
TRI-VALLEY TRANSPORTATION COUNCIL

Scott Perkins
TVTC Chair
Councilmember
San Ramon
(925) 973-2544

Jean Josey
TVTC Vice-Chair
Councilmember
Dublin
(925) 833-2530

Newell Arnerich
Mayor
Town of Danville
(510) 366-0716

David Haubert
Supervisor District 1
Alameda County
(925) 551-6995

Candace Andersen
Supervisor District 2
Contra Costa
(925) 957-8860

Brittni Kiick
Councilmember
City of Livermore
(925) 960-4019

Karla Brown
Mayor
City of Pleasanton
(925) 931-5001

If you have any questions related to the Tri-Valley Transportation Council meeting agenda. Please contact Lisa Bobadilla. TVTC Administrative staff at (925) 973-2651 or email at lbobadilla@sanramon.ca.gov.

SPECIAL TVTC MEETING

Thursday, March 31, 2022
4:15 p.m.

Join Zoom Meeting

<https://cityofsanramon.zoom.us/j/93254298668>

Meeting ID: 932 5429 8668

One tap mobile

+13126266799,,93254298668# US (Chicago)

+19292056099,,93254298668# US (New York)

Pursuant to Government Code section 54953(e), members of the Tri-Valley Transportation Council may conduct this meeting via teleconference. Teleconference locations are not open to the public pursuant to Section 54953(e).

For this meeting, there will be no physical location from which members of the public may observe/comment. There will be no physical location for members of the public to participate in the meeting. We encourage members of the public to access the meeting online using the web-video communication application, Zoom.

Zoom participants will have the opportunity to speak during the Public Comment period (for topics not on the agenda), in addition to each of the items on the agenda.

If you are submitting a public comment via email, please do so by 12:00 p.m. on Thursday, March 31, 2022 to lbobadilla@sanramon.ca.gov. Please include "Public Comment "03/31/2022" in the subject line. In the body of the email, please include your name and the item you wish to speak on. Public comments submitted will be read during Public Comment and will be subject to the regular three-minute time restriction.

Members of the Public may participate and provide public comments to teleconference meetings as follows:

Public testimony will be taken at the direction of the Chair and members of the public may only comment during times allotted for public comments. If you wish to request a disability-related modification or accommodation, please contact the Administrator by email at lbobadilla@sanramon.ca.gov.

TRI-VALLEY TRANSPORTATION COUNCIL

AGENDA

1. Call to Order
2. Roll Call and Self Introductions
3. Public Comment
4. Consent Calendar
 - a. **APPROVE** Resolution No. 2022-05 Approve Contract Amendment for Kimley Horn and Associates to conduct AB 602 Supplemental Analysis.
5. Old Business
6. New Business
 - a. **REVIEW AND APPROVE** Resolution No. 2022-06 to continue conducting remote teleconference meetings for all meetings of the legislative bodies of the Tri-Valley Transportation Council (“TVTC”), pursuant to the authority set forth in AB 361 (Government Code Section 54953[e][1]), due to a proclaimed state of emergency and imminent risks to the health and safety of attendees if meetings are held in person*
7. Informational Items
8. Adjournment

* *Attachment(s)*

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To: Tri-Valley Transportation Council (TVTC)
From: TVTC Technical Advisory Committee (TAC)
Date: March 31, 2022

Subject: Professional Services Agreement Amendment between Tri-Valley Transportation Council and Kimley-Horn and Associates for Strategic Expenditure Plan – AB 602 Supplemental Analysis

RECOMMENDATION

Adopt a resolution approving an amendment to the Professional Services Agreement with Kimley-Horn and Associates to prepare AB 602 Supplemental Analysis.

BACKGROUND

On April 20, 2020, the Tri-Valley Transportation Council (TVTC) approved Resolution 2020-03 authorizing \$172,930 for Kimley-Horn and Associates (KHA), consulting services to implement the TVTC Nexus Study. TVTC subsequently approved four contract extensions, which collectively extended the term and revised the scope to provide for completion of the Strategic Expenditure Plan. At this time, the request is to increase the budget amount by \$31,340 to conduct an AB 602 Supplemental Analysis.

