



CALIFORNIA HIGH-SPEED RAIL BRIEFING: **April 27, 2022, BOARD MEETING AGENDA ITEM #5**

TO: Chairman Richards and Board Members

FROM: Brian Kelly, Chief Executive Officer

DATE: April 27, 2022

RE: Consider Adopting the 2022 Business Plan

Summary

As required by Public Utilities Code Section 185033, the California High-Speed Rail Authority (Authority) is required to prepare, publish, adopt and submit an updated Business Plan to the Legislature on May 1 of every even year. Statute dictates that at least 60 days prior to submittal to the Legislature, the Draft Business Plan be released for public review and comment.

The Draft 2022 Business Plan was issued on February 8, 2022, by posting it on the Authority's website, thus opening the public comment period. Staff presented a high-level briefing to the Board of Directors at both its February 17 and March 17 Board meetings. The Authority Board also held a public hearing as part of the March 17 meeting. The public was notified of the hearing date through social media and on the Authority's website. Public comments were also made at two legislative hearings. The 60-day public comment period ran through April 11, 2022. Comments were also submitted to the Authority online and via mail/email.

After considering all of the comments, staff has proposed edits for the Board's consideration at its April Board meeting. Staff has prepared four documents to help inform the Board's consideration of the adoption of a final 2022 Business Plan.

1. The *Staff Recommended Edits* table lays out proposed substantive edits to text;
2. The *Errata and Updates* table reflects minor technical corrections to text, such as punctuation, spelling and exhibit updates and labeling, as well as updates to current data;
3. The *Revised Draft 2022 Business Plan* incorporating both the *Staff Recommended Edits* and *Errata and Updates*; and
4. A separate set of staff recommended edits table that lays out proposed edits if the Board approves the Final EIR/EIS for the San Jose to Merced project section, scheduled for consideration on April 28.

These documents have been posted on the Authority's website. Following Board action, staff will incorporate the Board's direction and prepare a final 2022 Business Plan to the Legislature. Because the April Board meeting was re-scheduled to April 27/28, the final document will be prepared and submitted to the Legislature the week of May 1, 2022, and no later than May 6. Legislative staff and leadership have been notified of this revised date.

Background

The Authority has produced business plans since 2012. All business plans provide a snapshot in time of the most current information about the high-speed rail program at the time of adoption. In requiring an updated plan every two years, the Legislature envisioned that these plans would reflect updated forecasts and estimates, decisions that have been made and changes that have occurred since the prior business plan. This has been the case with the Authority's previous plans and remains so with the Draft 2022 Business Plan.

The 2012 Business Plan served as a foundational document for how the system would be implemented. Specifically, it laid out the concept of delivering the Phase 1 system, from San Francisco to Los Angeles/Anaheim, in a series of phases and through a "blended" strategy where high-speed rail is developed in concert with other state, regional and local rail investments, as part of a broader statewide rail modernization program.

The 2014 Business Plan built on and updated the 2012 Business Plan, incorporating feedback from external reviewers, including the United States Government Accountability Office's recommendation that risk analysis be applied to the Authority's forecasts.

The 2016 Business Plan outlined an initial operating line between the Silicon Valley (San Jose) and the Central Valley (Poplar Avenue, north of Bakersfield). It identified Bakersfield, Merced and initial service into San Francisco as high priority extensions. In addition, it reiterated the Authority's commitment to make strategic, concurrent investments in Northern and Southern California.

The 2018 Business Plan introduced showing the capital cost estimates in ranges based on the status of design. It clarified that greater funding certainty is needed to deliver the initial Silicon Valley to Central Valley Line. The plan outlined three principles to guide decision-making:

- Initiate high-speed rail service in California as soon as possible.
- Make strategic, concurrent investments that will be linked over time and provide mobility, economic and environmental benefits at the earliest possible time.
- Position ourselves to construct additional segments as funding becomes available.

The 2018 Business Plan also recommended that the system be delivered through a "building block" approach and that options for interim service in the Central Valley be evaluated. Three studies were conducted, two by the Authority's Early Train Operator (ETO), one of which was presented in the Authority's 2019 Project Update Report, supporting interim service in the corridor linking Merced, Fresno and Bakersfield. The third study was conducted by the Authority's Financial Advisor, KPMG.

The 2020 Business Plan, adopted in March 2021, summarized the conclusions and recommendations of the three studies and in the Final 2020 Business Plan the Authority recommended advancing the Merced to Bakersfield corridor as the first building block for high-speed rail service. The importance of advancing design work statewide as environmental clearances are achieved through action by the Board of Directors on Records of Decision was also emphasized. The 2020 plan also described steps the Authority was taking to better manage risk, including increasing risk contingency in the Program Baseline budget; establishing an Enterprise Risk Management Program; and implementing a Staged Project Delivery program. Due to the multiple impacts of the COVID-19 pandemic, the 2020 Business Plan was submitted to the Legislature on April 12, 2021.

