



# Consider and Make Findings and Approve Continuing Teleconference Meetings (AB 361), Government Code Section 54953(e), and Provide Direction to Staff regarding Future Board Meeting Format

Board of Directors Meeting  
November 9, 2022



# Teleconference Meetings

## Key Provisions



- Assembly Bill 361 (AB 361) amended the teleconferencing provision of the Brown Act, Government Code Section 54953(e)
- Effective October 1, 2021, Section 54953(e) authorizes a local agency to use special teleconferencing rules when a legislative body of a local agency holds a meeting during a state of emergency declared by the state and either:
  - State or local health officials have imposed or recommended measures to promote social distancing, or
  - The legislative body is meeting to determine whether, or has determined, by majority vote, that meeting in person would present imminent risks to the health or safety of meeting attendees

# AB 361 (Teleconference Meetings)

## Key Provisions (cont'd)



- When a legislative body uses the emergency teleconferencing provisions under Section 54953(e), the following rules apply:
  - Agency must provide notice of the meeting and post an agenda as required by the Brown Act and Better Government Ordinance, but agenda does not need to list each teleconference location or be physically posted at each teleconference location. A majority of the Board does not have to participate from a location within District.
  - Agenda must state how members of the public can access the meeting and provide public comment
  - Agenda must include an option for all persons to attend via a call-in or internet-based service option
  - Board must conduct the meeting in a manner that protects the constitutional and statutory rights of the public

# AB 361 (Teleconference Meetings)

## Key Provisions (cont'd)



- If there is a disruption in use of the Zoom platform or in the public's ability to comment via Zoom, Board must stop the meeting until public access and the ability to comment is restored
- Local agencies may not require public comments to be submitted in advance of the meeting and must allow virtual comments to be submitted in real time
- Board must allow a reasonable amount of time per agenda item to permit members of the public to comment, including time to register or otherwise be recognized for the purposes of comment
- AB 361 sunsets on January 1, 2024

# Local Health and Safety Conditions



- As of November 1, 2022 COVID-19 case rate, test positivity, COVID-19 hospitalizations, and COVID-19 wastewater surveillance have decreased and are stable, but there continues to be COVID-19 in the community and changes in case rate, test positivity, COVID-19 hospitalization and wastewater surveillance may change or increase rapidly;
- Omicron variant and its subvariants are predominant variants in County
  - These variants have been shown to dramatically increase COVID-19 transmission
- County Health Officer recommendations for safely holding public meetings are still in effect



# AB 361 (Teleconference Meetings) Previous Board Actions



- Adopted multiple resolutions authorizing teleconference meetings as required by AB 361
  - October 13, 2021 (Resolution No. 15/2021)
  - November 17, 2021 (Resolution No. 19/2021)
  - January 12, 2022 (Resolution No. 05/2022)
  - March 30, 2022 (Resolution No. 08/2022)
  - June 22, 2022 (Resolution No. 09/2022)
  - September 14, 2022 (Resolution No. 18/2022)
- Authorized continuance of teleconference meetings at intervening Board meetings
  - December 8, 2021
  - February 9, 2022
  - April 20, 2022
  - May 11, 2022
  - July 13, 2022
  - October 12, 2022

# Board Direction to Staff

## Future Board Meeting Format Alternatives



Staff is seeking preliminary direction regarding future Board Meeting format and associated timeline

### Recommended Approach

- Maintain virtual meetings through January 2023, as allowed by GC Section 54953(e) – avoids potential “winter surge” COVID-19 impacts
- Provide direction regarding tentative plan to return to in-person meetings in February 2023 with either:
  1. **In-person Board Meetings only**, or
  2. **In-person Board Meetings with hybrid option** (i.e., Zoom); staff is currently assessing options and will procure/test equipment to upgrade Board Room, if directed by Board

# Recommended Actions

- Find that circumstances exist as stated in Board Meeting packet, and authorize Board of Directors, in all its capacities, and its subcommittees, to conduct teleconference meetings under GC Section 54953(e)
- Determine that these bodies will hold virtual meetings for the next 30 days
- Direct the General Manager to return this matter to the Board for reconsideration as to all bodies covered by Resolution No. 18/2022