

# *ANTICIPATED APPROACH TO CHSRA CONTRACTING FOR CONSTRUCTION*

RFEI  
Industry Forum

Los Angeles,  
California



April 12, 2011

## ***FOR STARTERS***

Questions During Today's Presentations:

E-mail: [RFEI@hsr.ca.gov](mailto:RFEI@hsr.ca.gov)

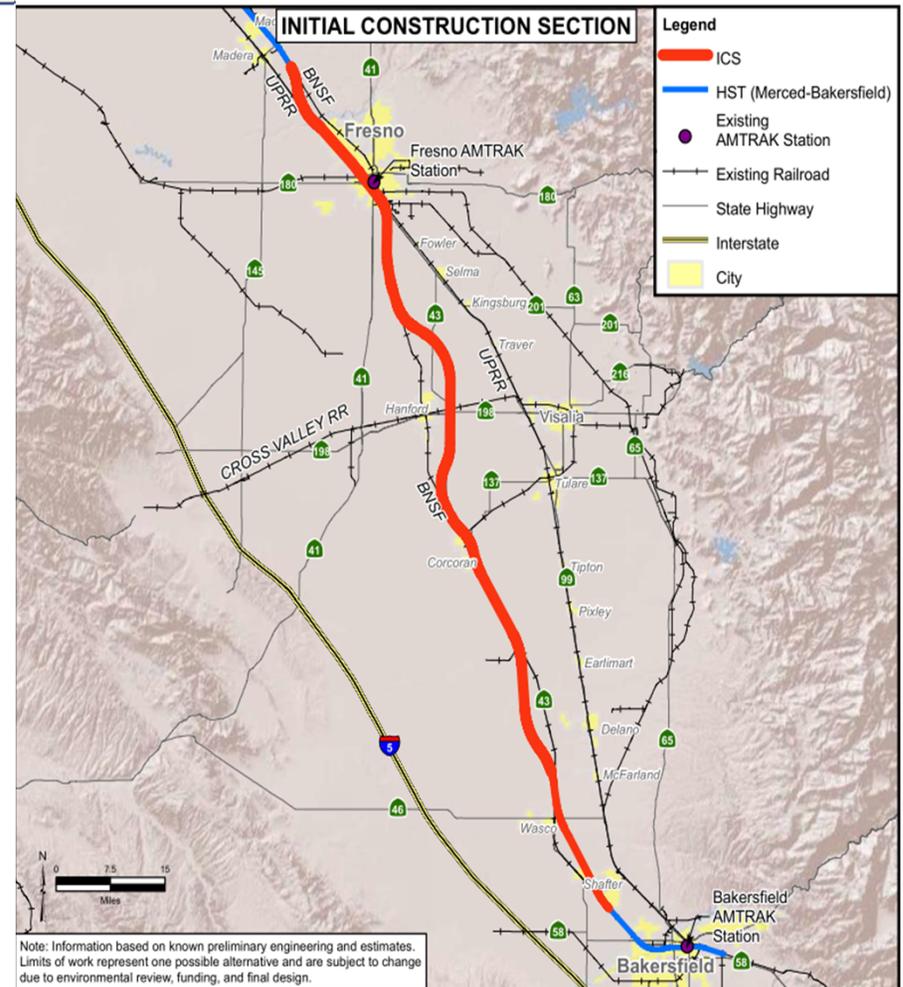
Disclaimer re: Ongoing Environmental Review:

As the environmental Records of Decision/Notices of Determination (ROD/NOD) and final selection of the alignments have not yet been completed for the two sections that comprise the "Initial Construction Section" [ICS] and for any potential extensions thereof, some details in these documents are provisional and are provided as illustrations only. The final details of all alignments are subject to the selection of the final preferred alternative route within the selected section and the conclusion of the ROD/NOD for the relevant sections, consistent with all necessary federal, state and other approvals.