Key Aspects of the Draft 2022 Business Plan

Given that the 2020 Business Plan was submitted to the Legislature in April 2021 (almost a full year later than scheduled), the Draft 2022 Business Plan was designed to provide an update on what has occurred since then, including progress and opportunities, as well management's recommendations to the Board of Directors on how to manage those issues and move forward transparently. The 2022 Business Plan has been designed

to serve as a bridge between the 2020 Business Plan and the 2023 Project Update Report which is to be submitted to the Legislature by March 1, 2023.

The Draft 2022 Business Plan highlighted three areas where the Authority is making progress—construction activities, right-of-way acquisition and environmental reviews. It described the changes instituted in the right-of-way division, noting that the Authority has now acquired 90% of the parcels needed for construction in the Central Valley, and that two project sections had been environmentally cleared since the 2020 Business Plan.

The Draft Plan described the potential for new federal and state funding opportunities, through the enactment of the federal “Bipartisan Infrastructure Law” in 2021 (and potentially the “Build Back Better” bill) which provides billions of dollars in federal funding for passenger rail projects, including high-speed rail. In addition, it noted that Governor Newsom has proposed, in his FY 2022-23 Budget, a \$15 billion program of investments in transportation infrastructure, including investments in high-speed rail (the remaining \$4.2 billion in Proposition 1A funds), local and regional transit projects and a range of other priorities.

The Draft 2022 Business Plan noted the December 2021 Board action to add \$2.3 billion to the previously approved \$15.6 billion Baseline Budget to advance work on specific activities—including advancing design on the extensions to Merced and Bakersfield—and that the Authority is deferring adoption of an updated Program Baseline Budget until action by the Legislature on appropriating the remaining Proposition 1A funds.

The Draft 2022 Business Plan included updated cost estimates for the Bakersfield to Palmdale project section, which was environmentally cleared in 2021, and the Burbank to Los Angeles section which cleared in January 2022. It noted that these updated estimates reflect scope changes made based on extensive interactions with stakeholders and reflect design refinements and mitigations to minimize impacts and to optimize how the system travels through and serves communities and the environment. Because the 2020 Business Plan was submitted so recently, updates to the other forecasts and estimates were deferred to the 2023 Project Update Report. This will include new ridership and revenue forecasts being prepared through a new, more detailed ridership forecasting model being developed in coordination with CalSTA and Caltrans.

Comments and Briefings

As of April 11, 2022, the end of the 60-day public comment period, 98 separate comments were received, all of which are included as an attachment to this staff report along with a summary of the comments:

<https://hsr.ca.gov/draft-2022-business-plan-comments/>

There were two legislative hearings where Legislators heard from the Authority, the Legislative Analyst’s Office, the California High-Speed Rail Legislative Peer Review Group, regional agencies/stakeholders, and members of the public. The hearings were held before the:

- Assembly Budget Subcommittee No.3. On Climate Crisis, Resources, Energy, and Transportation - February 23, 2022
- Joint Senate Transportation Committee and Senate Budget & Fiscal Review Committee Sub-Committee – March 8, 2022

The Authority also held briefings with individual legislators and legislative staff on the Draft 2022 Business Plan.

The California High-Speed Rail Legislative Peer Review Group submitted a letter to Legislative leadership, a copy of which is included in the Appendix of the Revised Draft 2022 Business Plan.

Prior Board Action

In March 2021, via Resolution #20-02, the Board adopted the 2020 Business Plan.

Discussion

This Revised Draft 2022 Business Plan reflects updates since the Draft was released. It also responds to comments received during the 60-day public review period. Some comments requested clarifications or additional information about the California High-Speed Rail program as a whole or the Draft Plan specifically. Some were opposed to the project and/or were critical of the Draft Plan. Others expressed support for the program and/or the Draft Plan. Some comments were unrelated to the Draft 2022 Business Plan, focusing on other issues including, for example, alignment or environmental issues being evaluated as part of the environmental review process. Those comments are being addressed through other means, namely through the environmental process and future Board actions.

There were certain topics upon which comments and questions were more focused. To address these comments, additional information has been included in the Revised Draft 2022 Business Plan (and are also included in the Staff Recommended Edits table). These include:

