



# MEMORANDUM

**Project:** Front Range Passenger Rail Service Development Plan and National Environmental Policy Act (NEPA)

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**Memo Date:** September 9, 2020

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**From:** FRPR Project Team

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**Subject:** Considerations for Governance and Legislative Strategy

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# MEMORANDUM

## BACKGROUND

*Legislative Authorization of Rail Commission.* In 2017, the state legislature established the Southwest Chief and Front Range Passenger Rail Commission (Rail Commission) and tasked it with facilitating development and operation of a passenger rail service along the Front Range.

*Legislative Authorization of the study and implementation strategy.* In 2018, the Colorado General Assembly provided funding for the Rail Commission to hire staff and retain a consultant team to lead this task. Since then the Rail Commission worked with the Colorado Department of Transportation (CDOT) to advance this phase of the Front Range Passenger Rail project.

**FRPR Vision:** “Developing passenger rail that serves Front Range communities from Fort Collins to Pueblo is a critical component of Colorado’s future. FRPR will provide a safe, efficient, and reliable transportation option for travel between major population centers and destinations along the Front Range and create a backbone for connecting and expanding rail and transit options in the state and region.”

*FRPR Study Framework:* The initial phase of the Front Range Passenger Rail (FRPR) study will provide the Rail Commission and CDOT with the following general framework:

- Public Engagement
- Design Engineering
- Operations/Service Development
- Ridership Modeling
- Environmental Evaluation
- Pre-NEPA Planning
- Initial Governance Option Development

The purpose of this memorandum is to frame potential issues for the Rail Commission and CDOT to consider specifically as it relates to issues around governance as they partner on this project moving forward. This document is intended to support a governance structure for the FRPR as currently defined by the Rail Commission which includes a 180-mile Front Range corridor between Pueblo and Fort Collins.

## 1 GOVERNANCE OVERVIEW

One of the most significant issues to be resolved in the implementation of regional passenger rail is the question of who the responsible party or parties will be for managing, constructing, and operating the system. A regional rail system inherently goes farther and cuts across multiple jurisdictional boundaries spanning the 180-mile Front Range corridor between Pueblo and Fort Collins. Implementation of a passenger rail system will require formation of several partnerships among the state, MPO’s, counties and municipalities as well as the private sector to be successful

Governance and policy decisions are crucial to continue the progress of this program. The establishment of a governance program is the next step in this process. In addition to the program governance options presented by the project team, it is instructive to examine governance models used by other regional passenger rail programs and make comparisons to the conditions along the Front Range corridor.

## 2 PROGRAM GOVERNANCE OPTIONS

The initial efforts to identify and vet potential governance alternatives resulted in discussions around four basic concepts that could be pursued, pending additional agency, stakeholder, and political input. The range of governance considerations reflected in Table 1 helped with overall discussions.

To recap, those governance concepts were as follows:

- **Public Rail Authority:** This option would require legislation to create a Public Rail Authority in state statute. Following the creation of the Public Rail Authority, as a second step, this authorization would allow for the formation of targeted rail authorities like a Front Range Rail Authority or other geographically defined rail authorities throughout the state and provide the opportunity to plan, design, fund, finance, build, operate and maintain a passenger rail system. This type of authority would be developed through contracts among participating entities that would then be required to file under the State's Department of Local Affairs.
- **Front Range Passenger Rail Authority (FRPRA):** This approach is similar in structure to a more comprehensive public rail authority, but it would immediately authorize in state statute the structure for a specific Front Range Passenger Rail Authority (single step process). Among the other enabling provisions in this statute would be language to allow the authority to plan, design, fund, finance, build, operate, and maintain a Front Range Passenger Rail system. The Southwest Chief and Front Range Passenger Rail Commission was leaning toward support of this approach.
- **Rail Transportation Enterprise:** This approach would create a statutorily authorized Rail Transportation Enterprise within CDOT that would have its own independent Board of Directors with full operating and financing powers. It should be noted, however that State Constitution restricts the amount of public grants an enterprise can receive to 10 percent of its total state revenues. This approach would be like the existing High-Performance Transportation Enterprise (HPTE) and the Bridge Enterprise structure at CDOT today. Governance related discussions amongst Rail Commissioners indicated little support for this option.
- **Expand Current Commission Authority:** This approach would simply amend the current statutory authority of the Southwest Chief and Front Range Passenger Rail Commission to expand its directive to further review the options above and allow more in depth evaluation before recommending an approach for advancing the implementation for Front Range Passenger Rail. An outcome of this process could be to establish a Joint Powers Authority.
- **2020 Senate Bill draft:** Proposed bill language combined several elements from the first and second options listed above. The language authorized creating a Rail District encompassing counties along the Front Range. The District would have been granted the authority to refer measures to local government ballots. The District included a 22-member Board of Directors and