# Initial Construction Section (ICS)

## Based on typical\* alignment

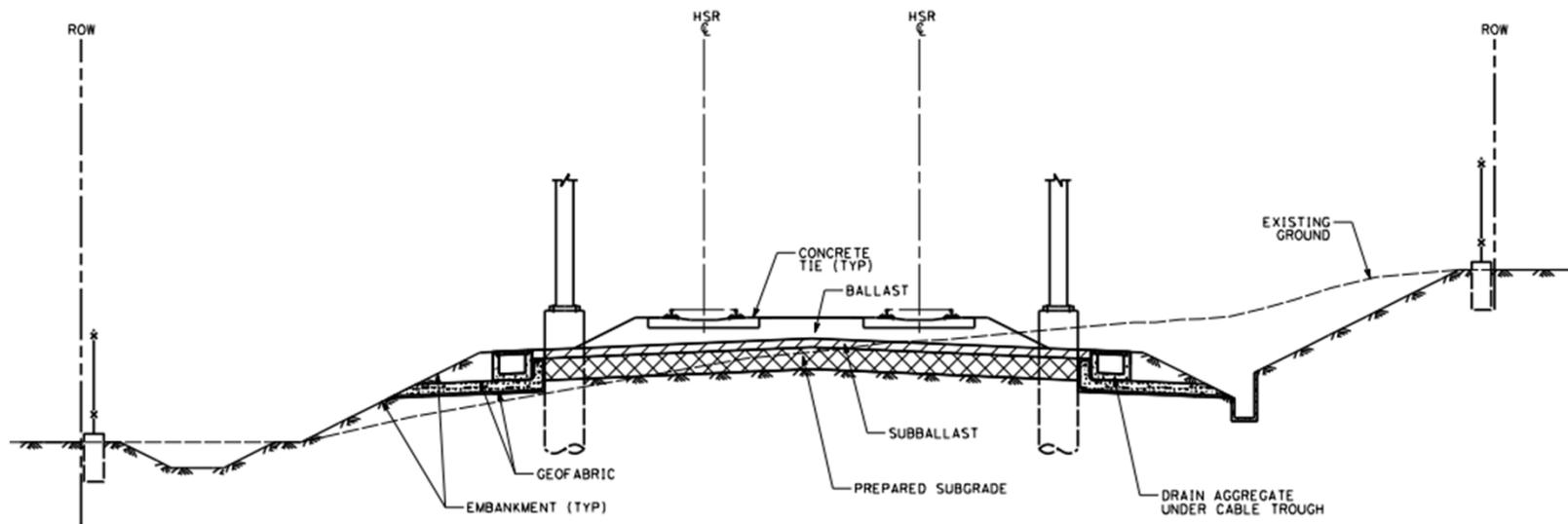
- Approximately 120 miles, from about six miles north of Fresno to Bakersfield city limits
- 75 to 100\* miles of "at-grade" double track
- 15 to 40\* miles of aerial structure
- Two to five\* miles of retained earth structure
- 30 to 70\* grade separations, including local street improvements
- Two possible basic HST stations
- Does not include core systems (rolling stock, electrification, signaling)
- Does not include heavy maintenance facility



\*Note: The final details are subject to the selection of the final preferred alternative route within the selected section and the conclusion of the ROD/NOD for the relevant sections, consistent with all necessary federal, state and other approvals.

