CALIFORNIA
High-Speed Rail Authority

Gavin Newsom
GOVERNOR

Toks Omishakin
SECRETARY

Ian Choudri
CHIEF EXECUTIVE OFFICER

June 11, 2025

Drew Feeley
Acting Administrator
Federal Railroad Administration
Via Email Only: FRAExecSec@dot.gov

Dear Mr. Feeley,

This letter constitutes the California High-Speed Rail Authority's ("CHSRA" or "the Authority") Initial Response to the Federal Railroad Administration's ("FRA") June 4, 2025 notice of proposed determination ("FRA Notice") and its attached Compliance Review Report ("FRA Report" or "Report"), notifying the Authority of FRA's proposed determination to terminate Cooperative Agreement No. FR-HSR-0118-12 (the "FY10 Agreement") and Cooperative Agreement No. 69A36524521070FSPCA (the "FSP Agreement") (together, the "Cooperative Agreements").

Termination of the Cooperative Agreements is unwarranted and unjustified. The Authority disputes the existence of any noncompliance that would justify termination of the FY10 Agreement or FSP Agreement. In short, FRA's conclusions are based on an inaccurate, often outright-misleading, presentation of the evidence. Among other things, FRA distorts data that the Authority has furnished to FRA, citates to reports that do not support its conclusions, and employs opaque and disingenuous methodologies. This letter summarizes the Authority's position; the status of the California High-Speed Rail program ("the Program"), and specifically the anticipated completion of the EOS (the "Project")[1]; and the Authority's initial responses to the findings of the FRA Report. As permitted by the Cooperative Agreements, the Authority will supplement this Initial Response.

I must also take this opportunity to dispute, in the strongest possible terms, your misleading claim that the Authority "has made minimal progress to advance construction." FRA Notice at 4. The Authority's work has already reshaped the Central Valley. We have built many of the viaducts, overpasses, and underpasses on which the first 119 miles of high-speed rail track will run. These are momentous achievements, combining feats of engineering, complex logistical and legal coordination, and, on average, the labor of more than 1,700 workers in the field every day, mostly in Fresno, Kings and Tulare Counties. In total, fifty-three structures and sixty-nine miles of guideway have been completed.

Examples abound. The 432-foot Central Avenue overpass in Fresno is one of four major high-speed rail structures that the Authority completed and opened to traffic just so far this year. In

[1] The FRA letter refers to the 800-mile system ultimately to be constructed, but the Project funded by the Cooperation Agreement requires only completion of the 171-mile EOS, and FRA has known since at least February 2019 that completion of portions of the system beyond the Central Valley will not occur until significant additional funding is obtained.

fact, Fresno hosts some of the most impressive Authority projects, including the magnificent 4,741-foot San Joaquin River Viaduct, which the Authority completed in 2021.

The San Joaquin River Viaduct in Fresno, California

Other substantial works throughout the Valley are in progress and on schedule. Construction on the first railyard in the nation dedicated to high-speed rail is underway, with completion scheduled for 2025. The towering Hanford Viaduct in Kings County, the largest high-speed rail structure in the Central Valley, spans the length of twenty-one football fields.


The Hanford Viaduct in Kings, California

This work has been a substantial boon to the economy of the historically disadvantaged Central Valley. As Fresno Mayor Jerry Dyer recently wrote, the area's "economic vitality is predicated on High-Speed Rail's promise." Indeed, as Mayor Dyer explained, Fresno's "ongoing transformative infrastructure investments in water and sewer infrastructure, in housing supply, and in business and workforce development strategies, are inextricably tied to the project, whose centerpiece would be our downtown station – the nation's first for a high-speed train."

Of course, the Authority's achievements are not limited to the Central Valley. Electrification of the blended segment between San Francisco and San Jose, which is currently used by Caltrain, but will carry high-speed trains to San Francisco, is complete. We have completed all programmatic and project level environmental reviews for the alignment from downtown San Francisco to downtown Los Angeles.