several possible funding options for consideration. The Rail Commission reviewed and provided comments on the draft bill, but the draft bill was never introduced.

### 3 EXAMPLES OF GOVERNANCE MODELS IN OTHER REGIONS

Generally institutional arrangements for regional passenger rail service include:

- State-run rail operations
- Large-scale single-purpose rail authorities encompassing multiple political jurisdictions,
- Regional transit agencies responsible for multimodal services, and,
- Sub-regional agreements between cities to contribute to the management of rail service in a common corridor.

Over the past 20 years, several new regional passenger and commuter rail systems have been implemented in the U.S and now are in operation. These networks offer a wide range of experience and information upon which to base different options for the Front Range program.

The more mature systems are larger in size than the newer ones, primarily because they have built ridership as the region has grown around them. Each system was a catalyst for successful service in corridors or across the region. Ridership followed, growing steadily as the train became the preferred mode of travel for residents. In many locations, regional passenger rail was implemented after the regional urban form and transportation network were already established. Numerous cities/regions in the US see passenger rail as a key element of the areas’ transportation network for decades.

This has required close coordination among regional and local jurisdictions, the railroads, local businesses, and other stakeholders to the successful. One local Colorado example is the RTD commuter rail service that has been successful connecting Denver International Airport with the rest of the region in downtown Denver. The other three RTD commuter rail lines make a strong, initial network as legs to what can be portions of a Front Range program.

Table 1 presents examples of institutional arrangements that characterize typical regional and commuter rail governance structures used throughout the U.S.

**Table 1: Example Governance Models for Regional Passenger Rail Systems**

Governance Structure	Governing Authority/District	Regional Passenger Rail Service Description
Regional Transit Authority/District (Multi-Modal)	Sound Transit District, Washington	Sounder between Seattle and Everett and Seattle and Tacoma
	Utah Transit Authority	Front Runner Regional Rail between Ogden and Salt Lake City and Provo and Salt Lake City
	Tri-County Metropolitan District, Oregon	Westside Express Service (WES) between Wilsonville, Tualatin, Tigard, and Beaverton

Public Regional Rail Authority/District (Single Purpose)	Sonoma-Marin Area Rail Transit, California	Commuter rail between Cloverdale in Sonoma County and the San Francisco-bound ferry terminal in Larkspur, Marin County
Joint Powers Authority	Peninsula Corridor Joint Powers Board, California	Caltrain between San Francisco, San Jose, and Gilroy
	South Florida Regional Transit Authority, Florida	Tri-Rail between Miami, Fort Lauderdale, and West Palm Beach
	Virginia Railway Express, Northern Virginia	Virginia Railway Express (VRE) between northern Virginia suburbs and Alexandria, Crystal City, and downtown Washington D.C.
Division of State Department of Transportation	Maryland Transit Administration, Maryland	Maryland Area Regional Commuter (MARC) between Maryland and Union Station in Washington, D.C. operating along three lines
Division of Metropolitan Planning Organization	New Mexico Mid-Region Council of Governments, New Mexico	Rail Runner Express between Albuquerque, Santa Fe and Belen
Private Entity	Brightline, a division of Virgin Rail	West Palm Beach to Orlando, Florida (under development)

Source: HDR; August 2020

## 4 MOVING FORWARD ON GOVERNANCE STRATEGIES

Remaining consistent with the Rail Commission’s approach to date, the discussion around preferred governance options should continue to be informed by stakeholder engagement during the ongoing project development process and during all stages to advance the concept throughout the required legislative process. A sustained, transparent, and continued outreach process will be critical to the consideration by the legislature of a bill to authorize the organization of a governance structure. The outreach messages are supported by technical studies and could help with voter understanding if a separate funding measure for FRPR is ultimately referred to the ballot.

