TO: Board Chair Richards and Authority Board Members

FROM: Boris Lipkin, Northern California Regional Director
Serge Stanich, Director of Environmental Services
Gary Kennerley, Northern California Director of Projects

DATE: August 17, 2022

RE: Consider Certifying the San Francisco to San Jose Project Section Final Environmental Impact Report/Environmental Impact Statement and Taking Actions as Required by the California Environmental Quality Act and the National Environmental Policy Act for Approving the Portion of the Preferred Alternative (Alternative A with Caltrain Stations modified for high-speed rail (HSR) at 4th and King Streets and in Millbrae, an East Brisbane Light Maintenance Facility, the Millbrae Station Design, and associated facilities) between 4th and King Street Station in San Francisco and Scott Boulevard in Santa Clara as the San Francisco to San Jose Project Section

Summary

Staff recommends that the California High-Speed Rail Authority (Authority) Board of Directors (Board) take three actions:

- Certify that the San Francisco to San Jose Project Section Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) is complete and adequate as an informational document for Board action, and that it has been completed in accordance with the California Environmental Quality Act (CEQA) as described in more detail in this memorandum (Agenda Item #13).

- Approve the portion of the Preferred Alternative (Alternative A with Caltrain stations modified for high-speed rail (HSR) at 4th and King Streets and Millbrae, the East Brisbane light maintenance facility (LMF), the Millbrae Station Design, and associated project elements) from the 4th and King Street Station in San Francisco to Scott Boulevard in Santa Clara (see Attachment A), and adopting the related CEQA Findings of Fact, Statement of Overriding Considerations (SOC), and Mitigation Monitoring and Enforcement Plan (MMEP) (Agenda Item #14).

- Direct the Authority Chief Executive Officer (CEO) to issue a federal Record of Decision (ROD) under the Authority’s National Environmental Policy Act (NEPA) Assignment responsibilities, identifying the Selected Alternative for the San Francisco to San Jose Project Section as the portion of the Preferred Alternative (Alternative A with Caltrain stations modified for high-speed rail (HSR) at 4th and King Streets and Millbrae, the East Brisbane LMF, the Millbrae Station Design, and associated project elements) from the 4th and King Street Station in San Francisco to Scott Boulevard in Santa Clara, revising the Draft Record of Decision to respond to comments received, documenting compliance with other related federal environmental laws, and including mitigation measures as identified in the MMEP (Agenda Item #15).
Structure of the Meeting

The August 2022 Board meeting is structured as a two-day meeting to ensure adequate time for thorough consideration of the San Francisco to San Jose Project Section Final EIR/EIS. On August 17, consistent with the Authority’s typical practice, public comment will be taken at the start of the Board meeting on all agenda and non-agenda items, with the exception of the San Francisco to San Jose Project Section agenda items (Agenda Items #3, 12, 13, 14, 15). Staff will then give a presentation to the Board about the San Francisco to San Jose Project Section Final EIR/EIS and proposed decisions (Agenda Items #13, 14, and 15). Public comment on all San Francisco to San Jose Project Section agenda items will be taken after the staff presentation. After hearing the staff presentation and public comments, the Board will then have an opportunity to identify any issues or questions it would like staff to address the following day. After the Board addresses Agenda Item #3, the meeting will recess for a one-hour lunch break and reconvene to address other agenda items.

On August 18, staff will present a summary of public comments received the previous day, issues and questions identified by the Board the previous day, and staff’s responses to Board questions and issues raised in public comments (Agenda Item #12). The Board will then deliberate about the Final EIR/EIS and consider certifying the Final EIR/EIS, as noted above (Agenda Item #13). If the Board certifies the Final EIR/EIS, the Board will then deliberate about the San Francisco to San Jose Project Section Preferred Alternative and will consider approving it; adopting the associated CEQA Findings of Fact, SOC, and MMEP (Agenda Item #14); and directing the CEO to issue a NEPA ROD (Agenda Item #15) consistent with the decision, with allowance for revisions to address public comment.