In light of these achievements, FRA's claims that the Authority has made "illusory" promises, and has "conned the taxpayer out of its $4 billion investment," are nothing more than rhetoric aimed at justifying a pre-ordained conclusion. Hostility to public investments in high-speed rail, and to California's leadership—hostility that dates back to FRA's initial attempt to revoke federal funding to the Program in May 2019—appears to be the real basis for the proposed determination. As the remainder of this letter demonstrates, none of the documents on which FRA's Notice relies remotely support termination of the Cooperative Agreements.

<u>Summary of Initial Response</u>

Although the FRA Notice proposes termination of the Cooperative Agreements, it fails to identify a legitimate basis for doing so. The proposed termination is apparently based on three broad conclusions: (1) the early operating segment (EOS) between Merced and Bakersfield is unlikely to be completed by 2033, (2) the Authority lacks a plan to fund the Project, and (3) the Authority has missed a project milestone to execute a contract for procurement of trainsets, which "calls into question the Authority's ability to deliver on its promise to operate high-speed trains on the Central Valley Segment by 2033." These conclusions are not supported by the facts. And even if they were supported, they do not constitute grounds for terminating the Cooperative Agreements.

First, the Authority is on track to complete the EOS by 2033, which FRA itself acknowledged mere months ago. Second, the Authority has identified funding mechanisms to cover the shortfalls identified and is well-positioned to obtain additional funding, potentially including from private sources. FRA's conclusion to the contrary is based largely on its misrepresentation of a 2025 report from the Authority's Office of the Inspector General (OIG, or OIG-HSR), as OIG itself emphasized in a letter just this week. Indeed, OIG explained, efforts such as those detailed below present a path for "successful completion of an [EOS] that meets federal requirements, brings immediate transportation benefits, and demonstrates the value of future expansion of high-speed rail throughout California."[2] At the very least, it is premature to conclude that sufficient funding will not be available. Third, the Authority's decision to extend its trainset procurement will not impact the completion date of the Project.

The Authority responds below to each of the nine findings identified in the FRA Report, but it is worth first putting those findings in context.

FRA concludes that the Authority will be unable to deliver the EOS within the budget and schedule agreed to in the FSP and claims this is a Project Material Change so inconsistent with purpose of the High-Speed Intercity Passenger Rail (HSIPR) Program that it warrants termination of the FSP Agreement. See Report at p. 2. The criteria that comprise a Project Material Change are set forth explicitly in the FSP Agreement:

> A "Project Material Change" means (a) any change to the Project that FRA determines is materially inconsistent with (i) FRA's basis for selecting the Project to receive the award or (b) Abandonment.

Under this definition, a Project Material Change would require FRA either to conclude that the Project is materially inconsistent with FRA's basis for selecting the Project or that the Project has been abandoned. Clearly, the Project has not been abandoned. FRA's basis for selecting the project, according to its grant award notification, is that the award "provides a Federal funding opportunity to . . . establish new intercity passenger rail service," according to the December 13, 2023 email from FRA notifying the Authority that it had been selected to receive the FSP grant. As FRA itself recently determined, the Authority is on track to do so.

In October 2024, *just eight months ago*, FRA issued a Monitoring Report on the Project, which explicitly stated that FRA made no "significant findings that would impact project compliance or completion with the terms and conditions of the cooperative agreements." See FRA CA HSR -

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[2] OIG-HSR Letter to Governor Newsom, President pro Tempore of the Senate McGuire, and Speaker of the Assembly Rivas (June 10, 2025), available at: https://hsr.ca.gov/wp-content/uploads/2025/06/OIG-HSR-June-2025-FRA-Report-Response-Letter-A11Y.pdf ("OIG Response Letter").

CY24 Monitoring Report at iv. The FRA Notice does not explain what changed circumstances now lead it to the opposite conclusion.

Additionally, FRA claims to have found persistent non-compliance "beginning from the execution of the Cooperative Agreements." FRA Notice at 4. Persistent Noncompliance also has a defined meaning under the Cooperative Agreements:

> "Persistent Noncompliance" means any Noncompliance Event under the terms of this Agreement that (a) continues for more than 180 consecutive days from the date the related Notice of Proposed Determination is issued (excluding any days the Recipient is taking the Corrective Actions), or (b) occurs 3 or more times in any 12 consecutive month period.

