

TRI-VALLEY TRANSPORTATION COUNCIL

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To: Tri-Valley Transportation Council (TVTC)

From: Steve Mattas, General Counsel

Date: December 29, 2021

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

RECOMMENDATION

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.

BACKGROUND

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.

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 variant has emerged, causing a spike in cases throughout the state and within Alameda County and Contra Costa County. 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 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 in response to the spread of the virus, which are described in further detail in the accompanying resolution.

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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 takes full effect on October 1, 2021.

DISCUSSION

During the Governor’s declaration of a State of Emergency, AB 361 allows local legislative bodies to continue to meet remotely after the expiration of Executive Order N-29-20.

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

1. The local agency holds a meeting during a declared state of emergency;
2. State or local health officials have imposed or recommended measures to promote social distancing;
3. Legislative bodies declare the 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 require 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 due to COVID-19;
- The highly-infectious Delta variant of COVID-19 has resulted in a significant increase of COVID-19 cases within the state and throughout Alameda County and Contra Costa County;
- Meeting in person would present imminent risks to the health 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.

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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 within 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.

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