



**Meeting Date: September 29, 2021**

**Agenda Item: D.2**

## **AGENDA SUMMARY REPORT**

### **SUBJECT:**

Discussion and Possible Adoption of Resolution No 2021-19 Authorizing Remote Teleconference Meetings of the Board of Directors of Mendocino Transit Authority for the period of October 27, 2021, through November 27, 2021, Pursuant to Brown Act Provisions.

### **SUMMARY:**

On September 16, 2021, Governor Newsom signed into law AB 361 which provides local agencies with the ability to continue to meet remotely under modified Brown Act requirements if a gubernatorial state of emergency is in effect and state or local officials have imposed or made recommendations for social distancing measures or the local legislative body to determine, by majority vote, that meeting in person would pose an “imminent risk to the health and safety of attendees.” It is not sufficient that county and/or city officials have issued a local emergency declaration. The emergency declaration must be one that is made pursuant to the California Emergency Services Act (CA GOVT § 8625).

On September 29, 2021 the MTA Board adopted Resolution 2021-18 which authorized the Board to continue to conduct its meetings virtually until October 30, 2021. A subsequent resolution must be adopted every 30 days in order for the Board to continue conducting meetings virtually in accordance with AB 361.

AB 361 sets out the following meeting requirements if MTA chooses to continue to meet virtually while there is a declared State of Emergency in the state of California:

- Agendas not required to be posted at all teleconference locations.
- Meeting must still be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.
- Agendas are not required to identify each teleconference location in the meeting notice/agenda.
- Local agencies are not required to make each teleconference location accessible to the public.
- No requirement to have a quorum of board members participate from within the territorial bounds of the local agency’s jurisdiction.
- In each instance in which notice of the time of the teleconferenced meeting is given or the agenda for the meeting is posted, the legislative body shall also give notice of the manner by which members of the public may access the meeting and offer public comment.
- The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.
- The legislative body shall allow members of the public to access the meeting, and the agenda shall include an opportunity for members of the public to address the legislative body directly
- In the event of a disruption which prevents the local agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency’s control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored.

Written/remote public comment must be accepted until the point at which the public comment period is formally closed; registration/sign-up to provide/be recognized to provide public comment can only be closed when the public comment period is formally closed.

If MTA adopts a resolution by majority vote that meeting in-person during the state of emergency would present imminent risks to the health or safety of attendees, adoption of the resolution would permit meeting under the provisions of AB 361 for a maximum period of 30 days. After 30 days, the local agency would need to renew its resolution, consistent with the requirements of AB 361, if the agency desires to continue meeting under the modified Brown Act requirements or allow the resolution to lapse.

The MTA Board of Directors will not meet again until December 8, 2021. If the Board would like to conduct the December 8, 2021 Board meeting virtually, a special meeting will need to be conducted in November to adopt an additional supplemental resolution (within the 30 day window).

**STAFF RECOMMENDATION:**

1. Adopt the attached Resolution allowing MTA to continue virtual meetings for the period of October 27, 2021 through November 27, 2021; or
2. Do not adopt the attached resolution and direct staff to prepare for in-person meetings beginning December 8, 2021.

**ATTACHMENTS:** Subsequent Resolution 2021-19 Authorizing Remote Teleconference Meetings



## RESOLUTION NO. 2021-19

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MENDOCINO TRANSIT AUTHORITY PROCLAIMING A LOCAL EMERGENCY PERSISTS, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR NEWSOM ON MARCH 4, 2021, AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE BOARD OF DIRECTORS OF MENDOCINO TRANSIT AUTHORITY FOR THE PERIOD OCTOBER 27, 2021 THROUGH NOVEMBER 27, 2021 PURSUANT TO BROWN ACT PROVISIONS.**

***WHEREAS***, MENDOCINO TRANSIT AUTHORITY is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

***WHEREAS***, all meetings of Mendocino Transit Authority's Board of Directors are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the Agency's Board conduct their business; and

***WHEREAS***, the Brown Act, Government Code section 54953(e), makes provision for remote teleconferencing participation in meetings by members of the Board of Directors, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

***WHEREAS***, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

***WHEREAS***, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the Agency's boundaries, caused by natural, technological or human-caused disasters; and

***WHEREAS***, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person may present imminent risks to the health and safety of attendees; and

***WHEREAS***, the Board of Directors previously adopted a Resolution, Number 2021-18 on September 29, 2021, finding that the requisite conditions exist for the Board of Directors of Mendocino Transit Authority to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

***WHEREAS***, as a condition of extending the use of the provisions found in section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the MTA Jurisdiction, and the Board of Directors has done so; and

***WHEREAS***, emergency conditions persist in the MTA jurisdiction, specifically, a State of Emergency remains active related to the SARS-Cov-2 pandemic, and

**WHEREAS**, the Board of Directors of Mendocino Transit Authority does hereby find that the SARS-CoV-2 virus continues to impact our community, and, in-persons meetings may create an environment where transmission of SARS-CoV-2 could be spread and has caused, and will continue to cause, conditions of peril to the safety of persons within the Agency that are likely to be beyond the control of services, personnel, equipment, and facilities of the Agency, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

**WHEREAS**, as a consequence of the local emergency persisting, the Board of Directors does hereby find that the Board of Directors of Mendocino Transit Authority shall continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

**WHEREAS**, Mendocino Transit Authority Board of Directors will continue to post an Agenda online, in accordance with Brown Act requirements, make the meetings available and accessible online, and allow for public participation in the meetings of the Board of Directors.

***NOW, THEREFORE, THE BOARD OF DIRECTORS OF MENDOCINO TRANSIT AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:***

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Affirmation that Local Emergency Persists. The Board of Directors hereby considers the conditions of the state of emergency in the MTA jurisdiction and proclaims that a local emergency persists, and meeting in-person would create an imminent risk.

Section 3. Re-ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2021.

Section 4. Remote Teleconference Meetings. The MTA Executive Director and staff and Board of Directors of Mendocino Transit Authority are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) November 27, 2021, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Board of Directors of Mendocino Transit Authority may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

**PASSED AND ADOPTED** by the Board of Directors of Mendocino Transit Authority this 27th day of October 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Attest:

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MTA Board Chair, Saprina Rodriguez