The (a) prong, requiring a 180-day period during which noncompliance continues after a Notice of Proposed Determination, cannot be met because the FRA Notice was issued just seven days ago. Nor does FRA explain how the (b) prong could be relevant. Again, the assertion of persistent noncompliance flies in the face of the FRA's conclusion just months ago in its October 2024 Monitoring Report. Certainly, no persistent noncompliance has been identified "beginning from the execution of the Cooperative Agreements."

There have been no meaningful changes in the past eight months that justify FRA's dramatic about-face. Instead, FRA has looked at essentially the same facts it considered in the fall of 2024 and simply reached a different conclusion. Indeed, *the FSP Agreement that FRA now proposes to terminate was executed just nine months ago and the FY10 Agreement was amended just seven months ago*. Thus, it is unsurprising that many of the facts upon which FRA now relies to terminate those agreements were apparent to FRA when it entered them or agreed to amend them. Information available to FRA at the time it chose to enter into the Cooperative Agreements, and to grant funds to the Authority for the Project, is not a legitimate basis on which to terminate those agreements.

Response to FRA Compliance Review Report (FRA Report) June 2025

FRA's risk assessment is a rushed summary analysis that fails to account for the reliable facts available to FRA.

At the threshold, the risk analysis on which FRA based its assessment of the Authority's progress is deeply flawed. The assessment appears to rely significantly on its purported Federal Administration Schedule and Cost Risk Analysis, an analysis that is—as FRA admits—limited in a number of significant ways.

These limitations could have been mitigated with further communications between the parties through in-person workshops with the Authority to ensure accuracy, which was the usual practice when FRA undertook prior analyses. Despite this established protocol, FRA declined to discuss FRA's assumptions, exclusions, or modeling approaches, or even mention that it was undertaking its own risk assessment. Instead, FRA appears to have made little attempt to ensure that the information it utilized was complete and instead rushed a summary-level risk analysis that led to its preferred conclusion.

By contrast, the Authority's risk analysis is based on a detailed schedule and understanding of the status of each element of its Project, its management mitigations, and more current information about Project risks.

Moreover, FRA has not provided the Authority with information about the actual model it used to support its "bottom-up quantitative schedule risk analysis" or top-down quantitative cost risk analysis, (see Risk Analysis attachment p. 2), to enable the Authority to assess how FRA arrived at its risk conclusions. FRA has not identified what entity conducted the risk analysis or the expertise of the modelers or reviewers. By hiding the ball, FRA limited the Authority's ability to provide meaningful input in the course of FRA's compliance review and similarly hampers the Authority's ability to respond to the FRA Notice and its proposed determination.

FRA's findings are unfounded

The Authority provides an initial response below to each of the nine findings identified in FRA's compliance review. Additional detailed information and documentation will be provided with the Authority's subsequent submission.

1. "CHSRA has executed numerous change orders, including change orders for $154 million for CP1 (October 2023) and $242 million and $205 million for CP 2-3 (October and November 2022) as well as $143 million for CP 2-3 in June 2024, and will likely have many more change orders in the near future to account for contractor expenses as a result of project delays."

The FRA Report dwells on the number and amount of change orders related to the program. But executing change orders is not a compliance issue. None of the change orders identified in the Compliance Review are paid with Cooperative Agreement funds. And FRA acknowledges that change orders are common and that "change orders and disputes with contractors and third parties are likely to occur on projects of this scale." FRA Notice at 2. Moreover, FRA "*did not find* that CHSRA violated the FSP Agreement or FY10 Agreement terms . . . as a result" of the change orders or contractor disputes. *Id*. at 2 (emphasis added).

Some of the Authority's largest change orders were due to FRA mandates. Years after the Authority executed the CP1-4 contracts, FRA issued a study concluding that changes were needed for intrusion protection barriers (IPB) between high-speed rail and freight railroad operations to prevent potential freight train derailments from impacting the high-speed rail line. As a result of these new standards, the Authority was required to make significant design changes to add IPB walls to Project areas where freight rail rights of way were in close proximity to the high-speed rail guideways. The FRA Report notes that these barrier-related change orders cost more than $500 million yet failed to acknowledge its own role in these change orders.

