



## **California High-Speed Rail** **BRIEFING: FINAL 2020 BUSINESS PLAN AGENDA ITEM #5**

**TO:** Acting Chair Richards and Board Members  
**FROM:** Brian P. Kelly, Chief Executive Officer  
**DATE:** September 9, 2020  
**RE:** 2020 Business Plan

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### **Summary**

The California High-Speed Rail Authority is required by Public Utilities Code Section 185033 to prepare, publish, adopt, and submit a biennial Business Plan to the Legislature on May 1. At least 60 days prior to the submission, the Authority must publish a draft Business Plan for public review and comment.

The Draft 2020 Business Plan (Draft Plan) was issued on February 12, 2020. Notices were circulated and the information was posted on the Authority's website. Stakeholders and the public were provided various ways to comment on the Draft Plan. The first public hearing was held at the February 18, 2020 Board of Directors meeting, and the comment period was scheduled to close on April 13, 2020.

In February, the COVID-19 pandemic caused federal, state and local governments to issue emergency "stay-at-home" orders to protect citizens' health and well-being. This resulted in changes to the review schedule for the Draft Plan. The Legislature requested that the submittal of the final 2020 Business Plan to the Legislature be moved to July 1 to allow additional time for potential legislative hearings. The Authority agreed with this revised submittal date and, in addition, extended the comment period to June 1, 2020.

Subsequently, it became increasingly clear that the uncertainty surrounding the depth and duration of the pandemic would continue to present numerous risks some of which were and are still coming into focus. For that reason, in June the Administration, Legislative leadership and the Authority reached an agreement to defer the adoption of the final 2020 Business Plan to December 2020. This was embodied in AB 90 which set the new submittal date to the Legislature as December 15, 2020. In addition, as part of this agreement, the Authority will not be required to submit a Project Update Report to the Legislature in March 2021.

This extended schedule allows additional time to conduct a comprehensive assessment of current and future risk which will help inform decisions moving forward in a way that meets the state's federal obligations and Proposition 1A requirements. This risk review is underway. In addition, this additional time allows us to address, in the final Plan, issues raised by members of the Legislature including the April 13, 2020 letter from the Chair of the Senate Transportation Committee; the May 27, 2020 Assembly Transportation Committee Hearing; and subsequent California High-Speed Rail Peer Review Group (PRG) letter of July 17, 2020.

We will review the project's status and path forward with the Board after these enhanced risk analyses are completed later this year and in advance of Board action on the 2020 Business Plan.

## **Background**

Following the release of the Draft Business Plan in February, comments were received through a variety of means including Board hearings, a legislative hearing, letters, emails and the Authority's website. The Board also received public comment on the Draft Business Plan at its February 18 and April 21 Board meetings. Comments were received at a May 27 Assembly Transportation Committee hearing during which legislators also heard from the Secretary of the California State Transportation Agency (CalSTA), the Legislative Analyst's Office, and the PRG. The Authority also held briefings with individual legislators and other elected officials to seek comments on the Draft Plan. As of June 1, 2020, when public comment on the Draft Plan closed, more than 200 comments had been received. The Board has been provided a record of all comments received from February 12 through June 1, 2020 and are summarized in the memo attached to this staff report and provided in detail at the following [https://hsr.ca.gov/docs/brdmeetings/2020/bp\\_comments\\_table\\_06162020.aspx](https://hsr.ca.gov/docs/brdmeetings/2020/bp_comments_table_06162020.aspx).

As we discussed at the April Board meeting, the Authority adapted quickly to the pandemic and has continued to work effectively as events have evolved. Construction in the Central Valley has continued to increase as evidenced in our monthly reporting to the Board. For example, recent average weekly construction worker metrics have increased to nearly 1100 workers per week compared to 390 workers at this time last year and construction expenditures are starting to exceed our forecasts as noted in our recent Central Valley Progress Report.

Nevertheless, there is still a lot of work to be done, and COVID-19 is impacting our progress further. Some impacts were clear and immediate; others have developed more slowly and some remain unknown. This has included events such as:

- The two international teams preparing bids for the Track and Systems procurement have requested extensions, which we agreed to, with bids now due October 20;
- California courts either closed or have severely reduced their hours, delaying filings and court dates which affects the right-of-way acquisition progress for existing cases;
  - Settlement conferences are being delayed by two to three months;
  - Escrow companies holding funds are delayed in providing payments to landowners;
- New right of way cases are taking between 6 to 8 weeks (instead of 2-3 days) to receive conformed copies of pleadings in order to start the possession process;
- The May and August 2020 Cap-and-Trade quarterly auctions yielded lower proceeds due to COVID-19 market impacts (August auction improved over May; the next auction is scheduled for November); and,
- Local communities and stakeholders have requested that we extend the public comment periods for our environmental document reviews, which we have done.

Deferring action on the 2020 Business Plan to December allows the Authority time to address the issues identified by the Legislature and the PRG. Specifically, the Authority is:

- Conducting a cost/schedule risk assessment of the 119 miles of construction underway in the Central Valley to understand where we stand which will inform a Baseline Rev 2, scheduled for action by the Board in December concurrent with the 2020 Business Plan;
- Developing a Memorandum of Understanding with CalSTA and the San Joaquin Joint Powers Authority (SJJPA) for interim high-speed rail operations between Merced and Bakersfield;
- Contracting with an independent consultant to conduct a peer review of the ridership forecasts prepared by our Early Train Operator (ETO) for the Side-by-Side Analysis of the Merced-Bakersfield, Caltrain and Burbank-Anaheim corridors, including as requested by the PRG an academic assessment; and, and,
- Working with our financial advisor (KPMG) to prepare a funding risk analysis based upon updated Cap-and-Trade receipts and currently committed funds, as well as the potential for future funds.

## **Prior Board Action**

No prior Board action has been taken on the 2020 Business Plan.

**Discussion**

This Board memo is for informational purposes only.

**Legal Approval**

No legal issues with this informational item.

**Budget and Fiscal Impact**

There is no budget or fiscal impact; this Board memo is for informational purposes only.

<b>REVIEWER INFORMATION</b>	<b>SIGNATURE</b>
Reviewer Name and Title: <b>Brian Annis</b> <b>Chief Financial Officer</b>	Signature verifying budget analysis: <b>Original Signed September 2, 2020</b>
Reviewer Name and Title: <b>Alicia Fowler</b> <b>Chief Legal Counsel</b>	Signature verifying legal analysis: <b>Original Signed September 2, 2020</b>

**Recommendations**

There are no recommendations associated with this Board memo; it is for informational purposes only.

**Attachments**

Summary of Public Comment – Draft 2020 Business Plan