Continued stakeholder engagement will be especially important to build on momentum established during the initial consultant study stage of the project where significant public input and feedback have been received.

Equally important, will be targeted outreach to elected officials, as political dynamics shift frequently and issues that may be unrelated to FRPR can impact how a bill to advance a governance structure is perceived. Those dynamics may be relevant to federal, state, or local elected issues or statewide ballot dynamics on unrelated topics that can impact this project. An understanding of this larger political picture can help inform what can be advanced and the timing for that conversation.

Rail Commission staff held numerous conversations with local elected officials throughout the Front Range about the FRPR Project, including preliminary conversations about possible governance options. When the COVID situation started shutdowns, the Governance discussions ceased. However, progress on the FRPR project continued with virtual stakeholder engagement taking place,

## 5 CRITICAL FACTORS FOR SUCCESS

As the Rail Commission and CDOT move forward to secure a governance structure to support this project, several factors should be considered that can determine success. Those include the following:

- **Program definition.** To secure stakeholder and political support, it will be critically important to have reasonably specific details about the program and the proposed Front Range Passenger Rail projects. To the extent there are details that cannot be fine-tuned until further study is completed, that needs to be clearly noted and shared as part of the outreach on the overall program. Transparency and accountability will be important concepts to promote as part of any legislative effort. In addition to the study findings, the team should build from public input received to date from corridor segment coalition meetings, tailored stakeholder meetings, surveys, polling, and on-line public meetings. This work will help to anticipate questions about the overall program and subsequent definition of capital projects and clarify intent.
- **Alignment between Rail Commission and CDOT/Transportation Commission.** A unified voice regarding the definition, intent, and prioritization of this program between the Rail Commission and CDOT will underscore the legitimacy of the project and stakeholder confidence in the vision for the delivery of FRPR. The Executive Oversight Committee will serve as an important vehicle to develop that message consistency.
- **Governor's Office.** It will be important for the team to understand how the FRPR relates to any policy and political priorities of the Governor's Office and how those may underscore the value of FRPR or present competing challenges to the project's delivery. Examples of complementary priorities can include transportation issues relative to the advancement of electric vehicles, reduction of vehicle miles traveled, improved travel times and emissions reductions strategies. An example of a potential competing priority may relate to any need for revenues to advance the project due to budgetary constraints.
- **Public and stakeholder awareness and support.** There is a strong foundation of stakeholder awareness around the FRPR and it is important that this process is continued regularly to ensure transparency and consistency in messaging. By building on the segment stakeholder structure of the North, Central and South coalitions, the team can continue to evaluate opportunities, challenges and impacts that consider local mobility and unique segment characteristics. The output from these conversations can help to inform continued outreach. Many of the public stakeholders have invested time and input into the process to date and the team should ensure that they understand the path forward and that their input is helping to guide and inform the outcome. By doing this, the team can continue to build on its network of advocates for the project who may be needed as part of any legislative consideration of governance.
- **Elected official awareness and support.** Equally important to the continued outreach to the corridor stakeholders will be outreach to elected officials. The team should ensure that state legislators in leadership positions, on key committees of jurisdiction, and within the proposed footprint of the FRPR are consistently engaged and updated on the project's progress as it is imperative that they are hearing directly from the project sponsors. Similarly, local elected officials along the proposed corridor should continue to be engaged consistently.
- **Acknowledgement of stakeholder input to date.** For all the outreach and engagement efforts, including segment and corridor meetings, on-line public meetings, and other communications efforts, it will be critical that the conversations are bidirectional. In other words, the team should continue to update stakeholders and solicit feedback from those conversations. To the extent their input informs the program approach going forward, this should be communicated. If the input is

such that it cannot be included in the project path going forward, the team should be sure to communicate exactly why.