In addition, federal regulations and DOT guidance require grant recipients to perform a cost analysis or price analysis in connection with every procurement action, including contract modifications such as change orders, in excess of the simplified acquisition threshold. 2 CFR § 200.324. The Authority has meticulously performed and documented its cost analyses for its change orders. Notably, FRA has made no allegation of any wrongdoing in connection with any change order.

2. “CHSRA has already missed its deadline for finalizing its rolling stock procurement per its commitment in the FSP Agreement.”

The Estimated Project Schedule set forth in the FSP Agreement lists a schedule date of December 31, 2024, for Task 7 (“Trainsets & Trainsets Facilities, an Executed Six Trainset Contract”). However, missing this estimated date for an interim milestone does not amount to Persistent Noncompliance or an Event of Default as defined by the Cooperative Agreements. To save both time and money, the Authority is currently updating its Design Criteria Manual to standardize approaches and cut unnecessary complexity. The Authority determined that modifications to the trainset technical requirements will allow flexibility for the Project and will ensure efficiency and value in delivery of high-speed rail trainsets.

Specifically, the trainset procurement will provide for high-speed trainsets that will meet all federal requirements and will meet all of the fundamental requirements for high-speed rail (e.g., capable of speeds of 220 miles per hour). At the same time, the Authority seeks to make streamlining reductions in consequential infrastructure costs, improve interoperability, and increase opportunities to generate private investment. This will result in a trainset procurement process that is less costly and quicker overall, thus making completion of the EOS by 2033 easier and less expensive. Rather than justifying termination of the Cooperative Agreements, this refined approach benefits the Authority, FRA, and the people of California. The Authority will provide more information regarding its schedule for procuring trainsets in its subsequent submission.

3. “CHSRA has a $7 billion funding gap (based on FRA’s conservative estimates) to complete the EOS, with no credible plan to secure additional funds.”

In the narrative supporting this finding, FRA cherry-picks statements to support its finding while completely ignoring other, contrary statements in the same text, as well as contrary findings in other reports issued by FRA. In fact, the Authority has several options and opportunities for addressing funding needs.

For example, FRA states, “In the May 2025 Quarterly Report Meeting, CHSRA stated that its plan for future funding is to continue ‘to compete for available Federal funding,’ signaling CHSRA has no plan to close this funding gap beyond its overreliance on Federal funds.” Compliance Review Report at 16. However, the same slide that contains the statement FRA chose to use also contains two other statements setting forth two distinct elements of the Authority’s plan to close the funding gap: (1) Governor Newsom’s discussions regarding an extension of Cap-and-Trade (now referred to as Cap-and-Invest), one of the Project’s main funding sources, and (2) the Authority’s active engagement with the private sector on options for public-private partnership (P3) structures. This slide also provides additional information regarding the State budget, reminding the FRA that the Authority still has access to Prop 1A funds. FRA/CHSRA Quarterly Review Meeting, May 5, 2025, slide 16.

Further, FRA’s own October 2024 Monitoring Report stated that “Project activities are within the approved project budget. The Authority regularly revisits its budget and is supplementing the grant budget with additional state funding as needed.” Monitoring Report at 6. That report did not make any significant findings with regard to budget.

Elsewhere in the FRA Report, FRA's reliance on the 2025 OIG report is again unwarranted. As OIG itself wrote just this week, OIG has "never concluded that the lack of funding for certain components of the Merced-to-Bakersfield segment would prohibit the Authority from meeting its . . . commitments to the FRA." Indeed, OIG wrote, "we have identified no citations by the FRA supporting its assertion that the OIG-HSR ever made this conclusion." OIG Response Letter.

The 2024 Business Plan estimated cost range for completing the EOS is $32.7 billion to $36.3 billion. The Authority previously identified $28.2 billion of available funds to complete the EOS, which left a funding gap of $7 billion. However, with the Governor's May Budget Revision, which includes a proposal to extend the Cap-and-Trade program through 2045 and guarantee at least $1 billion revenue annually, the new revenues will bridge this gap and provide CHSRA with the funds it needs to complete the EOS by 2033. In addition to Governor Gavin Newsom's support, the proposed extension plan builds on years of sustained backing from California's elected leaders and their commitment to advance high-speed rail.[3] This guaranteed minimum funding level will enable the Authority to plan with greater certainty and deliver the Program more efficiently. It will also improve the Program's ability to attract private capital and leverage additional funds upfront, which will accelerate Program delivery, lower long-term costs, and increase flexibility through alternative delivery methods.