Background

The San Francisco to San Jose Project Section (Project Section, Project, or project) is part of Phase 1 of the statewide California HSR System between San Francisco and Los Angeles/Anaheim. The Project Section would connect to the already approved portions of the HSR System extending between San Jose and Palmdale in Los Angeles County.

This Project Section is unique in that the Authority is already a partner in electrifying the rail corridor through the Peninsula Corridor Electrification Project (PCEP), which is being managed by Caltrain. The San Francisco to San Jose Project Section EIR/EIS analyzes the incremental upgrades necessary in the corridor in addition to the PCEP to enable HSR service to San Francisco.

The Authority is both the project sponsor and the lead agency under both CEQA and NEPA. Previous NEPA documents and approvals were completed in collaboration with the Federal Railroad Administration (FRA) as the NEPA lead agency. On July 23, 2019, the State of California and FRA executed the NEPA Assignment Memorandum of Understanding (MOU). This MOU assigns to the Authority most responsibilities formerly held by FRA for the California HSR System federal environmental review and approval process.

Therefore, as part of this action, staff proposes the Board approve for the San Francisco to San Jose Project Section the portion of the Preferred Alternative (Alternative A with Caltrain stations modified for HSR at 4th and King Streets and Millbrae, the East Brisbane LMF, the Millbrae Station Design, and associated project elements) from the 4th and King Street Station in San Francisco to Scott Boulevard in Santa Clara.

Prior Board Actions

On April 12, 2012, the Board approved signing of the nine-party Metropolitan Transportation Commission Resolution No. 4056 Memorandum of Understanding: High-Speed Rail Early Investment Strategy for a Blended System on the Peninsula Corridor (MTC MOU), which established the framework for blended operations along the Caltrain corridor (Resolution #HSRA 12-11). Signatories to the MTC MOU include the Authority, Metropolitan Transportation Commission, Peninsula Corridor Joint Powers Board (PCJPB), San Francisco County Transportation Authority, San Mateo County Transportation Authority, City of San Jose, City and County of San Francisco, and Transbay Joint Powers Authority.

On August 9, 2016, the Board authorized execution of the Agreement Regarding Commitments Toward Peninsula Corridor Electrification Project and negotiation and execution of any further detailed agreements,
including but not limited to the Project Management and Funding Agreement required by Senate Bill 1029 (Resolution #HSRA 16-21). Senate Bill 1029 amended the Budget Act of 2012 to appropriate funds for HSR projects in the San Francisco to San Jose corridor, mandating the blended system strategy for the San Francisco to San Jose Project Section as identified in the Authority’s 2012 Business Plan and the 2012 MTC MOU. The Project Management and Funding Agreement between the Authority and PCJPB was executed in December 2018.

On September 17, 2019, the Board concurred with Authority staff’s recommendation to identify Alternative A as the Preferred Alternative (Resolutions #HSRA 19-07 and #HSRA 19-08), including the East Brisbane LMF, the Millbrae Station Design, and no passing tracks. Accordingly, the Draft EIR/EIS published on July 10, 2020, and the Final EIR/EIS published on June 10, 2022, identified Alternative A as the Preferred Alternative, including the East Brisbane LMF, the Millbrae Station Design, and no passing tracks.

On April 28, 2022, the Board approved the San Jose to Merced Project Section Preferred Alternative, which included the San Jose Diridon Station Approach Subsection between Scott Boulevard in Santa Clara and West Alma Avenue in San Jose as part of that approval (Resolutions #HSRA 22-10, #HSRA 22-11, and #HSRA 22-12). Accordingly, as part of this action, the Board will only consider approval of the portion of the San Francisco to San Jose Project Section that has not already been previously approved, the portion from the 4th and King Street Station in San Francisco to Scott Boulevard in Santa Clara.

