April 3, 2020

SENT VIA E-MAIL

Dear Governor Newsom:

We the undersigned organizations are writing to ask you to issue guidance that the current statewide shelter in place order, issued March 19th, is the standard by which all California businesses must operate and in instances where any local orders conflict with the State order, the State order preempts.

Let us begin by wishing you and your family well during these troubling times. We deeply appreciate the courage and leadership shown by yourself and the whole family of State public employees who are on the front lines of this fight.

Under your leadership California has set an example to the rest of the nation on how best to limit the spread of the COVID-19 virus and to care for those unfortunately afflicted by it. We have the utmost confidence in you and the team you have assembled to guide us through this crisis and emerge ready to rebuild our lives and our economy as quickly as possible. We are also 100% united in support of your Shelter in Place order issued on March 19th and are working with our individual member companies on an hourly basis to ensure they are all in compliance to ensure that all of us remain as safe as possible.

As you know, your order was preceded on March 17 by a different order issued by 7 counties in the Bay Area. This local order differs from the State order in many ways, and the conflicts are creating a great deal of confusion and we believe they are hampering our ability to fight COVID-19 in a coordinated fashion. Not only does the local order differ in many ways, it is being interpreted differently by different jurisdictions across our 101 cities and 9 counties. The local order was updated on March 31, 2020, further departing from the State order and adding to the confusion.

In the field of life sciences and medical research the confusion caused by the conflicts are perhaps most concerning. During this unprecedented time, the Bay Area’s industry-leading life science companies are working diligently to battle COVID-19, as well as bringing lifesaving rapid COVID-19 tests to the front lines of the pandemic. These companies thank you for recognizing the value and
importance of their industry and designating the life sciences an “essential business” in your executive orders so that the manufacturing can continue to operate without interruption.

The amended March 31 - county order could have severe consequences for life sciences companies who are currently undergoing facility upgrades or site expansions. We believe the decision to no longer exempt construction on life sciences facilities could effectively shut down mission critical COVID-19 response efforts.

Impacts in the field of telecommunications and the internet are equally concerning. For example, the completion of several data centers in our region, necessary to maintain a functioning internet that allows so many to be able to study, work, be entertained and communicate with each other through video chats or otherwise from the safety of their own homes, are in jeopardy. Contractors are unsure if they can continue work and cannot get clarity from local governments. Also, companies engaged in the construction and maintenance of our region’s telecommunications infrastructure; fiber networks, cellular towers, small cells, etc. have been issued cease and desist orders. Telecommunications networks are working to meet the capacity demands created by the huge surge of remote working, distance learning, telemedicine at-home entertainment and communications needs.

Telecommunications companies need to keep deploying and maintaining their infrastructure to continue to close the digital divide and to ensure that communications networks keep up with the increased capacity demands. Unless we can keep deploying and maintaining our infrastructure, hundreds of thousands of our region’s workers will be at risk of no longer being able to earn a paycheck. Even more pressing, doctors will be at risk of losing quality telehealth connectivity, teachers who offer distance learning to their students may have greater challenges, and any number of additional issues could be triggered, not the least of which is the inability to adequately prepare for the looming fire season and Public Safety Power Shutoff events.

To that end, communications providers should be exempted from shelter-at-home orders as providers of “Essential Services and Critical Infrastructure” under U.S. Department of Homeland Security Guidelines. “Essential Services” providers operating on a national, regional or statewide basis should be allowed to operate under health and safety guidance from the expert CDC, rather than having to divert resources to try to comply with a patchwork of local requirements. Local or county ordinances establishing differing standards should be preempted by a unified statewide directive.

Moreover, the lack of standardization regarding “minimum business operations” is causing great concern among non-essential businesses. Being able to continue minimum business operations has allowed businesses throughout the state to “keep the lights on”, protect the value of their inventory and assets and, most importantly, allow workers to keep working from home in a seamless and effortless way. The county orders state that non-essential businesses and their employees may engage in minimum business operations while the state order makes no such statement. Mirroring the county language would be immensely helpful in this regard.

Lastly, the confusion caused by the conflicting standards has had a severe impact on our construction industry. Contractors working on clearly exempt commercial or healthcare-related activities are pulling back out of an abundance of caution and will not send their people to work unless they receive written assurances that each individual project is exempt. This is incredibly time consuming, and in most cases an impossible task, as the local jurisdictions do not have the capacity to evaluate every project on a case by case basis. There are many existing construction projects in the Bay Area that will bring additional logistics capability and capacity to meet the excess demand seen in delivery of groceries and other household goods for customers sheltering at home. Prohibition of this construction restricts,
delays, and inhibits the delivery of food products, pharmaceuticals, and other emergency necessities, as referenced in Executive Order N-35-20 and gives people no other option than to go to the store and risk exposure to Covid-19.

On the residential construction side, the problems are even worse. As you know very well California has an acute shortage of housing. Not only do we have thousands of unsheltered people in our region, we have hundreds of thousands more living in overcrowded conditions where social distancing is impossible; multiple families living in single family homes and six or eight young people living in a two bedroom apartment to make rent. No shelter in place order can possibly work unless there is sufficient shelter for all who need it. We MUST continue to build as much housing as possible not just for this pandemic, but for the next one, and the one after that. For this reason, we applaud the decision you made to exempt the construction of housing from the State Order. The local order unfortunately prohibits all home construction that does not have a 10% onsite affordable component. Even projects that have paid millions of dollars in affordable housing in-lieu fees or which are building their affordable units in other locations are being shut down.

Construction contractors and workers alike are trained daily on safety measures (including now Covid-19 measures) on each job site, and there’s perhaps no other profession where safety is as high a priority. Unless there is new data to show otherwise, we are confident that the homebuilding industry can build the homes we need to fight this pandemic while maintaining the highest safety standards and protocols.

In conclusion, let us again express our sincere gratitude to you for your leadership and to the whole family of federal, state and local public employees who are leading the fight against COVID-19. Our member companies and their employees are there with you.

Sincerely,

Bay Area Council
California Building Industry Association
California Business Roundtable
California Life Sciences Association
California Manufacturers and Technology Association
CTIA-The Wireless Industry
San Francisco Chamber of Commerce
TechNet

cc: Ann O’Leary
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