DISCUSSION

Tri-Valley Transportation Council completed an update and adopted a Nexus Fee Study in August of 2021. AB 602 was approved by the Governor of California on September 28, 2021, and includes additional requirements for nexus fee studies adopted after January 1 and July 1, 2022. Although TVTC's Nexus Fee Study was not required to consider AB 602 given its adoption date, TVTC Technical Advisory Committee (TAC) recommends retaining KHA to provide transportation planning services and professional opinions to complete an AB 602 supplemental analysis. The analysis will: 1) identify the future implications of AB 602; and 2) proactively define the methodologies of

future Nexus Fee Study updates such that they will be compliant with AB 602.

In light of the additional work needed to proceed with a AB 602 analysis, TVTC TAC recommends that TVTC Board approve the contract amendment with KHA to increase the contract by \$31,340, for a cumulative total of \$294,210

TRI-VALLEY TRANSPORTATION COUNCIL

RECOMMENDATION

TVTC TAC recommends TVTC Board approve Resolution No. 2022-05 amending the KHA Professional Services to increase the contract by a not-to-exceed amount of \$31,340 for a cumulative total of \$294,210.

ATTACHMENT

1. Resolution 2022-05.
2. Contract Amendment.

**TRI-VALLEY TRANSPORTATION COUNCIL
RESOLUTION NO. 2022-05**

**A RESOLUTION OF THE TRI-VALLEY TRANSPORTATION COUNCIL
APPROVING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TRI-VALLEY TRANSPORTATION COUNCIL AND KIMLEY-HORN
AND ASSOCIATES TO CONDUCT AN AB 602 ANALYSIS AND INCREASE THE
CONTRACT AMOUNT BY \$31,340**

WHEREAS, on April 20, 2020 the Tri-Valley Transportation Council (TVTC) and Kimley-Horn and Associates (Consultant) entered into a Professional Services Agreement (Agreement), whereby Consultant agreed to provide professional services for the preparation of a new Tri-Valley Fee Nexus Study for TVTC; and

WHEREAS, on April 19, 2021, Tri-Valley Transportation Council (TVTC) and the Consultant amended the Professional Services Agreement (Agreement) to extend the term until July 31, 2021 (First Amendment); and

WHEREAS, on July 19, 2021, Tri-Valley Transportation Council (TVTC) and the Consultant amended the Professional Services Agreement (Agreement) to extend the term until August 31, 2021 (Second Amendment); and

WHEREAS, on August 16, 2021, the Tri-Valley Transportation Council and the Consultant amended the Professional Services Agreement to extend the term until January 31, 2022 and increase the contract by \$75,000 (Third Amendment); and

WHEREAS, on January 31, 2022, the Tri-Valley Transportation Council and the Consultant amended the Professional Services Agreement to extend the term to conduct additional work related to the Strategic Expenditure Plan (SEP) (Fourth Amendment); and ; and

WHEREAS, the Parties desire to amend the Agreement to provide that Consultant conduct a Supplemental AB 602 analysis, and increase the not-to-exceed amount by \$31,340 for a cumulative total of \$294,210.

NOW THEREFORE BE IT RESOLVED THAT the Tri-Valley Transportation Council approves an amendment to the Professional Services Agreement attached hereto as Attachment 1 (Fifth Amendment) and authorizes the TVTC Chair to execute the Fifth Amendment on behalf of the TVTC, subject to review and approval as to form by the General Counsel.