# Initial Construction Section (ICS)

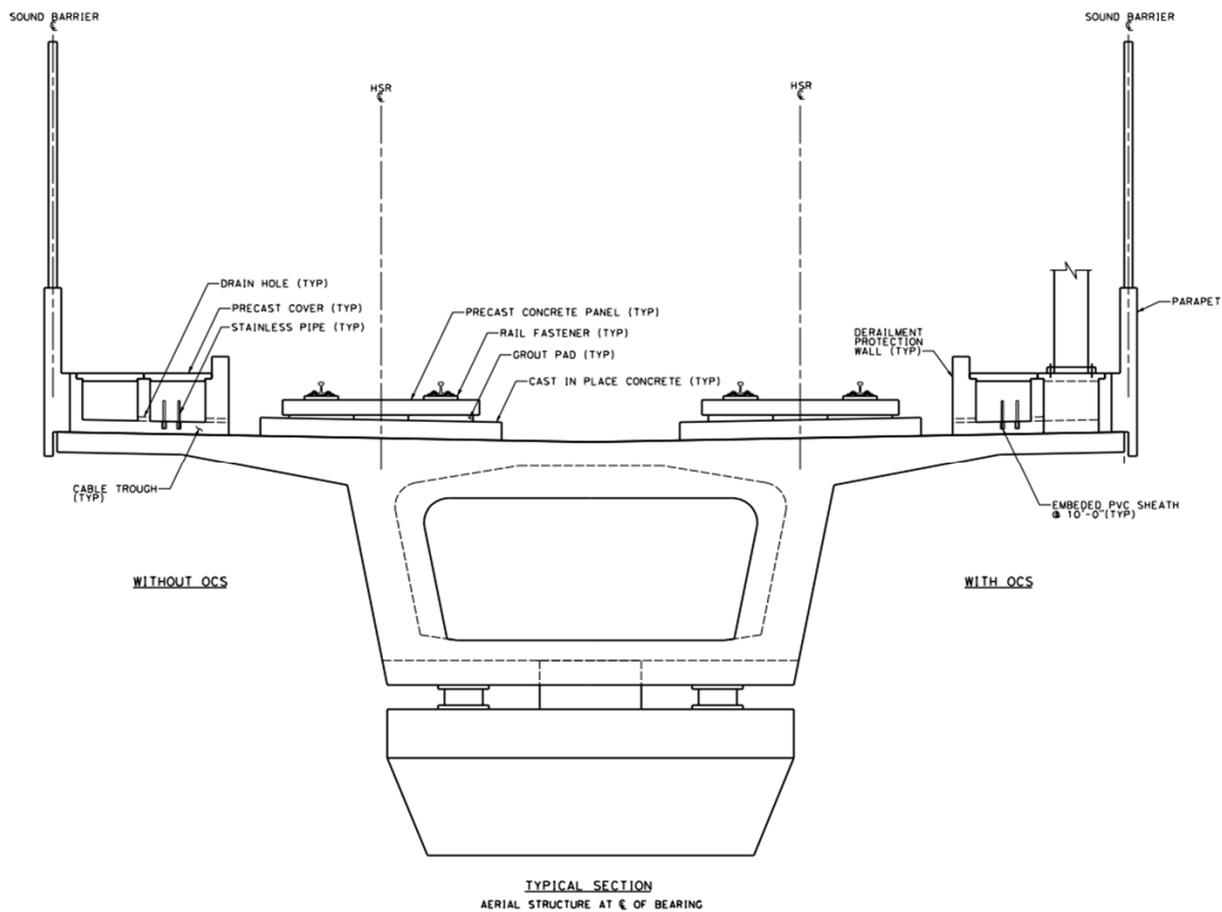
## Typical At-Grade