



Agenda Item No. (10)(A)
Special Order of Business

To: Board of Directors
Meeting of January 27, 2023

From: Amorette M. Ko-Wong, Secretary of the District
Denis J. Mulligan, General Manager

Subject: **ADOPT A RESOLUTION IN ACCORDANCE WITH ASSEMBLY BILL 361
FINDING THAT THE PROCLAIMED STATE OF EMERGENCY
CONTINUES TO IMPACT THE ABILITY TO MEET SAFELY IN PERSON**

Recommendation

It is recommended that the Board of Directors adopt a resolution in accordance with Assembly Bill 361, finding that the proclaimed state of emergency continues to impact the ability to meet safely in person.

Summary

In March 2020, the Governor of California issued several executive orders in response to the COVID-19 pandemic suspending portions of the Ralph M. Brown Act to allow Board members to participate remotely in Board Meetings via teleconferencing without complying with the Brown Act's restrictions on such remote attendance. (Executive Order N-25-20 and N-29-20) Pursuant to the Governor's executive orders, District staff transitioned all Committee and Board of Directors (Board) meetings to teleconferencing meetings as a means of ensuring continuity of the Board's business

The Governor's executive order that specifically waived certain requirements of the Brown Act expired on September 30, 2021. But on September 16, 2021, the Governor signed Assembly Bill (AB) 361 into law, effective on October 1, 2021. AB 361 amends the Brown Act to allow legislative bodies to meet remotely without complying with traditional teleconference meeting rules, provided there is a state of emergency, and either (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees.

The Governor-declared State of Emergency continues to be in effect and both State and County officials where the District's Board conducts its meetings continue to recommend measures to promote physical distancing. The District defers to the City and County of San Francisco's Health Officer Order and state guidance for its safety protocols. With the current orders also in place in the various counties, the District's teleconference Board meetings therefore are in accordance with AB 361's requirements.

On October 17, 2022, the Governor's Office announced that the COVID-19 State of Emergency will end on February 28, 2023. Without any further changes, once the State of Emergency is lifted, the District will no longer have the authority to conduct Committee and Board meetings remotely.

In order to qualify for AB 361, the District's Board of Directors must, within thirty days of its first meeting under AB 361, and every thirty days thereafter, make findings that it has reconsidered the circumstances of the state of emergency, and that either or both (a) the state of emergency continues to directly impact the ability to meet safely in person and/or (b) State or local officials continue to impose or recommend measures to promote social distancing. The first teleconference meeting under AB 361's requirements was the Special Board of Directors meeting on October 1, 2021; and the Board subsequently adopted a resolution at its October, November, and December meetings; and in 2022 at the January, February, March, April, May, June, July, August, September, October, November and December meetings, that allow for both Committees and the full Board to continue to meet via remotely for the 30 days without complying with traditional notice and access rules for teleconference meetings.

Staff recommends that the Board adopt these findings with the understanding that the Board would need to approve a similar resolution every 30 days if it wishes to continue to meet under AB 361's requirements for remote Board meetings. The Board will again consider this matter one last time at the next regular Board meeting in February 2023 as the Board will begin meeting in-person for the March 2023 Committee and Board meetings and thereafter.

Fiscal Impact

There is no fiscal impact associated with this recommendation.