PASSED, APPROVED, AND ADOPTED at the meeting of March 31, 2022 by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

Scott Perkins, Chair
Tri-Valley Transportation Council

ATTEST:

Lisa Bobadilla, TVTC Administrative Staff

ATTACHMENT 1

FIFTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

FIFTH AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT BETWEEN THE TRI-VALLEY TRANSPORTATION COUNCIL AND KIMLEY-HORN

THIS FIFTH AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT (“Fifth Amendment”) is made as of the 1st day of April 2022 by and between THE TRI-VALLEY TRANSPORTATION COUNCIL (“TVTC”), and KIMLEY HORN (“Consultant”), (sometimes referred together as the “Parties”) who agree as follows:

RECITALS

WHEREAS, on April 20, 2020, TVTC and Consultant entered into a Consultant Services Agreement (“Agreement”) whereby Consultant agreed to provide professional services to TVTC for the preparation of a new Tri-Valley Fee Nexus Study, as further described in the Scope of Work contained in Exhibit A to the Agreement; and

WHEREAS, the Parties entered into an amendment to the Agreement on April 19, 2021 extending the term of the Agreement until July 31, 2021 (“First Amendment”); and

WHEREAS, the Parties entered into an amendment to the Agreement on July 19, 2021 further extending the term of the Agreement until August 31, 2021 (“Second Amendment”); and

WHEREAS, the Parties entered into an amendment to the Agreement on August 31, 2021 further extending the term of the Agreement until January 31, 2022 (“Third Amendment”); and

WHEREAS, the Parties entered into an amendment to the Agreement on February 1, 2022 in order to extend the Agreement through June 30, 2022 to allow sufficient time to complete the updated Strategic Expenditure Plan (SEP) (“Fourth Amendment”); and

WHEREAS, the Parties desire enter into an additional amendment to provide that the Consultant will conduct a supplemental AB 602 analysis; and

NOW, THEREFORE, for and in consideration of the promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, TVTC and Consultant hereby agree to amend the Agreement as follows:

1. All terms which are defined in the Agreement shall have the same meaning when used in this Fourth Amendment, unless specifically provided herein to the contrary.
2. As part of Consultant’s work pursuant to this Fifth Amendment, Consultant will complete the additional tasks to complete a supplemental AB 602 analysis provided in Exhibit A to this Fifth Amendment and the Scope of Work shall be deemed to incorporate these additional tasks.

3. Section 3 of the Agreement “Compensation” shall be revised to increase the “Not to Exceed Amount” by \$31,340 for a new “Not to Exceed Amount” of \$294, 210 for the full and satisfactory completion of the Tri-Valley Nexus Fee Study, Strategic Expenditure Plan, and supplemental AB 602 analysis.
4. Section 8 of the Agreement “Additional Services” shall be amended to increase the Not to Exceed amount to \$294,210.

All other terms, conditions and provisions in the Agreement remain in full force and effect. If there is a conflict between the terms of this Fifth Amendment and the Agreement, the terms of the Agreement will control unless specifically modified by this Fifth Amendment.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed the effective date of this Agreement.

TRI-VALLEY TRANSPORTATION COUNCIL

DATED: _____

By: Scott Perkins, TVTC Chair

DATED: _____

By: Jean Josey, TVTC Vice-Chair

**KIMLEY-HORN
CONSULTANT**

DATED: _____

Authorized representative of CONSULTANT

APPROVED AS TO FORM

DATED: _____

By: Steven Mattas, Legal Counsel

EXHIBIT A

SUPPLEMENTAL AB 602 ANALYSIS TASKS

Tri-Valley Transportation Council AB 602 Analysis

Scope of Services

March 1, 2022

BACKGROUND

Project Description

Tri-Valley Transportation Council (“TVTC” or “Client”) completed an update and adopted its Nexus Fee Study in support of the Tri-Valley Transportation Development Fee (TVTDF) in August of 2021. AB 602 was approved by the Governor of California on September 28, 2021 and includes additional requirements for nexus fee studies adopted after January 1, 2022. Although TVTC’s Nexus Fee Study was not required to consider AB 602 given its adoption date, TVTC has retained Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “Consultant”) to provide transportation planning services and professional opinions to complete an AB 602 supplemental analysis to (1) understand the future implications of AB 602 and (2) to proactively define the methodologies of future Nexus Fee Study updates such that they will be compliant with AB 602.

SCOPE OF SERVICES

The following comprises the detailed tasks for the Project.