Section



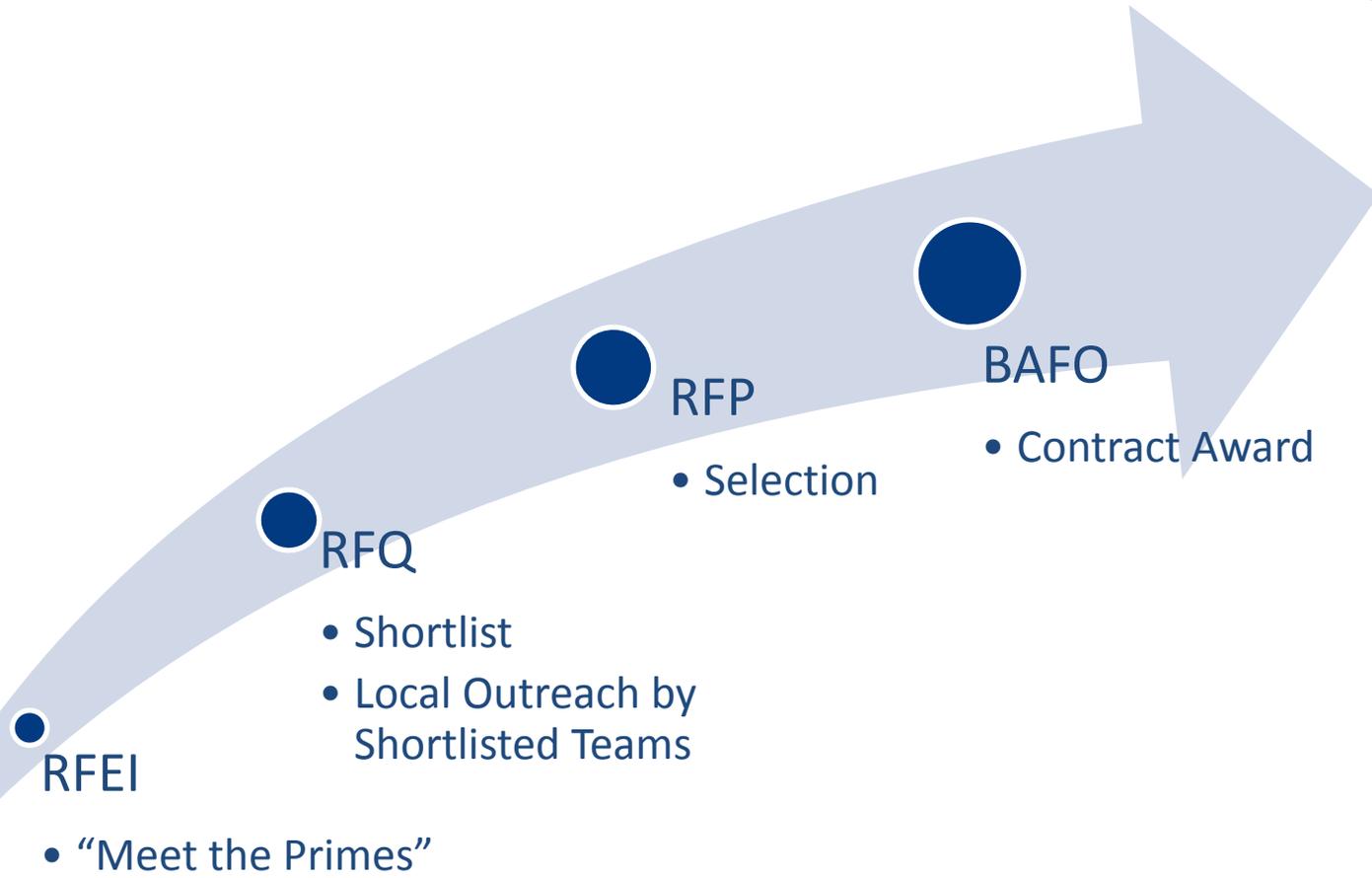
**TYPICAL SECTION**  
BALLAST WITH OPEN DRAINAGE