**Discussion**

The Authority circulated the Draft EIR/EIS for the San Francisco to San Jose Project Section for public review and comment between July 10, 2020, and September 9, 2020. The Draft EIR/EIS evaluated impacts and proposed mitigation for two end-to-end project alternatives for the HSR alignment from the 4th and King Street Station in San Francisco to West Alma Avenue in San Jose. The project alternatives analyzed are divided into the following geographic subsections:

- San Francisco to South San Francisco
- San Bruno to San Mateo
- San Mateo to Palo Alto
- Mountain View to Santa Clara
- San Jose Diridon Station Approach

The San Jose Diridon Station Approach Subsection was fully analyzed as part of the San Jose to Merced Project Section EIR/EIS and this analysis was incorporated into the San Francisco to San Jose Project Section EIR/EIS to support a station-to-station analysis with logical termini for the San Francisco to San Jose Project Section. As described under Prior Board Actions, on April 28, 2022, the Board approved the San Jose Diridon Station Approach Subsection between Scott Boulevard in Santa Clara and West Alma Avenue in San Jose as part of the environmental approvals process for the San Jose to Merced Project Section.

Accordingly, as part of this action, the Board will consider approval of the portion of the HSR alignment from the 4th and King Street Station in San Francisco to Scott Boulevard in Santa Clara. Consistent with prior Board direction, the San Francisco to San Jose Project Section Draft EIR/EIS identified the Preferred Alternative/CEQA Proposed Project as Alternative A (Resolutions #HSRA19-07 and #HSRA 19-08).

The Draft EIR/EIS consists of:

- Volume 1, Report:
  - Introductory text about the Project Section and the environmental review process, including the project purpose and need and objectives
  - Detailed description of the project alternatives—including modifications to the existing rail system and stations, an LMF, signaling and train control elements, and safety and security modifications—and a description of the No Project Alternative
- Detailed analysis of environmental impacts and mitigation measures for the Project Section alternatives across numerous environmental resource areas including, for example, transportation, biological resources, noise and vibration, aesthetics and visual quality, air quality and greenhouse gases, cultural resources, and cumulative impacts
- Detailed Section 4(f) and environmental justice analyses
- Summary of public and agency outreach efforts

- Volume 2, Technical Appendices:
  - Technical appendices provide additional details on the project alternatives; the Draft EIR/EIS process; and resource-specific background information, data, and other evidence supporting the analyses. Technical appendices are primarily related to the affected environment and environmental consequences analyses

- Volume 3, Preliminary Engineering Plans:
  - Preliminary engineering plans upon which the environmental analysis is based, consisting of the design drawings showing track alignments, roadway modifications, vertical profiles, typical sections, construction use areas, and other preliminary design information

During the public review period for the Draft EIR/EIS, the Authority received 151 written submissions and verbal comments, containing 2,121 individual (delimited) comments from the public, tribal representatives, government agencies, and businesses/organizations. The purpose of the public review process is for the public, agencies, and stakeholders to review the analysis and provide comments and feedback about project alternatives, environmental impacts, and mitigation measures.

The Authority also circulated for public review and comment the San Francisco to San Jose Project Section Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (Revised/Supplemental Draft EIR/EIS) from July 23, 2021, to September 8, 2021. The Revised/Supplemental Draft EIR/EIS included an analysis of a design variant for the Millbrae-SFO Station (Millbrae Reduced Site Plan Design Variant) and a new biological resources analysis for monarch butterfly. During the Revised/Supplemental Draft EIR/EIS public review period, the Authority received 25 written submissions and verbal comments, containing 136 individual comments.

Key comments on the Draft EIR/EIS and Revised/Supplemental Draft EIR/EIS addressed, but were not limited to, the following topics: project alternatives, the LMF, the Millbrae-SFO Station, displacements, the 2040 Caltrain Service Vision and Business Plan, at-grade crossings and grade separations, emergency vehicle response delays, noise and vibration effects, traffic effects and mitigation, and impacts on adjacent planned developments.