Task 1 – Project Administration and Meetings

This task covers project administration and up to two (2) meetings between Kimley-Horn and TVTC staff. It is intended that these two meetings will comprise of a kickoff meeting and a meeting to discuss the findings of the Project. If Kimley-Horn’s attendance at other meetings or public hearings is requested, such attendance will be subject to a contract amendment, as discussed below.

Deliverables:

- *Kickoff Meeting*
- *Summary of Findings Meeting*

Task 2 – Developing Level of Service (LOS) Analysis Methodologies and Thresholds

Kimley-Horn will review and categorize each project type to develop analysis methodologies and thresholds for determining level of service standards before and after implementation of each project. Categories may include, but are not limited to, roadway capacity increases, safety projects, and active transportation projects. Kimley-Horn will provide tables to TVTC staff that summarize the project groupings, the level of service analysis methodology for each group, and the level of service threshold for each group.

Deliverables:

- *Level of Service Analysis Methodologies and Thresholds by Project Type Summary Tables*

Task 3 – Project Evaluation

Kimley-Horn will evaluate level of service for each of the projects included in Project Lists A, B, and C. We will use the methodologies and thresholds developed as a part of Task 2 to determine the level of service before and after each project is constructed, separate from all other projects. This evaluation will establish the need for each project, consistent with the requirements set forth by AB 602.

Deliverables:

- *LOS Summary Tables by Project Type*

Task 4 – Level of Service and Fee Calculations

Kimley-Horn will evaluate the fee calculations by land use type in light of the level of service analysis conducted as part of Task 3 and propose fee adjustments if necessary in a summary table for TVTC staff.

Deliverables:

- *Existing Deficiency Summary Table*
- *Table Summarizing Fees by Land Use Type*

Task 5 – Evaluation of Residential Household Fees by Household Size

Consistent with the impending July 1, 2022 requirements set forth by AB 602, Kimley-Horn will determine residential fees by household size. AB 602 requires that different fees be set based on household size. Therefore, Kimley-Horn will determine the groupings of household sizes (i.e., less than 1,200 square-feet, 1,200 – 2,500 square-feet, and greater than 2,500 square-feet) and the potential future fees associated with each group based on the overall fee for residential units calculated as a part of Task 4.

Deliverable:

- *Summary Table of Residential Fees by Household Size*

Task 6 – Documentation

Kimley-Horn will prepare a draft technical memorandum summarizing the procedures, findings, and conclusions from Tasks 1 – 5 with graphics deemed necessary by Kimley-Horn. This memorandum will be submitted to TVTC staff for review and comments. Kimley-Horn will revise the draft technical memorandum based on one set of non-conflicting comments received from TVTC staff and provide staff with the final technical memorandum.

Deliverable:

- *Draft Technical Memorandum*
- *Final Technical Memorandum*

ADDITIONAL SERVICES

Kimley-Horn will, if authorized, perform other services which may be required. Additional services may include attendance at meetings or hearings and additional analysis or reports not included in the scope and shall be performed on a time and material basis. Any additional efforts, not included in this scope and fee estimate, will be undertaken only upon express prior written authorization by the Client.

SCHEDULE

Kimley-Horn is prepared to begin work immediately upon receipt of a signed Agreement and your notice to proceed, and will endeavor to meet an April 7, 2022 completion date.

FEE PROPOSAL

Kimley-Horn proposes to perform the Scope of Services outlined in Task 1 through Task 6 on a labor fee plus expense basis with the maximum labor fee shown below.

Task	Project Manager	Senior Planner	Engineer II	Total Hours	Total Cost
	Venter	Schmitt	Gregerson		
1. Project Administration and Meetings	4	4	2	10	\$ 2,600
2. Developing Level of Service (LOS) Analysis Methodologies and Thresholds	2	2	8	12	\$ 2,840
3. Project Evaluation		12	40	52	\$ 12,040
4. Existing Deficiencies and Fee Calculations		8	12	20	\$ 4,800
5. Evaluation of Residential Household Fees by Household Size		4	8	12	\$ 2,840
6. Documentation	2	8	16	26	\$ 6,220
TOTAL	8	38	86	132	\$ 31,340

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client’s behalf, a separate invoice for such fees, with a ten percent (10%) markup, will be immediately issued to and paid by the Client.