# Initial Construction Section (ICS)

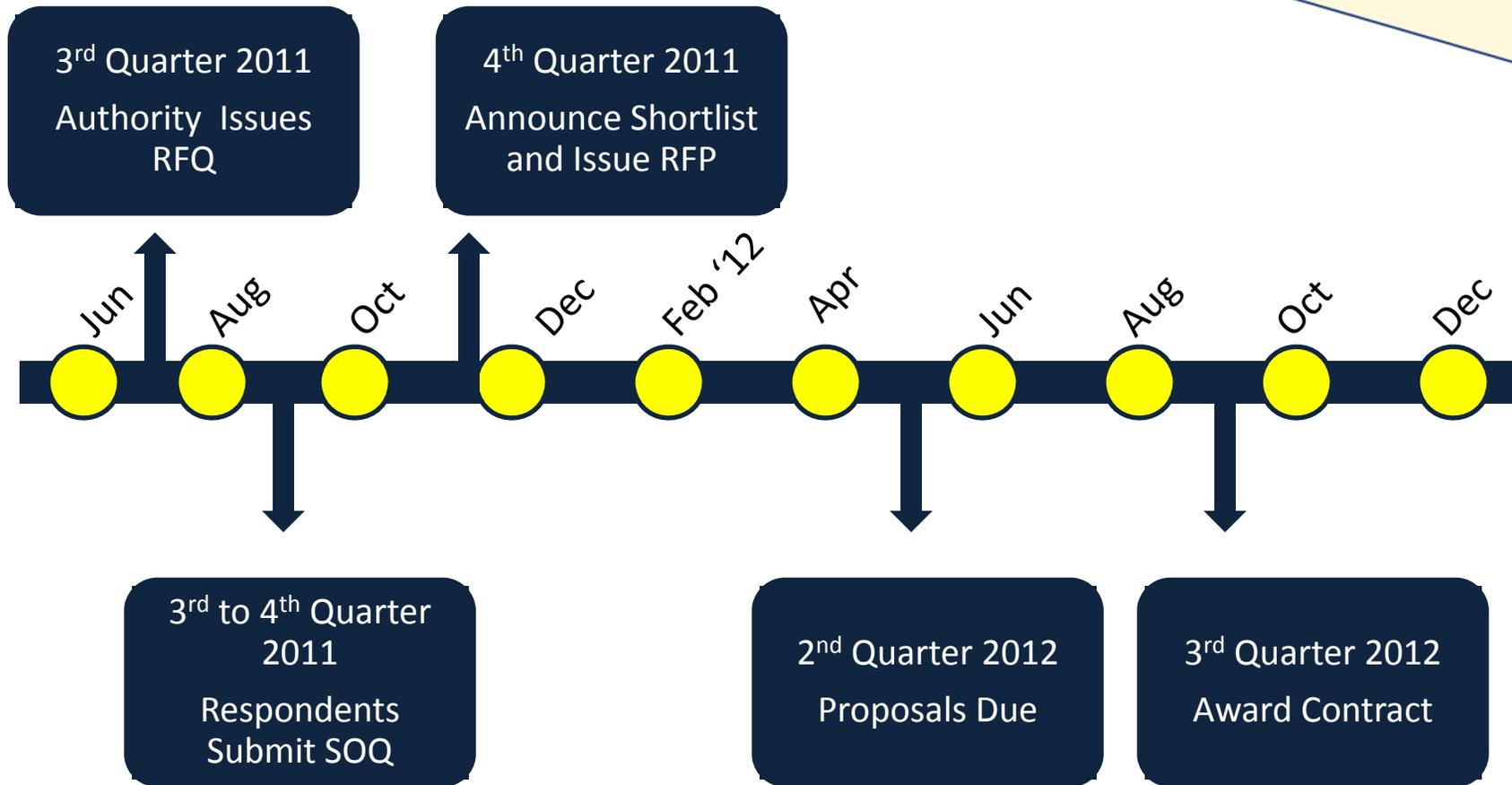
## Typical Viaduct Structure



# Procurement Process



# ICS Anticipated Procurement Timeline for Initial Contract



## *CHRSA Program Delivery Authority and Requirements*

- CHSRA has broad authority to use innovative contracting and financing methods to deliver the CHSR program
- ARRA-funded initial construction section must be completed by September 30, 2017



## *Request For Expression of Interest (RFEI)*

- Released February 9, 2011
- Invited industry to provide substantive information and comments to assist CHSRA with approaches to:
  - ICS procurement Process, contract packaging and project delivery
  - Obtaining private investment for the phase 1 program



## *Request For Expression of Interest (RFEI)*

- There were more than 1,100 responses to the RFEI, including:
  - 49 firms/teams expressing an interest pursuing one or more design-build contracts for components of the ICS as a prime
  - 22 firms/teams expressing an interest in pursuing private investment opportunities associated with the Phase 1 program
  - 398 small, disadvantaged and/or women-owned businesses
  - Substantial international interest
- CHSRA has reviewed these responses and is incorporating resulting recommendations into its ICS contracting approach

## *RFEI Feedback: Contract Packaging*

**“Please indicate what dollar value of contract you believe would be most acceptable to be contracted, thereby indicating how many packages may be appropriate for the ICS.”**

- **Proponents of more, smaller contracts:** The community at large will benefit more from smaller contract packages – these would create more job opportunities for numerous small businesses and not just for the few large to mid-size firms.
- **Proponents of fewer, larger contracts:** Award of three to five design-build projects valued at \$1 billion–\$2 billion will work best for the Authority on this ICS, as managing multiple smaller contracts would require use of greater management and administrative resources by the Authority.

## *RFEI Feedback: Contract Packaging*

### **Largest and smallest contract packages for design and construction that the Respondent would consider.**

- **Prevailing responses:** Preferred minimum contract size equal to or greater than \$100 million. For projects greater than \$250 million, teams of designers, contractors and suppliers are often formed. The largest contract package depends on the contract's commercial requirements, project scope, and composition and capabilities of potential team members. Contractors anticipate the ability to compete for packages with contract values of \$1 billion-\$1.5 billion.
- **Design-build contract package ranges:** Recommendations ranged between \$10 million and \$5.5 billion, with the bulk of recommendations concentrated between \$300 million and \$1.5 billion.

## ***RFEI Feedback: Contract Packaging***

**Discuss the feasibility of bundling vs. packaging separate design and construction contracts for:**

- (1) HST stations and infrastructure;**
- (2) maintenance shops and equipment;**
- (3) multiple structures and/or grade separations;**
- (4) multiple utility relocations; and**
- (5) other ICS elements.**

**Prevailing responses:** Feasibility depends on resulting interface issues. Stations, maintenance shops and equipment should be procured separately from the ICS infrastructure. Civil infrastructure should not be further broken down by type of work or into separate packages.

## *RFEI Feedback: Procurement Process*

**Indicate a preference for single or multiple RFQs.**

**Prevailing responses:** The Authority should issue individual RFQs for specific ICS disciplines (i.e., civil infrastructure, track, signals/systems and stations) to generate a shortlist of proposers, thereby ensuring a quick start and identifying multiple teams to propose on different projects concurrently.



## *RFEI Feedback: Procurement Process*

**Would four or six months be reasonable for proposal preparation?**

**Prevailing Responses:** The appropriate length of time required for the preparation of a proposal will depend on the availability and level of completeness of key project information and proposal response requirements.