On June 10, 2022, the Authority issued the Final EIR/EIS and posted it on the Authority’s website at https://hsr.ca.gov/programs/environmental-planning/project-section-environmental-documents-tier-2/san-francisco-to-san-jose-project-section-draft-environmental-impact-report-environmental-impact-statement/. The Authority provided broad public notice of the availability of the Final EIR/EIS on the Authority’s website, in newspapers of general circulation in the project area, in direct mailings to property owners and tenants near the project, in direct mailings to commenters on the Draft EIR/EIS and Revised/Supplemental Draft EIR/EIS, and in email notification to persons who had subscribed to the project mailing list. In addition, notice was published in the Federal Register. The Final EIR/EIS is considered a “full” final because it consists of the same Volumes 1 through 3 as the Draft EIR/EIS, each with text revisions. The Final EIR/EIS also includes a fourth volume (Volume 4, Responses to Comments on the Draft EIR/EIS and Revised/Supplemental Draft EIR/EIS), which includes reproductions of the original comments and the Authority’s responses to the comments received on the Draft EIR/EIS and the Revised/Supplemental Draft EIR/EIS. In addition, this volume provides the Authority’s standard responses that address the most frequently raised issues. Standard responses are also included in Attachment B to this memorandum.

In the Final EIR/EIS, each resource section or chapter contains a summary of the substantive revisions that have been made to that section or chapter since the circulation of the Draft EIR/EIS. A vertical line in the page margins indicates substantive changes to the EIR/EIS.
Authority staff provided the Board with a complete copy of the Final EIR/EIS for its review in advance of this meeting. A summary of the Final EIR/EIS is also included with this memorandum for the Board’s convenience (Attachment C).

CEQA does not require public review and comment for a Final EIR. Instead, CEQA requires that the proposed response to any comment received from a public agency be provided to that public agency at least 10 days prior to certification of the Final EIR. The Authority satisfied that requirement by mailing a letter and USB flash drive containing the Final EIR/EIS, including responses to comments received during the Draft EIR/EIS and Revised/Supplemental Draft EIR/EIS, to those agencies in June 2022. The Final EIR/EIS was also made available to the general public on the Authority website and at repository locations along the Project Section on June 10, 2022.

NEPA requires that a Final EIS be made publicly available at least 30 days prior to the NEPA lead agency issuing a ROD. The Authority satisfied this requirement by issuing the Final EIR/EIS on June 10, 2022, more than 30 days in advance of the Board’s consideration of the ROD.

**Requested Action**

**CEQA**

The purpose of CEQA is to ensure that public and government decision makers are informed, through CEQA documents and the public involvement process, of the potential environmental consequences of a proposed project. Public comment on a Draft EIR helps provide information and feedback on a proposed project to the public and ultimately the decision makers.

The first step is for the Board to certify that the San Francisco to San Jose Project Section Final EIR/EIS is adequate as an informational document on the environmental consequences of the proposed project. That certification takes the form of the Draft Resolution #HSRA 22-19, included as Attachment D. This resolution states that the Final EIR/EIS was completed in compliance with CEQA and has been presented to the Board, that the Board has reviewed and considered the information, and that the document represents the Authority’s independent judgment. Certification of the Final EIR/EIS is a prerequisite to approving the project, but certification by itself does not approve the project.

The second step is for the Board to consider whether to approve the portion of the Preferred Alternative (Alternative A with Caltrain stations modified for HSR at 4th and King Streets and Millbrae, the East Brisbane LMF, the Millbrae Station Design, and associated project elements) from the 4th and King Street Station in San Francisco to Scott Boulevard in Santa Clara (as depicted in Attachment A), considering the environmental consequences disclosed in the San Francisco to San Jose Project Section Final EIR/EIS. That approval takes the form of Draft Resolution #HSRA 22-20, included as Attachment E. This step also involves making written acknowledgments (called Findings of Fact) about the environmental impacts (as more fully described in the Final EIR/EIS) that result from approval of the project and that require feasible mitigation measures to minimize those impacts. For environmental impacts that cannot be mitigated to a less-than-significant level under CEQA, this step also involves a finding that the benefits of the project outweigh the significant and unavoidable impacts (“Statement of Overriding Considerations” or SOC). The Findings of Fact, the SOC, and an MMEP are included in Exhibit B of the Draft Resolution #HSRA 22-20, included as Attachment E.

**NEPA**

The purpose of NEPA is to ensure agencies consider the significant environmental consequences of their proposed actions and inform the public of those impacts.