At the same time, the Authority is taking significant affirmative steps to advance private investment in the Program. The Authority is preparing to release a Request for Expression of Interest (RFEI) to begin formal industry consultation for potential public-private partnerships to help deliver Program segments faster and more efficiently while commercializing assets such as trainsets, station facilities, track access, fiber, and real estate.

Furthermore, the Authority has revised its Design Construction Manual in the preceding six months to create further efficiencies in its civil infrastructure by incorporating global best practices. These revisions will be described in the forthcoming Supplemental Project Update Report and are anticipated to result in significant cost savings for the Program.

These facts demonstrate that CHSRA has a strong plan to secure additional funds and these funds will allow CHSRA to close the funding gap and complete the EOS by 2033.

4. "CHSRA does not have a viable path to complete the EOS by 2033 per its commitment in the FY10 Agreement and the FSP Agreement."

FRA commences its narrative with a conclusion that, based on FRA's version of the Authority's history, there is "no feasible path for CHSRA to complete the EOS within budget or timeline represented by CHSRA in its FSP application." (Compliance Review Report, Page 16). This

[3] Governor Newsom, Legislature double down on state's critical cap-and-trade program in face of federal threats (April 15, 2025), available at: https://www.gov.ca.gov/2025/04/15/governor-newsom-legislature-double-down-on-states-critical-cap-and-trade-program-in-face-of-federal-threats/

statement lacks any supporting facts, despite the 80,000 pages of documents CHSRA provided in response to FRA's Compliance Review.

Further, FRA's Report fails to recognize that both the Authority and FRA had the same information in December 2023 when FRA awarded the FSP grant to the Authority, in September 2024 when the parties executed the FSP Agreement, and in November 2024 when FRA amended the FY10 Agreement. FRA was aware of the Authority's funding needs when it took each of these steps. Indeed, the Authority's FSP grant application clearly and repeatedly spelled out the Authority's funding needs. (FSP Application p. iii-iv (in chart), 1-5, 8, 15, 23; Appendix A p. 2-3, 28-30, 36-42; Appendix H p. 2-4). In fact, Appendix H, Key Risks and Mitigations of the CHSRA's FSP-National Program Application clearly stated, "*Without additional on-going federal funding support and revenue source(s), project risks associated with funding will continue.*"

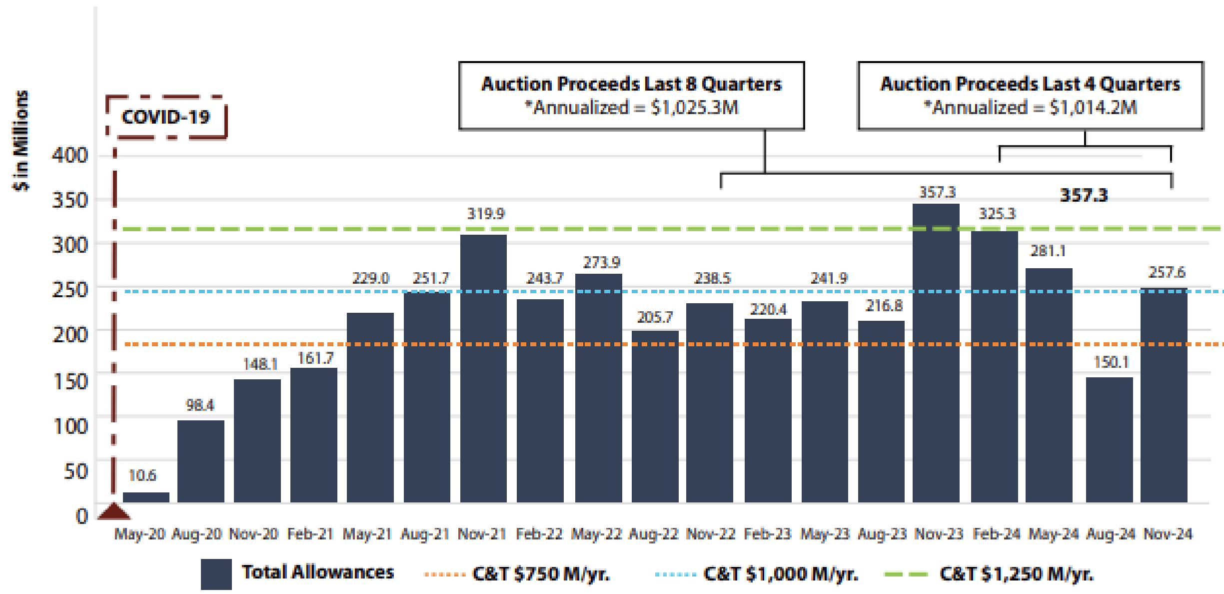
The FRA Report also fails to recognize that the Authority does have a detailed and well-founded plan for completion of the EOS. The 2024 Business Plan lays out the construction schedule for completion of the EOS by 2033. Also, this summer, the Authority will complete a Supplemental Project Update Report for 2025, which will further detail the aggressive efforts CHSRA is undertaking to speed up delivery of the high-speed rail system and drive efficiencies.