## *RFEI Feedback: Procurement Process*



**Indicate whether a stipend is a factor in submitting a proposal?**

**Prevailing responses:** A reasonable stipend is one factor to consider in deciding whether to submit a proposal in response to an RFP. A stipend of one-tenth (0.1) to one-half (0.5) of 1 percent of the construction value would be reasonable.

## ***RFEI Feedback: Local and Small Business Participation***

**Potential approaches to maximize participation in the ICS/Phase 1 program by locally based small, underutilized and disadvantaged businesses.**

**Prevailing responses:** Implement a policy that has minimum SBE/DBE participation goals with penalties if they are not met; require periodic reporting including data beyond what the funding bodies normally require; allow for employment performance reviews of the project managers overseeing the CHSRA projects to include SBE/DBE participation; and highlight the local California-based business element.

## ***RFEI Feedback: Local and Small Business Participation***

**Advantages and disadvantages of increasing the SB percentage above the statutory 25 percent goal and the DVBE above the 3 percent goal.**

**Prevailing responses:** Advantages include increased opportunity for local area businesses to grow financially and offer job opportunities for local talent, effectively increasing the economic health of surrounding businesses. Disadvantages include difficulty finding specialty contractors who can accomplish the work while meeting the small business goal requirement.

## ***RFEI Feedback: Contractual Issues***

**Discuss impact of a cap on Design-Builder liability would have on industry interest in the ICS, including maximum dollar value.**

**Prevailing response:** A cap on Design Builder liability is preferred.

**Provide assessments and recommendations regarding insurance issues, such as OCIP and CCIP.**

**Prevailing responses:** Respondents prefer a traditional insurance program.

## ***RFEI Feedback: Contractual Issues***

**Provide opinion regarding the availability of payment and performance security instruments suitable to a design-build contract for the ICS.**

**Prevailing responses:** Respondents do not foresee any significant problems in obtaining payment and performance security instruments in the current market place.

**Respondent's interest in a Guaranteed Maximum Price design-build contract?**

**Prevailing responses:** Using a Guaranteed Maximum Price contract is advisable.

## *RFEI Feedback: Contractual Issues*

**Approach to resolution of disputes between Authority and the Design-Builder/Developer (dispute resolution boards, mediation, arbitration).**

**Prevailing Responses:** The Authority should use formal partnering on each project and establish a procedural system for disputes resolution that puts timeframes on each step of the claims/appeal process.



## ***RFEI Feedback: Contractual Issues***

**Recommendations to incentivize innovation and reduce ICS costs (Alternative Technical Concept, gain sharing mechanisms, other).**

**Prevailing responses:** Alternative Technical Concepts (ATCs) can inspire innovative design and construction techniques, and when used in conjunction with stipend payments, allow the owner to receive the most competitive pricing possible.

- Shared Risk Contingency Allowance can be used to minimize claims from both parties and minimize contingencies in the project.
- Performance milestones with financial incentives/disincentives can help ensure that the project stays on schedule.

## ***RFEI Feedback: Federal Requirements***

**How might the federal requirements of an ARRA/PRIIA funded project (Buy America) impact your approach to the ICS?**

**Prevailing responses:** Compliance with ARRA/PRIIA requirements for the construction and railway infrastructure works is feasible.

**Recommended approaches to addressing federal and state labor compliance requirements (implementing job training programs, project labor agreements, etc).**

**Prevailing responses:**

- Job training programs: The Authority should provide guidelines regarding expectations for the content of job training programs.
- Project Labor Agreements (PLAs): The Authority should involve contractors in any negotiation of a PLA.

## ***RFEI Feedback: Project Risk Issues***

**Respondent's ability to take on specific types of project risk (construction cost, delay, construction performance, equipment delivery).**

**Prevailing Responses:** The Authority should take the risk for right-of-way acquisition, differing site conditions, force majeure events, stakeholder interface and design reviews. The design-builder should take the risk for project cost, productivity and schedule performance.

**Identify anticipated principal construction risk and potential mitigation measures.**

**Prevailing responses:** The Authority should focus on taking measures to mitigate risk of third party interface, stakeholder reviews and approvals and site conditions on the design-builder to minimize project cost escalation.

