

## MEMORANDUM LOCAL AGENCY FORMATION COMMISSION

**TO:** Local Agency Formation Commission

**FROM:** Stephen Lucas, Executive Officer

**SUBJECT:** **Agenda Item 2.2 – Renewal of Resolution in Support of Assembly Bill 361**

**DATE:** September 22, 2022 for the meeting of October 6, 2022

### SUMMARY

On September 16, 2021, Governor Newsom signed AB 361 to amend the Brown Act to allow legislative bodies to meet via teleconference during a proclaimed state of emergency in accordance with procedures established by AB 361 rather than under the Brown Act's more narrow standard rules. If the Butte LAFCo desires to continue to have the Commission the ability to meet remotely via teleconference without meeting the narrower standard Brown Act rules, the Butte LAFCo is required to adopt a resolution making the findings required by AB 361.

The Butte LAFCo may meet using the alternative rules of AB 361 if there is (1) a current state of emergency declared by the Governor pursuant to California Government Code section 8625 and either (2) state or local officials have imposed or recommended measures to promote social distancing or (3) the Butte LAFCo has met or is meeting to decide by a majority vote that meeting in person presents imminent risks to the health or safety of attendees.

On March 4, 2020, Governor Gavin Newsom issued a Proclamation of State of Emergency. Additionally, the Centers for Disease Control indicates that COVID-19 is a highly transmissible virus that is spread when an infected person breathes out droplets and very small particles that contain the virus, and such droplets and particles are breathed in by other people. Since June of 2021, more infectious variants of the virus, known as the Delta, Omicron, and other variants, have emerged. Based on the state of emergency and the potential imminent risks to attendees of in-person meetings, the Butte LAFCo authorized tele/video conference meetings at its meeting on 5/5/22 for 30-days. To continue conducting remote meetings after the 30-days, AB 361 requires that the Commission revisit whether the state of emergency still exists.

Therefore, the Commission will consider the attached resolution making the following findings:

1. The Governor's COVID-19 State of Emergency Declaration issued on March 4, 2020, proclaiming a State of Emergency in the State of California still exists.
2. That the Board desires to renew its authorization to conduct meetings via tele/video conference for all Regular and Special Meetings of the Board for the 30 days following this resolution, in accordance with Government Code Section 54953(e)(1)(C) and other applicable provisions of the Brown Act.

The resolution does not require the Butte LAFCo to hold meetings via teleconference, but rather provides it as an option if so needed. If the teleconference meeting authorization renewal is not approved by a majority vote of the Board, future Butte LAFCo meetings will be in-person only meetings.

**Action Requested:** Consider Memorandum and Approve Resolution No. 09 2022/23

Attachment: 1. Draft Resolution No. 09 2022/23

## RESOLUTION NO. 09 2022/23

**DRAFT****A RESOLUTION OF THE BUTTE LOCAL AGENCY FORMATION COMMISSION  
RENEWING THE AUTHORIZATION, PURSUANT TO AB361, TO CONDUCT REMOTE  
TELECONFERENCE MEETINGS OF THE BUTTE LOCAL AGENCY FORMATION COMMISSION FOR  
AN ADDITIONAL 30 DAY PERIOD.**

**WHEREAS**, the Butte Local Agency Formation Commission is committed to preserving and nurturing public access and participation in meetings of the Commission; and

**WHEREAS**, all meetings of the Butte Local Agency Formation Commission 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 District's legislative bodies conduct their business; and

**WHEREAS**, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, 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 District'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 would present imminent risks to the health and safety of attendees, Commissioners and staff; and

**WHEREAS**, the Commission previously adopted a Resolution No. 20 2021/22 on June 2, 2022, finding that the requisite conditions existed for the Commission 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 Commission must reconsider the circumstances of the state of emergency that exists with the jurisdiction of the Commission and has done so; and

**WHEREAS**, such conditions continue to exist in the County of Butte, specifically, the State of Emergency proclaimed by Governor Newsom on March 4, 2020, due to the COVID 19 Pandemic; and

**WHEREAS**, the California Division of Occupational Safety and Health ("Cal/OSHA") regulations at Title 8 Section 3205 recommends physical distancing in the workplace as precautions against the spread of COVID-19 and imposes certain restrictions and requirements due to a "close contact" which occurs when individuals are within six feet of another in certain circumstances; and

**WHEREAS**, the Commission does hereby find that the rise in SARS-CoV-2 Omicron Variant has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of the Commission or its staff, and desires to proclaim a local emergency exists and ratify the proclamation of state of emergency by the Governor of the State of California and the regulations of Cal/OSHA recommending physical distancing; and

**WHEREAS**, as a consequence of the local emergency, the Commission does hereby find that the legislative body of the Butte Local Agency Formation Commission 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 comply with the requirements to

provide the public with access to meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

**WHEREAS**, the Commission provides a written agenda that fully describes the process for the public to fully participate in the Commission's virtual meetings to include viewing, listening and commenting in real time in all agenda items.

**NOW, THEREFORE, THE BUTTE LOCAL AGENCY FORMATION COMMISSION 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. Proclamation of Local Emergency. The Board hereby proclaims that a local emergency now exists throughout the Commission's jurisdictional boundaries, and the rise in SARS-CoV-2 Omicron Variant has caused, and will continue to cause, conditions of peril to the safety of all persons participating in the Commission's meetings that are likely to be beyond the control of the Commission or its staff, equipment, and facilities of the Commission.

Section 3. Ratification of Governor's Proclamation of a State of Emergency. The Commission hereby ratifies the Governor of the State of California's Proclamation of State of Emergency for COVID 19, effective as of its issuance date of March 4, 2020.

Section 4. Remote Teleconference Meetings. The Executive Officer and the Butte Local Agency Formation Commission 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 meetings in accordance with Government Code section 54953(e) and applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect on September 1, 2022 and shall be effective until the earlier of October 1, 2022, or such time the Commission adopts a subsequent resolution in accordance with Government Code 54953(e) (3) to extend the time during which the legislative body of the Butte Local Agency Formation Commission may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

**PASSED AND ADOPTED** by the Butte Local Agency Formation Commission this 6th day of October, 2022, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINS:**

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Clerk of the Commission

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**BILL CONNELLY**, Chair  
Butte Local Agency Formation Commission