1. **Small Business Program** - The Authority received comments that the final 2022 Business Plan should include an update on the Authority's Small Business program. A summary of the program is included in the Revised Draft 2022 Business Plan which describes the Authority's role and efforts in supporting and facilitating small business participation in the project. It also provides current data on the program. This updated language was reviewed with members of the Authority's Business Advisory Committee. See Chapter 1 - Updates and Highlights.
2. **Update on Central Valley Construction/Status of Change Orders** – The Authority received questions regarding the status of construction schedules and outstanding major change orders in completing the 119-mile Central Valley Segment. The Revised Draft 2022 Business Plan includes a new section that identifies the outstanding change orders that staff is working to resolve in Construction Package 1 and Construction Package 2-3 and those that have been fully resolved on Construction Package 4. This section also describes the process associated with finalizing the change orders, specifically settling scope and establishing Revised Baseline Schedules which will allow the Authority to manage the contracts toward delivery against a firm schedule and budget. It notes that by resolving these change orders and commercial issues—anticipated to be complete in summer 2022—the Authority will also have much greater certainty on achieving its goal of an initial operating segment from Merced to Bakersfield by the end of the decade. See Chapter 2 - Regional Updates.
3. **Merced to Bakersfield Initial Operating Segment** – The Authority received comments reiterating support for building the Merced to Bakersfield Initial Operating Segment for initial passenger rail service, including the ways that it would benefit residents of the Central Valley. This section of the Business Plan was revised to make clearer what those benefits will be. It also includes an update on the Board's decision to procure design contracts to advance design, map right-of-way, identify utility relocations and other steps associated with completing Stage 3 of the Authority's Staged Project Delivery process for the Merced and Bakersfield Extensions. See Chapter 2 – Regional Updates.
4. **Federal Funding** – The Authority received comments and questions regarding the Authority's plan for seeking and securing new federal funding made available through the Bipartisan Infrastructure Law. A new section on the Authority's federal funding strategy has been added discussing the principles and objectives that guide our strategy. It also shows how our objectives align with current and newly established federal funding programs and our anticipated grant requests from those programs. See Chapter 3 – Funding the Program.
5. **Building Blocks for Funding/Constructing High-Speed Rail** – The Authority received comments and questions regarding program goals versus current and potential future funding. A new section has been added that illustrates how the Authority proposes to use existing and future funding—including future federal grants and Cap-and-Trade proceeds—to build high-speed rail following the building block approach. It notes the variability and uncertainty associated with future funding assumptions and that the strategy accommodates this variability and focuses on delivering the highest priority elements first

while planning to deliver subsequent investments as funds become available. See Chapter 3 – Funding the Program.

6. **Private Investment** – The Authority received questions regarding the timing of when private investment might occur and under what conditions. Additional information is included in the Revised Draft 2022 Business Plan reiterating the Authority’s intent and goal to use private sector finance as a means to help fund the program. More information is provided on what steps need to be taken and what information must be developed by the Authority to be better positioned to engage more meaningfully with potential private investors. See Chapter 3 – Funding the Program.
7. **Capital Cost Estimates/Phasing** - There were questions and comments regarding how and when the Authority updates capital cost estimates as well as the framework and assumptions used for estimating costs in year of expenditure dollars. Some of these comments were tied to the challenge of forecasting when the system might be extended to the Bay Area and to Los Angeles/Anaheim (completing the full 500-mile Phase 1 system) given that the program is not fully funded. Additional information was provided to clarify the issues associated with forecasting year of expenditure estimates and the Authority’s assumptions for how it does so. See Chapter 5 – Forecasts and Estimates.
8. **Potential Edits: San Jose to Merced** – As previously noted, a separate *San Jose to Merced Staff Recommended Edits* table is included in the Board materials that identifies edits to text, tables and exhibits that staff proposes to make pending Board action on the Final EIR/EIS for this project section which is scheduled for consideration on April 28, 2022.

This information and the attachments referenced below are intended to support the Board’s consideration and direction regarding finalizing the 2022 Business Plan. Upon Board approval, and after incorporating the Board’s direction, the Authority will prepare, publish and submit the final 2022 Business Plan to the California State Legislature on or before May 6, 2022.

Legal Approval

The final 2022 Business Plan that staff will develop at the Board’s direction, after its consideration of the Revised Draft 2022 Business Plan, will comply with the requirements of Public Utilities Code Section 185033.

Budget and Fiscal Impact

The Revised Draft 2022 Business Plan includes new estimates of revenue and cost for the project. However, any change to the Program Baseline budget would be brought back to the Board through a separate action item.

REVIEWER INFORMATION	SIGNATURE
Reviewer Name and Title: Brian Annis Chief Financial Officer	Signature verifying budget analysis: April 20, 2022
Reviewer Name and Title: Alicia Fowler Chief Counsel	Signature verifying legal analysis: April 20, 2022

Recommendations

Staff recommends that the Board, based on its review of all the comments received and staff presentations at Board meetings, deliberate and direct staff to make any final changes to be reflected in the 2022 Business Plan and approve that plan to be submitted to the Legislature the week of May 1st, 2022, and no later than May 6.

Attachments

- Draft Resolution #HSRA 22-09
- Revised Draft 2022 Business Plan
- Staff Recommended Edits to the Draft 2022 Business Plan
- 2022 Business Plan Errata and Updates Table
- Staff Recommended Edits to the Draft 2022 Business Plan - San Jose to Merced
- Draft 2022 Business Plan Comments (February 8 – April 11, 2022)