Pursuant to the Authority’s NEPA Assignment MOU, the Board will also take a third action to consider whether to direct the Authority CEO to issue a ROD under NEPA (Agenda Item #15). A Draft ROD consistent with a decision, if made by the Board, to adopt the identified portion of the Preferred Alternative is included as part of the materials provided to the Board prior to this meeting. The Draft ROD indicates approval of Alternative A.

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1 The MMEP is consistent with the CEQA requirements for mitigation monitoring and reporting as set forth in Section 15097 of the CEQA Guidelines (Cal. Code Regs. Title 14, Division 6, Chapter 5).
(with modified Caltrain stations for HSR at the 4th and King Street and Millbrae Stations, the East Brisbane LMF, the Millbrae Station Design, and associated project elements) as the Selected Alternative for the portion of the Project Section between the 4th and King Street Station in San Francisco and Scott Boulevard in Santa Clara because this is the alternative that best serves the purpose and need for the Project Section and minimizes economic, social, and environmental impacts. The Draft ROD also documents several other federal decisions on the project, including required determinations under Section 4(f) of the Department of Transportation Act, Section 176(c) of the Clean Air Act, the Endangered Species Act, and Section 106 of the National Historic Preservation Act, as well as executive orders concerning wetlands, floodplains, and environmental justice. The Board’s direction to issue a ROD takes the form of Draft Resolution #HSRA 22-21, included as Attachment F, and permits the CEO to issue a ROD consistent with the Board decision, with allowance for modifications to reflect consideration of public comment.

The Final EIR/EIS has undergone extensive preparation efforts, including thorough consideration of the comments received on the Draft EIR/EIS and Revised/Supplemental Draft EIR/EIS, and staff find that the Final EIR/EIS is an adequate informational document in compliance with CEQA, NEPA, and other pertinent federal and state regulations. As explained in Chapter 8, Preferred Alternative, of the Final EIR/EIS, Alternative A is an appropriate approval choice among other alternatives considered in the Final EIR/EIS because it represents the best balance of adverse and beneficial impacts on the natural environment and community resources, and it maximizes the transportation and other benefits of the HSR system at the lowest cost. Alternative A would result in fewer residential and business displacements, fewer visual quality impacts, less impact on planned mixed-use development (where residential is permitted) in Brisbane, and fewer temporary road closures that could result in emergency vehicle delays during construction. Alternative A would also have fewer permanent impacts on jurisdictional aquatic resources and would avoid impacts on Icehouse Hill, an area identified for protection by the City of Brisbane because of sensitive habitat for butterflies. Alternative A is also the lower cost alternative and is in better alignment with Caltrain’s Service Vision assumptions than Alternative B.

The Final EIR/EIS concluded that Alternative A will result in *de minimis* impacts on two resources protected under Section 4(f) (two historic properties) between 4th and King Street Station in San Francisco and Scott Boulevard in Santa Clara. The Authority consulted with consulting parties under Section 106, and on May 18, 2020, the Authority received written concurrence from the State Historic Preservation Officer (SHPO) in the no adverse effect findings in accordance with Section 106. The Authority informed SHPO of its intent to make *de minimis* impact findings based on its concurrence in the finding of no adverse effect on May 18, 2020. The Final EIR/EIS concluded that Alternative A would not affect any recreation resources protected by Section 6(f) of the Land and Water Conservation Fund Act.

**Legal Approval**

The Authority Office of Chief Counsel has verified that the Board is legally authorized to take the actions requested in the agenda items. Attorneys, under the direction and guidance of the Office of Chief Counsel, have been involved in the development and review of the Final EIR/EIS and the certification and approval documents presented in the attachments to this briefing. Legal counsel is not aware of any outstanding issues from a NEPA or CEQA perspective in the San Francisco to San Jose Project Section decision documents that would prevent consideration and action by the Board. Furthermore, as to the Draft ROD, legal counsel concludes that it is legally sufficient as required by NEPA, the NEPA Assignment MOU (and associated application), and the FRA Procedures for Considering Environmental Impacts.