5073391.1

TRI-VALLEY TRANSPORTATION COUNCIL

Scott Perkins
TVTC Chair
Vice Mayor
San Ramon
(925) 973-2544

To: Tri-Valley Transportation Council (TVTC)

From: Steve Mattas, General Counsel

Date: March 31, 2022

Jean Josey
TVTC Vice-Chair
Councilmember
Dublin
(925) 833-2530

Subject: Resolution to continue conducting remote teleconference meetings for all meetings of the legislative bodies of the Tri-Valley Transportation Council, pursuant to the authority set forth in AB 361 (Government Code Section 54953[e][1]), due to a proclaimed state of emergency and imminent risks to the health and safety of attendees if meetings are held in person

Newell Arnerich
Mayor
Town of Danville
(510) 366-0716

RECOMMENDATION

David Haubert
Supervisor District 1
Alameda County
(925) 551-6995

Adopt a resolution to continue conducting remote teleconference meetings for all meetings of the legislative bodies of the Tri-Valley Transportation Council (“TVTC”), pursuant to the authority set forth in AB 361 (Government Code Section 54953[e][1]), due to a proclaimed state of emergency and imminent risks to the health and safety of attendees if meetings are held in person.

Candace Andersen
Supervisor District 2
Contra Costa
(925) 957-8860

BACKGROUND

Brittini Kiick
Councilmember
City of Livermore
(925) 960-4019

On March 4, 2020, Governor Newsom declared a State of Emergency in response to COVID-19. On March 10, 2020, Contra Costa County similarly declared a state of emergency. On March 17, 2020, Alameda County also declared a state of emergency, and Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Brown Act in order to allow local legislative bodies to conduct remote meetings. Pursuant to this executive order, TVTC’s legislative bodies have been conducting teleconference meetings to carry out TVTC business from remote locations while ensuring the public’s continued access to meetings in a safe manner.

Karla Brown
Mayor
City of Pleasanton
(925) 931-5001

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, extending the term of Executive Order N-29-20 to September 30, 2021. Since the Governor issued Executive Order N-08-21, the highly contagious Delta and Omicron variants emerged, which caused spikes in cases throughout the state and within Alameda County and Contra Costa County and there is an ongoing risk that new variants will emerge. Both the Alameda County Health Officer and Health Officer of Contra Costa County have issued public health orders requiring all people, regardless of vaccination status, to wear face coverings in certain high risk settings and strongly recommending that all people, regardless of vaccination status, wear face coverings in public indoor settings. The Division of Occupational Safety and Health of the California Department of Industrial Relations (“Cal/OSHA”) has also imposed similar requirements and recommendations for physical distancing and masking in response to the spread of the virus. .

TRI-VALLEY TRANSPORTATION COUNCIL

On September 16, 2021, Governor Newsom signed Assembly Bill 361 (2021) (“AB 361”), which amended the Brown Act to allow local legislative bodies to continue meetings by teleconference during a declared State of Emergency by following specific rules regarding notice and attendance. AB 361 took full effect on October 1, 2021.

DISCUSSION

During a proclaimed state of emergency, AB 361 allows local legislative bodies to continue to meet remotely.

Under AB 361, TVTC will be allowed to continue to meet remotely when:

1. The local agency holds a meeting during a proclaimed state of emergency;
2. State or local health officials have imposed or recommended measures to promote social distancing;
3. The local agency has determined that as a result of the emergency, there is a need to meet remotely due to present imminent risks to the health or safety of attendees.

