

TRI-VALLEY TRANSPORTATION COUNCIL

TRI-VALLEY TRANSPORTATION COUNCIL RESOLUTION NO. 2023-03

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;

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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, including subvariants BA.4 and BA.5, and the ongoing risk of the emergence of new variants, State, 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 vulnerable 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;

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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 continued circulation of the Delta and Omicron variants, including subvariants BA.4 and BA.5, 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 February 22, 2023, or such time TVTC adopts a subsequent resolution in accordance with Government Code section

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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 January 23, 2023, by the following votes:

AYES: Testa, Anderson, Haubert, Arnerich, Josey

NOES:

ABSENT:

ABSTAIN: Verose

DocuSigned by:



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Jean Josey, Chair
Tri-Valley Transportation Council

ATTEST:

DocuSigned by:



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Sai Midididdi, TVTC Administrative Staff