## ***RFEI Feedback: Project Risk Issues***

**Identify the preferred level of design (i.e., 30 percent) and specification detail to adequately determine risks.**

**Prevailing Responses:** Owner-provided 30 percent design is preferred.

**Length of time that the Respondent would commit to its submitted proposal.**

**Prevailing Responses:** A 90-to-180 day commitment period is preferred.

## ***RFEI Feedback: Risk Issues***

**Approaches to on-time, on-budget  
ICS/Phase 1 delivery with  
safe, quality construction with  
minimum impact and risk mitigation.**

**Prevailing Responses:** The primary requests are:

- stakeholders' (third-party) involvement from beginning;
- sufficient project information to reduce construction risks;
- mutually agreed risk-sharing approach;
- Authority taking large role in the interface with local authorities and utility companies;
- early agreement with unions regarding labor issues; and
- Authority involvement in supply chain approval and identification (long lead items).

## ***RFEI Feedback: Necessary Project Actions***

**Willingness to submit a proposal prior to an EIR Record of Decision (ROD).**

**Prevailing responses:** Yes, if the Authority pays an acceptable stipend for the short-listed non-selectees, compensates the successful proposer if the project is significantly delayed or cancelled and releases terms and conditions in advance of the RFP for review by respondents.

**Would Respondent assist the Authority in acquiring ICS right-of-way? What level of responsibility will the Respondent accept?**

**Prevailing responses:** The design-build contractor should bear no responsibility for the acquisition of permanent right-of-way associated with the project.

## ***RFEI Feedback: Necessary Project Actions***

**Would Respondent assist the Authority to relocate/protect-in-place any utilities?**

**What level of responsibility would the Respondent accept?**

**Prevailing Responses:** The design-builder can help the Authority relocate or protect in place any utilities as necessary for ICS delivery. However, the Authority should take responsibility for identifying utilities in the project area, for entering into master agreements with the utility owners and for timely performance of the utility owners in carrying out their responsibilities.

## *RFEI Feedback: Sustainability*

**Recommendations regarding the use of sustainable construction methods, such as LEED, etc.**

**Prevailing responses:** Sustainable practices should be encouraged as much as possible, and can be implemented without adding significant costs to the project.



## ***RFEI Feedback: Additional Issues***

**Identify and discuss topics or issues regarding the ICS/Phase 1 Program not addressed by this RFEI that Respondents believe are important to address in any future RFQ/RFP.**

**Prevailing responses:** The Authority may benefit from a number of design-build tools, such as:

- Co-location with Design-Builder
- Accelerated design review and approval processes
- Processes for early construction
- Performance-based specifications
- "Equal or Better" changes permitted

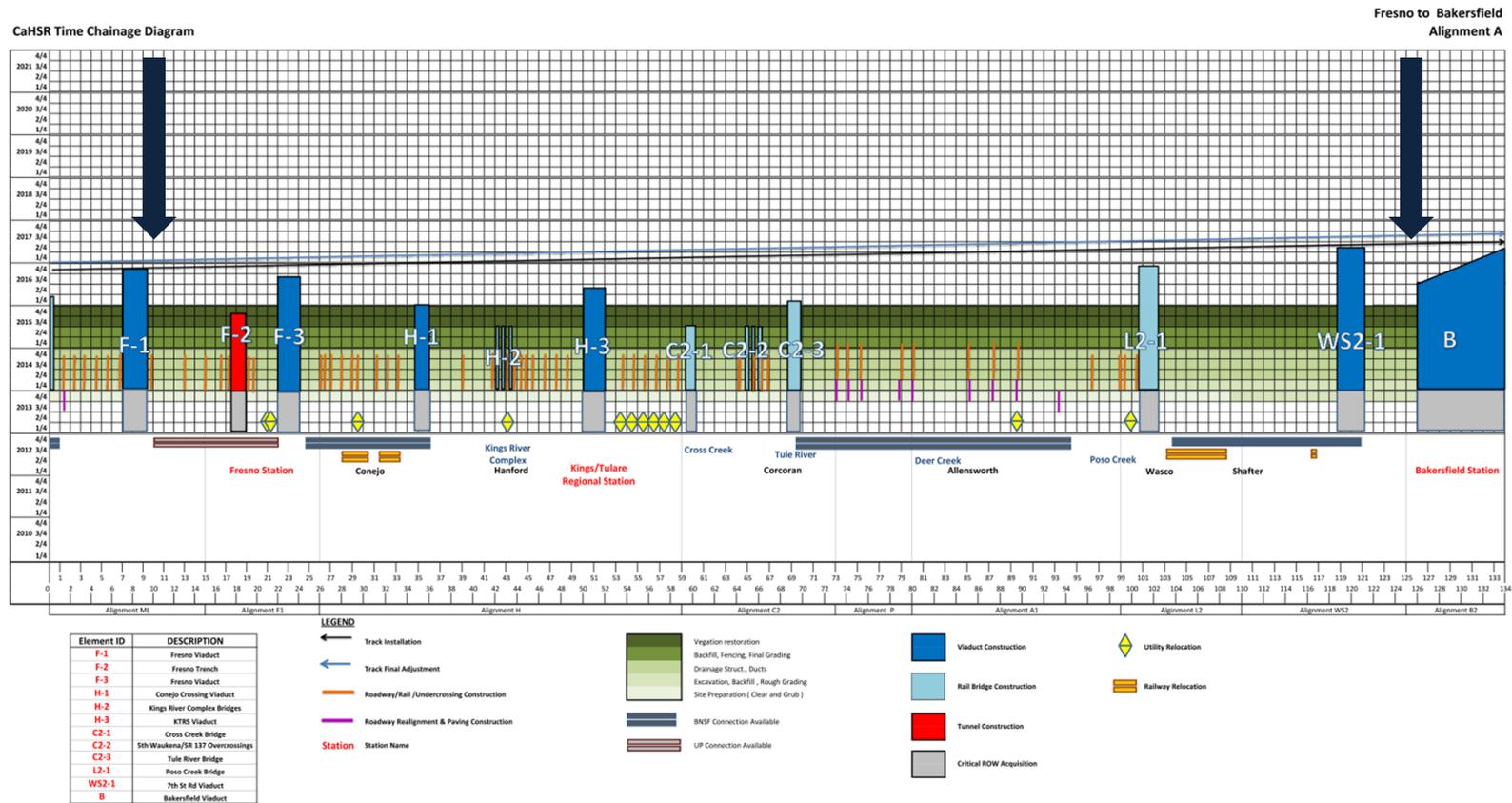
## ***RFEI Feedback: Additional Issues***

