locally generated renewable energy
- Value communities and neighborhoods. Enhance the unique characteristics of all communities by investing in healthy, safe, and walkable neighborhoods—rural, urban, or suburban.