5. "CHSRA relies on volatile non-federal funding sources, such as the State's cap-and-trade program, which present significant project risk."

Despite some quarterly volatility, the California Cap-and-Trade allowance market has demonstrated its stability and resilience over the past decade as it has withstood legal challenges and the COVID-19 pandemic. In both instances, short-term dips in the market were followed by even stronger market recoveries. Over the past 4 years, 2021 through 2024, the CHSRA's share of Cap-and-Trade auction proceeds has averaged $1 billion annually.

The FRA Report points to a single, recent Cap-and-Trade auction for its assertion that Cap-and-Trade cannot be relied upon to provide a threshold amount of funding. Specifically, FRA states that, "as recently as the quarter ending in August 2024, the quarterly cap-and-trade auction proceeds for high-speed rail fell below the level required to attain even the low projection ($750 million) for annual cap-and-trade auction proceeds." FRA points to page 22 of the CHSRA's 2025 Project Update Report to support this statement. This is another example of cherry-picked data. Although one quarter in 2024 (August 2024) fell below $187.5 million, which was the low projection for the quarter, that same page and chart shows that quarter was an extreme outlier. The quarters both preceding and succeeding the selected quarter exceeded the total of that quarter by more than $100 million and the total auction proceeds for the year were above the average projection. CHSRA 2025 Project Update Report p. 22.

Exhibit 3.1: Quarterly Cap-and-Trade Auction Proceeds for High-Speed Rail ($ in Millions)



Furthermore, any volatility associated with Cap-and-Trade will be mitigated by the passage of the Governor's proposed budget, which guarantees CHSRA a minimum $1 billion of Cap-and-Trade (now Cap-and-Invest) proceeds annually. Instead of acknowledging this fact, FRA's narrative attempts to confuse, pointing to other parts of the state budget, such as funding for wildfires and other needs. It then makes an inaccurate and unsupported claim that there is "growing opposition to the CHSR Project at the State level." In fact, the opposite is true. An April 2025 poll by Politico and UC Berkeley found that 67 percent of California's registered voters support the project. See *Politico*/Citrin Center Poll, https://www.truedot.ai/politico_04_2025_citrincenter.

FRA asserts that it "understands [the Cap-and-Invest] budget request to be an admission of apparently insurmountable challenges, not a renewed effort to deliver high-speed rail in a timely and efficient way." Compliance Review Report at 19. FRA does not explain why a concrete legislative proposal for a fixed, continuing source of significant funding could be deemed as anything other than a good faith and credible effort to obtain funding to deliver high-speed rail as contemplated in the Cooperative Agreements. The Budget Revise directly contradicts FRA's statement that "[s]ince December 2023, CHSRA has made no effort to identify alternate sources of funding to replace the unsecured Federal funding." *Id.* at 16.

6. "CHSRA has not adequately budgeted enough time or money to electrify the entire EOS to support revenue operations by 2033."