TVTC meets the requirements to continue holding meetings remotely in order to ensure the health and safety of the public:

- The Governor has declared a state of emergency, and the Alameda County and Contra Costa County Board of Supervisors each adopted resolutions proclaiming a state of emergency due to COVID-19, pursuant to Section 8625 of the California Emergency Services Act;
- County health officer orders for both Alameda County and Contra Costa County strongly recommend that individuals in indoor public spaces wear face coverings, and Cal/OSHA and the Center for Disease Control and Prevention (CDC) recommends social distancing of at least six feet and face coverings due to COVID-19;
- The highly-infectious Delta and Omicron variants of COVID-19 continue to circulate within the state and throughout Alameda County and Contra Costa County and there is an ongoing risk of new variants emerging;
- Meeting in person would present imminent risks to the health and/or safety of attendees.

Under AB 361, TVTC is required to make certain findings, by majority vote, in order to continue teleconferencing without complying with the pre-AB 361 Brown Act provisions (i.e. posting agendas at each teleconference location and allowing such locations to be accessible to the public):

- (1) The Board has reconsidered the circumstances of the state of emergency.
- (2) Either of the following circumstances exist:
 - (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - (ii) State or local officials continue to impose or recommend measures to promote social distancing.

TRI-VALLEY TRANSPORTATION COUNCIL

If TVTC makes these findings, TVTC's legislative bodies may continue to hold meetings in the current remote manner with opportunities for the public to observe and address the legislative bodies in real time. TVTC is required to revisit these findings every 30 days in order to continue holding teleconference meetings while the proclaimed state of emergency is in effect.

RECOMMENDATION

Adopt resolution to continue conducting remote teleconference meetings for all meetings of the legislative bodies of the Tri-Valley Transportation Council, pursuant to the authority set forth in AB 361 (Government Code Section 54953[e][1]), due to a proclaimed state of emergency and imminent risks to the health and safety of attendees if meetings are held in person.

5084117.1

**TRI-VALLEY TRANSPORTATION COUNCIL
RESOLUTION NO. 2022-06**

**A RESOLUTION OF THE TRI-VALLEY TRANSPORTATION COUNCIL (TVTC)
FINDING THAT A PROCLAIMED STATE OF EMERGENCY EXISTS AND THAT
MEETING IN PERSON WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR
SAFETY OF ATTENDEES IF MEETINGS OF THE LEGISLATIVE BODIES ARE
HELD IN PERSON; AND AUTHORIZING TELECONFERENCE MEETINGS FOR
ALL LEGISLATIVE BODIES**

WHEREAS, all meetings of the legislative bodies of the Tri-Valley Transportation Council (“TVTC”) are open and public, as required by the Ralph M. Brown Act, Government Code Section 54950, *et seq.*, and any member of the public may observe, attend, and participate in the business of such legislative bodies;

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency as a result of the rapid spread of the novel coronavirus disease 2019 (“COVID-19”);

WHEREAS, on March 4, 2020, the Alameda County Health Officer declared a local emergency due to COVID-19;

WHEREAS, on March 17, 2020, the Alameda County Board of Supervisors adopted a Resolution ratifying the Health Officer’s Declaration of Local Emergency;

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors adopted a Resolution proclaiming a state of emergency to deal with the potential spread of COVID-19;

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act (“Brown Act”) in order to allow local legislative bodies to conduct meetings telephonically or by other means, after which TVTC staff implemented virtual meetings for all meetings of legislative bodies within the TVTC;

WHEREAS, all legislative bodies of TVTC established remote meetings, which have allowed the bodies to continue to conduct TVTC business from remote locations while ensuring the public’s continued access to government meetings in a safe manner;

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which terminated the provisions of Executive Order N-29-20 that allows local legislative bodies to conduct meetings telephonically or by other means effective September 30, 2021;

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 (“AB 361”), which amended the Brown Act to allow local legislative bodies to continue to conduct meetings by teleconference under specified conditions and pursuant to special rules on notice, attendance, and other matters;

WHEREAS, AB 361, pursuant to Executive Order N-15-21, took full effect on October 1, 2021 and requires the Board to make specific findings to continue meeting under special teleconference rules;

WHEREAS, in addition to finding the Governor has declared a State of Emergency pursuant to Government Code section 8625, such findings include that state or local officials have imposed or recommended measures to promote physical distancing, or, in the alternative, that the legislative body determines that meeting in person would present imminent risks to the health and safety of attendees;