- **COVID impact on process.** The current pandemic can certainly have an impact on both short-term tactics and may also influence long term tactics. For example, the pandemic may change priorities of some of our stakeholders in the short term - both politically and from a policy priority perspective in that the pandemic has presented more pressing policy matters and has challenged an already constrained state budget. Long term, there may be a ripple effect on budgetary pressures or changing policy priorities depending on how the pandemic changes future travel demand, etc.
- **Other competing priorities.** As referenced above, as the team determines a path forward to advance the approval of a governance structure, it will be important to assess the lay of the land before legislators and understand the impact that any competing priorities may have. For example, the underfunded RTD FasTracks Northwest rail line remains a competing priority. Any discussions about the advancement of the FRPR project will need to be done in a way that shows either a complementary approach to other priorities or a clear distinction from other conversations. Because the railroads are a strong partner in the FRPR project, it will be important to continue to reinforce those relationships.
- **Evaluate Partnership Opportunities (RTD, Class I RR, Amtrak)** The project team is fortunate to have as part of the Rail Commission composition, representatives from railroads and transit systems who can help identify partnership opportunities to help advance FRPR. The team should work with those representatives to evaluate those opportunities.
- **Amtrak.** Separate conversations continue at the congressional level that may include an allocation of resources with a potential \$2 billion in federal funding proposed for the Pueblo – Fort Collins corridor in Colorado. While this bill has not been approved by the full Congress as of this writing, the support of this concept by our federal delegation will be important to move this Amtrak and Front Range priority forward.
- **Timing.** Any effort to advance a governance concept for legislative consideration will need to contemplate each of the factors listed above to determine optimal timing for a discussion. The program will need to be reasonably and clearly defined and the team will need to show demonstrated momentum for support among stakeholders. The program will need to be supported by the Administration and the General Assembly and there will need to be clear alignment between the Rail Commission and CDOT on the overall goal.

## 6 IMPLEMENTATION STEPS FOR GOVERNANCE STRUCTURE

With the above factors in mind, Table 2 and Table 3 present a proposed list of immediate and long-term steps, respectively, for the team to consider as they work to advance final approval of a governance structure for the FRPR.

**Table 2: Summary of Near-Term Governance Steps**

Item	Responsible Party	Partners
Continue alignment conversations between CDOT and Rail Commission on program and project definition and prioritization	Executive Oversight Committee	Rail Commission CDOT
Determine project level analysis necessary for public support of project (Pre-NEPA/NEPA ROD?) including RTC modeling	Rail Commission/CDOT project team	Rail Commission CDOT Corridor Stakeholders
Determine level of support from Governor's office – ongoing discussion	Rail Commission/CDOT Leadership	Rail Commission CDOT Executive Team
Continuously identify network of legislative contacts for outreach purposes	CDOT Policy Office Rail Commission Staff	Rail Commission CDOT
Continuously identify network of local elected officials along corridor	Rail Commission and Staff CDOT Policy Office	Rail Commission and Staff, CDOT
Regular meetings that the team has with Class 1 railroad companies on technical issues can be used to provide any relevant updates on governance issues - ongoing	Rail Commission and Staff, CDOT FRPR Project team	Class 1 Railroads. Rail Commission and staff, CDOT FRPR Project team
Update mailing lists for project updates, invitations to corridor stakeholder meetings to reflect elected officials above - ongoing	Rail Commission Staff, CDOT Policy Office	Rail Commission Staff, CDOT
Update collateral material re: project to reflect input from on-line public meeting - ongoing	Rail Commission staff, CDOT Public Relations Staff	Rail Commission Staff, CDOT FRPR Project team
Update corridor segment coalitions on status of project by end of 2020, quarterly going forward	Rail Commission Staff/CDOT Project Team	Rail Commission Staff, CDOT FRPR Project Team, Consultant team
Schedule targeted elected officials' updates/briefings on project status - ongoing	Rail Commission and Staff/CDOT Policy Office	Rail Commission and staff, CDOT Policy Office, Segment Stakeholders, State legislators Local elected officials

**Table 3: Summary of Long-Term Governance Steps**

Item	Responsible Party	Partners
Monitor legislative elections and assignments to leadership and key committees of jurisdiction	CDOT Policy Office Rail Commission Staff,	Rail Commission and staff CDOT Segment Stakeholders
Monitor local government elections for County and municipal races along the front range counties	CDOT Policy Office Rail Commission Staff	CDOT Rail Commission Segment Stakeholders
Schedule briefings or presentations before targeted local governments, MPOs, and other critical stakeholder groups to update on project	Rail Commission and staff, CDOT Project team	Rail Commission CDOT Segment Stakeholders
Schedule quarterly updates with Transportation Commission	Rail Commission and CDOT Project Team	Rail Commission CDOT Transportation Commission