**Budget and Fiscal Impact**

Construction costs for the San Francisco to San Jose Project Section are outside the scope of the Expenditure Authorization approved by the Authority’s Board on December 16, 2021, and therefore do not affect the currently authorized capital outlay budget.
2021-22 Fiscal Year Budget Impact

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Total Program Budget Impact

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Capital Cost Estimate

The cost of the Preferred Alternative for the San Francisco to San Jose Project Section in the Final EIR/EIS is $5.317 billion (2021$). Excluding the San Jose Diridon Station Approach Subsection cost of $1.240 billion (2021$), which is also included in the San Jose to Merced Project Section, the estimated capital cost of the Preferred Alternative for the Project Section between 4th and King Street Station in San Francisco and Scott Boulevard in Santa Clara is $4.077 billion (2021$). This cost is inclusive of all elements in the Final EIR/EIS and is an increase from earlier estimates based on the refinement of design and project development that has taken place since those estimates were developed. This alignment is generally consistent with the alignment identified as part of the statewide Phase 1 HSR program in the 2022 Draft Business Plan for the San Francisco to San Jose Project Section. While the PCEP provides electrification to the rail corridor, many other track and systems elements are needed for HSR operation up to a speed of 110 mph. In this Project Section, the primary cost increases are driven by track and station elements, systems upgrades, the LMF, increased right-of-way costs, and related cost adjustments for items such as professional services and unallocated contingency.

To develop a capital cost estimate using a business plan methodology, staff applied a series of potential optimizations where there may be opportunities to reduce certain costs as design and project development continue to advance towards final design. These areas included potential LMF site configuration refinement, elimination of communication sites (by sharing Caltrain’s communications equipment), and adjustments to right-of-way. Staff also escalated the costs from the Final EIR/EIS 2021 dollars to year-of-expenditure (YOE) dollars. The cost using business plan methodology for this project section is $4.338 billion (YOE$).

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Adjustment to Reconcile to 2022 Draft Business Plan

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### 2022 Draft Business Plan Reconciliation

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*DTX phase 1 funding commitment, regardless of YOE

### Recommendations

Staff recommends that the Board approve the attached Draft Resolutions #HSRA 22-19, #HSRA 22-20, and #HSRA 22-21:

- **#HSRA 22-19** (Attachment D) certifies the completeness and adequacy of the San Francisco to San Jose Project Section Final EIR/EIS for compliance with CEQA.
- **#HSRA 22-20** (Attachment E) approves the portion of Alternative A with modified Caltrain stations for HSR at the 4th and King Street and Millbrae Stations, the East Brisbane LMF, and associated project elements from the 4th and King Street Station in San Francisco to Scott Boulevard in Santa Clara; adopts the CEQA Findings of Fact, SOC, and MMEP that are included as Exhibits B and C; and directs staff to file a CEQA Notice of Determination with the State Clearinghouse.
- **#HSRA 22-21** (Attachment F) directs the Authority CEO to issue the federal ROD under the Authority’s NEPA Assignment MOU responsibilities, identifying the portion of Alternative A with modified Caltrain stations for HSR at the 4th and King Street and Millbrae Stations, the East Brisbane LMF, and associated project elements from the 4th and King Street Station in San Francisco to Scott Boulevard in Santa Clara as the Selected Alternative and documenting compliance with other related federal environmental laws, including mitigation measures as identified in the MMEP.

### Attachments

- **Attachment A**: Map of the Portion of the Preferred Alternative Under Consideration for Approval
- **Attachment B**: Standard Responses to Most Frequently Raised Comments
- **Attachment C**: Summary of the San Francisco to San Jose Project Section Final EIR/EIS
- **Attachment D**: Draft Resolution #HSRA 22-19
- **Attachment E**: Draft Resolution #HSRA 22-20
  - Exhibit A – Map of the Portion of the Preferred Alternative Proposed for Approval
  - Exhibit B – Draft CEQA Findings of Fact and Statement of Overriding Considerations
    - Attachment A (to Exhibit B) – Draft Mitigation Monitoring and Enforcement Plan
- **Attachment F**: Draft Resolution #HSRA 22-21
  - Exhibit A – Draft Record of Decision for the San Francisco to San Jose Project Section