WHEREAS, Governor Newsom has declared a State of Emergency due to COVID-19, the Counties of Alameda and Contra Costa have similarly proclaimed states of emergency, state and county officials have imposed or recommend measures to promote masking and physical distancing, and TVTC has determined that meeting in person would present imminent risks to the health and safety of attendees;

WHEREAS, in response to the emergence of the highly contagious Delta and Omicron variants of COVID-19 and the ongoing risk of the emergence of new variants, , the Alameda County and Contra Costa County Health Officers have issued orders for nearly all individuals to wear masks in certain indoor settings and strongly recommending that all individuals, regardless of vaccination status, wear masks when inside all public spaces;

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) continues to recommend physical distancing of at least six feet from others outside of the household;

WHEREAS, Title 8, Section 3205, subdivision (c)(5)(D) of the California Code of Regulations, promulgated by the Division of Occupational Safety and Health of the California Department of Industrial Relations (“Cal/OSHA”), requires employers to provide instruction to employees on using a combination of “physical distancing, face coverings, increased ventilation indoors, and respiratory protection” to decrease the spread of COVID-19;

WHEREAS, “Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace,” promulgated by the Occupational Safety and Health Administration (“OSHA”) under the United States Department of Labor, provides that “[m]aintaining physical distancing at the workplace for [unvaccinated and at-risk] workers is an important control to limit the spread of COVID-19” and recommends that employers train employees about the airborne nature of COVID-19 and importance of exercising multiple layers of safety measures, including physical distancing, and that employers implement “physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers,” including physical distancing from members of the public, as a “key way to protect such workers”;

WHEREAS, due to the continued threat of COVID-19, TVTC continues to implement multiple layers of protection against COVID-19, including physical distancing, for the safety of Board members, employees and members of the public;

WHEREAS, TVTC recognizes the recommendations by state and local officials to use physical distancing as a layer of protection against COVID-19 and desires to continue to provide a

safe workplace for its Board members, employees and a safe environment for the open and public meetings of all legislative bodies of TVTC;

WHEREAS, TVTC hereby finds that the presence of COVID-19 and the continued circulation of the Delta and Omicron variants, as well as the ongoing risk of the emergence of new variants, present imminent risks to the health or safety of attendees should meetings of the legislative bodies of TVTC be held in person; and

WHEREAS, TVTC shall ensure meetings of all legislative bodies comply with the special teleconference rules under the Brown Act, as amended by Assembly Bill 361.

NOW, THEREFORE, BE IT RESOLVED by the Tri-Valley Transportation Council, as follows:

Section 1. Recitals. The above recitals are true and correct and hereby incorporated into this Resolution.

Section 2. State of Emergency and Imminent Risks to Health and Safety. In compliance with the special teleconference rules of Section 54953 of the Government Code, as established by Assembly Bill 361 (2021), TVTC hereby makes the following findings:

- a. TVTC has considered the circumstances of the state of emergency; and
- b. The states of emergency, as declared by the Governor, Alameda County, and Contra Costa County continue to impact directly the ability of all legislative bodies of TVTC to safely meet in person; and
- c. The CDC, Cal/OSHA, and OSHA continue to recommend physical distancing of at least six feet to protect against transmission of COVID-19; and
- d. Meeting in person would present imminent risks to the health and safety of meeting attendees due to the continued presence and threat of COVID-19.

Section 3. Remote Teleconference Meetings. All legislative bodies of TVTC are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public teleconference meetings in accordance with Government Code section 54953, as amended by Assembly Bill 361 (2021), and other applicable provisions of the Brown Act, in order to protect the health and safety of the public.

Section 4. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of April 30, 2022, or such time TVTC adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED, APPROVED, AND ADOPTED at the meeting of March 31, 2022 by the following votes:

AYES:
NOES:
ABSENT:
ABSTAIN:

Scott Perkins, Chair
Tri-Valley Transportation Council

ATTEST:

Lisa Bobadilla, TVTC Administrative Staff