**Additional information that would assist the Respondent in its evaluation of interest for future participation in the ICS/Phase 1 Program.**

**Prevailing responses:** Additional useful information includes:

- Early identification of the procurement process, and the key terms and conditions of the planned design-build contract.
- Performance specifications including technical requirements and quantities.
- Provide small businesses with a list of prime contractors who will be responding to the design-build RFPs.
- Communicate definitive information regarding the procurement process, including a definitive timeline on procurement of the technology for the system.

# Illustrative Time-Distance Diagram



## *ICS Environmental Milestones*

Environmental review, approval, design and construction

- Environmental review (third quarter 2011)
  - 15 percent design – preliminary engineering
  - Draft environmental document released for public review and comment
- Environmental approval (first quarter 2012)
  - Record of Decision/Notice of Determination

## *Anticipated ICS Contracting Approach*

- ✓ Large (\$1 billion-\$2 billion range) design-build contracts
- ✓ Mid-size (\$200 million-\$400 million range) design-build contracts
- ✓ Multiple smaller contracts such as stations, utility relocations, hazmat removal/remediation, site demolition, etc.
- ✓ Two RFQs to be released for design-build contracts
- ✓ Individual RFPs to be released for each design-build contract

## ***Anticipated Approach To ICS Design-Build Contracts***

### Large

- Procurement to begin first, before that for mid-size design-build contracts
- Package(s) will include highly complex and varied work, as well as third-party interface and multi-level government approval requirements

### Mid-size

- Procurement to begin shortly after procurement begins for the large contract(s)
- Award of all ICS contracts to occur within a reasonably short timeframe
- Contracts to focus on discrete technical components of the ICS and scope will present clearly defined interfaces

*Looking Forward:  
Initial Operable Segment/Revenue Service Operations*

**From**  
**Initial  
Construction  
Section [ICS]**  
**To**  
**Initial  
Operable  
Section [IOS]**



## Looking Forward: Initial Operable Segment/Revenue Service Operations

- Future Procurement Opportunities

- Civil infrastructure
- Facilities
- Stations
- Core systems
- Operations and maintenance
- Rolling stock
- Concession



## ***STAYING UP TO SPEED***

### **Questions?**

- E-mail [RFEI@hsr.ca.gov](mailto:RFEI@hsr.ca.gov)

*We are watching for your questions right now.*

### **Contact information**

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916-324-1541  
[www.cahighspeedrail.ca.gov](http://www.cahighspeedrail.ca.gov)

### **Today's participants**

- Will be on email distribution list for all contracting opportunities

