



# Memorandum

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** Councilmember Sam Liccardo, Councilmember Pierluigi Oliverio

**SUBJECT:** CALIFORNIA HIGH SPEED RAIL PROJECT & COOPERATIVE AGREEMENT

**DATE:** December 3, 2010

**APPROVE**

Pierluigi Oliverio  
by D.F.

**Recommendation:**

Approve staff's recommendation, with the following changes:

1. Revise Paragraph 3 to read, "Authorize the Mayor to send a letter to the CHSRA reflecting the Council's desire to urge inclusion of an underground alignment within the scope of EIR study. "
2. Amend Paragraph 2.a. to include direction to staff to urge the CHSRA staff to prepare, in addition to any Visual Design Guidelines, a visual, graphical depiction that is reflective of those guidelines, to the greatest extent of completion of design as allowable under CEQA.
3. Ensure that the HST Community Working Groups include residents living within a half-mile of the project, as well as business representatives (such as the San José Downtown Association), and other Diridon area community stakeholders knowledgeable of, or participating in, the Good Neighbor Committee efforts.

## **Discussion**

We recognize the importance of the High Speed Rail, and our common enthusiasm to build this cutting-edge transit project in San José, and throughout California. We applaud the good and diligent efforts of staff to work with the community and the California High Speed Rail Authority (CHSRA) to help steer us toward a consensus about how best to make high-speed trains move through San José.

Nonetheless, we have one—and only one—opportunity to get it right. We urge a slight change of direction—as outlined above—from Staff's recommendation, to urge inclusion of the underground alignment in the EIR, for the following reasons:

- **We've Got Plenty of Time (and More) to Get This Right**

Much of the CHRA's and City's mutual interest in eliminating options from study was driven by a desire to ensure that any rail segment including San José could timely compete for federal funding against pressing deadlines.

As the political winds have shifted, however, so has the funding, and the schedule. There appears little prospect that construction dollars will emerge for a high speed rail segment through San José any time in the next half-decade. The recent CHSRA Board vote to spend \$4.3 billion for a starter segment from Borden to Corcoran places the rail line many miles from San José's southern boundary. What's more, any additional federal money that lands in California as a result of cancelled projects in other states will extend the route to Bakersfield and points south, not north. Roelof van Ark, the CEO of the CHSRA, has publicly stated as much, noting in a CHSRA press release that "The funding other states are sending back to Washington-if redirected to California—would allow us to extend initial construction all the way to Bakersfield."

Simply put, San José is not in the CHSRA's near-term—or even the medium-term—plans. Since that's the case, let's take the time to get it right.

- **Including the Underground Alignment and Station in the EIR Will Not Impose Significant Costs or Delay**

During its preliminary review, CHSRA asserts that it has already expended substantial effort and cost in studying the feasibility of an underground alignment through Diridon. For instance, in van Ark's November 1, 2010 public letter to the SJDA, he notes that the CHSRA has studied the underground alignment "to nearly 15% level of engineering, which is beyond what is typically done for a preliminary review of potential alternatives."

In light of such purportedly extensive analysis, what burdensome cost or delay arises by merely including the results of that study within the EIR? Subjecting that study to public scrutiny, it would seem, would only inure to the benefit of the project, particularly as the CHSRA seeks to secure support from a skeptical public, and to avoid costly and protracted litigation.

- **Reasonable Doubts Persist Regarding the CHSRA's Analysis of the Underground Option, and a Public Vetting Through the EIR Will Result in the Best Possible Project**

CHSRA's efforts to demonstrate the lack of feasibility of the underground option have drawn criticism from several quarters, but we lack the benefit of third-party expertise to assess the quality of either the CHSRA's preliminary review, or of that criticism.

For example, the CHSRA's "Frequently Asked Questions" document cites the enormity of property impacts from an underground alignment. Citing our own DOT staff, the CHSRA would need "approximately 80 property easements for any tunnel option...to protect the tunnel from future deep underground activities such as foundation piles, basements, and well drilling." (p.4) Any cursory look at the Diridon area reveals that the likelihood of any pile-driving (typically used for high-rise construction) in the area appears foreclosed by the low clearance overhead for air traffic. The mostly single-family home owners from whom we would seek easements haven't been

clamoring to dig wells, either, since they (like most of the city's residents) appear well-served by the San Jose Water Company and the existing water system. This is an imaginary hurdle, and one that the VTA readily bounded when it decided to build a six-mile tunnel for BART beneath downtown San José.

Similarly, the FAQ (page 13) dismissed the strategy of achieving cost savings in an underground alignment by working collaboratively with BART's tunnel and station design, asserting that the construction of high-speed rail would precede BART. In light of recent events, that assumption hardly seems safe.

All of these assumptions, and the more technical work underlying them, should be subjected to the light of public scrutiny. Keeping the work out of the EIR will merely invite litigation challenging the inadequacy of the document.

- **Feasibility Is Not a Technical Question, but a Political One**

The CHSRA should only feel obligated to include alignments within an EIR where they appear feasible; that is, where they do not appear unduly costly to build, risky to implement, or disruptive on the surrounding community. The question of feasibility, however, is a political issue, not merely a technical one. While the CHSRA will routinely cite the alleged \$2.6 billion cost of a tunnel in Diridon, few question the feasibility of the Doyle Drive Project, the TransBay Terminal, or the Central Subway Project. Each of those billion-dollar, federally-funded projects is located in a less-populated city to our north. San José deserves better—and should demand better.