The Authority's schedule and budget clearly show that it has enough time and money to fully electrify the EOS to support revenue operations by 2033. Current schedules and budget forecasts, previously provided to FRA confirm this fact.

FRA uses the Caltrain electrification project as an example of why the Authority likely cannot timely complete the EOS, as well as an article in Transit Matter (Fall 2021), entitled, "*Regional Rail Electrification: Costs, Challenges, Benefits*." But the Caltrain electrification project and many of the projects mentioned in the article are distinguishable from the Authority's project because they are taking place *on currently operating railroads*. In the article FRA cites, at page 9, the author points out the challenges to regional rail electrification, including those faced by the Caltrain project, which stem from the fact that the regional railroad needs to continue its operations during construction, which, as this article points out, necessitates short, nighttime construction windows. In contrast, CHSRA will not commence operations on the EOS until after completion of electrification, and therefore will not be required to utilize short, nighttime construction windows with their negative impacts on budget and schedule.

The Authority will release a procurement for track and systems construction—including track and rail, the overhead catenary system, train control systems, and traction power substations—in Q4 2025 and intends to mobilize a contractor for this construction on the portions of the EOS where civil construction is complete in 2026. Also, in order to accelerate this even further, the Authority—with cooperation from BNSF—is in the process of constructing a materials laydown and logistics yard for use by the selected track and systems contractor starting next year. The Authority is also pursuing the direct purchase of materials and commodities that will be used to install the track and systems, including electrification of the line.

7. "CHSRA's budget contingency is inadequate to cover anticipated contractor delay claims."

FRA attempts to use past information to support this finding, despite significant changes and improvements achieved on the Project. The FRA understates the contingency available to the Authority by nearly a billion dollars. See Finance and Audit Committee Executive Summary Report May 29, 2025, slide 8. The FRA is also wrong to rely on my statement that, *absent changes*, deficiencies in the current approaches to funding and contract procurement will continue to cause schedule risk and contractor delays. The FRA Report fails to acknowledge that CHSRA has made and is continuing to make changes to increase funding, increase efficiencies and mitigate schedule risk. It also fails to recognize that the Program has made significant progress and, with regard to civil infrastructure construction of the first 119 miles, is less than two (2) years away from completion.

The FRA Report also omits that some of CHSRA's largest past change orders were required because of FRA's own actions. See response to Item 1.

Additionally, FRA doesn't acknowledge the fact that change order submittals (proposals) by the contractor do not correlate directly to the amount CHSRA may be obligated to pay related to such submittal. Throughout the history of the Program, the difference between the amount claimed in a change order proposal and the amount agreed to in the executed change order differ greatly, amounting to a significant reduction between the proposal and the agreed-upon change order.

8. "CHSRA has overrepresented its ridership projections for the EOS substantially."

The FRA Report's critiques of CHSRA's ridership projections are similarly cherrypicked and out-of-date, and therefore misleading. CHSRA submitted its FSP application in *April 2023* (the date is left off of FRA's cite in its footnote 72). FRA's Letter Report uses a UC Berkeley *2010* report to critique CHSRA's ridership model (FRA leaves the date of the report out of the text). This critique is nonsensical. Obviously, the UC Berkeley report did not criticize the ridership model used in the FSP application, which was not created until more than a decade after the Berkeley report issued. Next, FRA uses a 2008 ridership estimate (without citation) to critique what it claims to be a CHSRA ridership estimate, but that is not the estimate from the FSP Application and FRA provides no citation for it. CHSRA cannot meaningfully assess or respond to undocumented claims, nor outdated information untethered to the Cooperative Agreements.

CHSRA's application for the FSP Grant used the peer reviewed California Rail Ridership Model (CRRM), which was developed by Steer Davis Gleave (SDG). FRA has provided no criticism in its Report or in any earlier communication of the FSP ridership estimate. FRA notes that CHSRA's Phase I projection of annual riders exceeds Amtrak's Northeast Corridor ridership and compares it to the number of Bay Area – Los Angeles airline passengers. Those comparisons are inapt because California high speed trains will travel at over 200 mph and thus reach their destinations in far less time than the Northeast corridor's average speed of well under 100 mph, and the trains will serve many more combinations of destinations than a Bay Area – Los Angeles trip. Since the application's submittal, CHSRA has prepared an annual Service Development Plan ("SDP") as a deliverable under its ARRA grant. The last submission of the SDP to the FRA was March 2024. Following the submission of the 2024 SDP, FRA asked a number of questions in writing to which CHSRA responded in writing. In its October 2024 Monitoring Report FRA noted that CHSRA submitted the ridership forecast as a deliverable and no deficiency was found. That conclusion is much sounder, and much better supported, than FRA's conclusion here, which relies on old data and ignores the up-to-date ridership information recently provided by CHSRA and reviewed by FRA.

Finally, FRA incorrectly attributes to the OIG the claim that "the Merced–Bakersfield segment's projected 2 million annual riders would be insufficient to cover costs." OIG responded emphatically that it "has never concluded or otherwise noted anything related to the information the FRA attributes to our office in [that] statement." (https://hsr.ca.gov/wp-content/uploads/2025/06/OIG-HSR-June-2025-FRA-Report-Response-Letter-A11Y.pdf.)

9. “CHSRA lacks the capacity to deliver the EOS by 2033.”

This conclusion regarding CHSRA capacity to deliver is contrary to FRA’s recent, March 13, 2025, decision *to approve* CHSRA’s Project Management Plan (PMP)—a report to the FRA outlining CHSRA’s capacity to deliver the Project. According to the FSP and FRA guidance:

> Project Management Plan means a document developed consistent with this guidance that is based on the information available at the relevant project lifecycle stage that describes how the capital project will be implemented, monitored, and controlled to help the Project Sponsor effectively, efficiently, and safely deliver the project on-time, within-budget, and at the highest appropriate quality.[4]

FRA suggests that completing the Program on time will require CHSRA to step on the rights and entitlements of others, including the rights and entitlements afforded under Federal codes and regulations applicable to the Program through its grant agreements with the FRA. The reality is that any large infrastructure project must involve negotiations with local governments, agencies, and other third parties. In any event, the laws and regulations that impose obligations on the Authority are not new, and do not support FRA’s newfound conclusion, at odds with the results of FRA’s October 2024 Monitoring Report, that the Authority cannot timely complete the Program.

Further, FRA omits critical details. For example, it cites an OIG Report discussion of a difficult and tricky railroad safety issue that the Authority is negotiating with another railroad that is also regulated by FRA. FRA Report at 23. FRA fails to give this safety issue the discussion it deserves, refers only to the “owner” as though it is not another railroad with significant rights and requirements. Further, FRA summarily concludes that this negotiation will delay completion of the CP1 Contract, something that the OIG report warns is a risk but does not conclude is inevitable.

As the narrative continues, FRA points to California Proposition 1A and concludes that the proposition did not set up CHSRA for efficient and effective project delivery. The Report further points to the fact that Prop 1A requires the Project to follow existing transportation corridors. Proposition 1A was approved by the voters in 2008, and FRA has been aware of its requirements—lack of flexibility as FRA characterizes it—since at least 2009. *Information that FRA had when it chose to enter into the Cooperative Agreements cannot now be a basis for termination of those agreements*.

[4] Article 4, FY22-23 FSP-N Agreement; *FRA Guidance for Development and Implementation of Railroad Capital Projects* (“Railroad Capital Projects Guidance”).

CHSRA has proven, time and time again, that it has the capacity to complete the EOS by 2033.

Conclusion

For all of these reasons, FRA's proposed determination should be withdrawn; there is no noncompliance sufficient to justify termination of either of the Cooperative Agreements. During the Compliance Review, I requested a meeting to discuss any concerns FRA may have about the Cooperative Agreements and California's high-speed rail program. I reiterate that request now.

I also request that the 30-day deadline for the Authority's subsequent submission be extended by fifteen days, as permitted under section 9.3(b)(2) of the FSP Agreement. In the meantime, the Authority will prepare that submission, in accordance with Article 9.3(b) of the FSP Agreement and page 5 of the FRA Notice.

I hope that FRA and the Authority can move forward to work together to support this Program—a project with a big future and great promise to better the lives of Californians and spur economic grown in the state and across the nation.

Sincerely,

Ian Choudri
Chief Executive Officer