
**SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION**

LAFCo

44 N. SAN JOAQUIN STREET SUITE 374 ☐ STOCKTON, CA 95202

**Local Agency Formation Commission Notice and Call of Special Meeting Agenda
Tuesday, November 9, 2021 1 P.M.**

In accordance with the Governor's Executive Order N-33-20, and for the period in which the Order remains in effect, the San Joaquin Local Agency Formation Commission's office will be closed to the public.

To accommodate the public during this period of time that the Board's Chambers are closed to the public, the San Joaquin Local Agency Formation Commission has arranged for Commission Members and members of the public to observe and address the meeting virtually.

TO ATTEND:

Join Zoom Meeting:

<https://us02web.zoom.us/j/84400990441?pwd=NjhXL09tR2tyNDhXTDd2MkQ3Vks5UT09>

Meeting ID: 844 0099 0441

Passcode: 712121

Dial by phone +1 669 900 6833 US

Note: If you don't have access to a smart device or a computer with a webcam & a mic, you can dial in using the teleconference number and meeting ID above.

Attention Callers: Please mute the call unless speaking.

*****To be recognized to speak, please use the "raise hand" or chat feature in Zoom. *****
We have also provided a call-in number, as identified on this Agenda, and encourage you to attend by telephone. *To be recognized to speak, press *9 to signal the moderator.*****

Download Agenda Packet and Materials at: www.sjgov.org/commission/lafco

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Call to Order

Announce Date and Time of Meeting for the Record

Roll Call

Pledge of Allegiance

CONSENT ITEMS

1. MEETING MINUTES OF OCTOBER 14, 2021
(Action by All Members)
Approve Summary Minutes of the regular meeting.
2. OUT-OF-AGENCY SERVICE REQUEST
(Action by Regular Members)
Request from the City of Stockton to provide out-of-agency sewer service outside the City boundary under Government Code §56133 to 2913 South Odell Avenue in Stockton.
3. DISCUSSION AND POSSIBLE ACTION REGARDING MEETINGS OF THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION UNDER AB 361 USING TELECONFERENCE DURING A PROCLAIMED STATE OF EMERGENCY
(Action by All Members)
Consider Resolution to conduct meetings of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 54953 as amended by Assembly Bill 361 for the period November 9, 2021 to December 9, 2021.

PUBLIC COMMENTS

4. Persons wishing to address the Commission on matters not otherwise on the agenda

EXECUTIVE OFFICER COMMENTS

5. Comments from the Executive Officer

COMMISSIONER COMMENTS

6. Comments, Reports, or Questions from the LAFCO Commissioners

ADJOURNMENT

LAFCo

44 N. SAN JOAQUIN STREET SUITE 374 □ STOCKTON, CA 95202

**SUMMARY MINUTES
October 14, 2021**

VIDEO CONFERENCE

Chairman Villapudua called the meeting to order at 9:00 a.m.

MEMBERS PRESENT Commissioners Breitenbucher, Johnson, Lincoln, Patti and Chairman Villapudua.

MEMBERS ABSENT: None

ALTERNATE MEMBERS PRESENT: Commissioners Diallo, Morowit and Winn

ALTERNATE MEMBERS ABSENT: None

OTHERS PRESENT: James Glaser, Executive Officer; Rod Attebery, Legal Counsel; Elizabeth Contreras, LAFCo Analyst and Mitzi Stites, Commission Clerk

Chairman Villapudua welcomed Commissioner Diallo who will be the new Alternate Member representing the City of Lathrop.

CONSENT ITEMS

A motion was made by Commissioner Patti and seconded by Commissioner Breitenbucher, to approve the Consent Calendar.

The motion for approval of the Summary Minutes of July 8, 2021 meeting. Commissioners Johnson and Diallo abstained. Commissioners Breitenbucher, Johnson, Lincoln, Morowit, Patti and Chairman Villapudua passed the minutes.

The motion for approval for the out-of-agency service request to properties located 731 Merced Avenue, 321 Country Club Blvd., 1765 Stanford Avenue and 2829 D. Street, 1834 South B

Street, 1826 South B Street, 1422 Meadow Avenue, 3222 Sanguinetti Lane, and 1786 West Washington Street in Stockton, was passed by a unanimous vote of the regular voting members of the Commission.

ACTION ITEMS

3. 2020-2021 SAN JOAQUIN GRAND JURY'S REPORT ON INDEPENDENT SPECIAL DISTRICTS: "*TRANSPARENCY NOT FOUND*"
(Action by Regular Members)
Review the Grand Jury Report and consider LAFCo's responses to The Grand Jury's Finding and Recommendations.

Mr. Glaser, Executive Officer, gave a PowerPoint presentation on an overview of the Grand Jury report that focuses on three areas: *Independent Special Districts* and the need to comply with SB929, LAFCo and the *County Auditor's Office* and the need to simplify and consolidate public information and improve the public's ability to easily access information.

LAFCo Staff agrees with the Grand Jury's assessment and plans to implement their recommendations including creating a webpage on the LAFCo website with appropriate links to access comprehensive information for each special district. Staff agrees with the Grand Jury that these changes be completed by March 31, 2022.

It is recommended that the Commission approve the LAFCo response to the Honorable Xapuri B. Villapudua, Presiding Judge regarding the 2020-2021 Grand Jury's Final Report.

Chairman Villapudua opened the floor to Commissioner Comments.

No comments were made.

Chairman Villapudua closed the floor to Commissioner Comments.

Chairman Villapudua opened the floor to Public Comments.

No one came forward.

Chairman Villapudua closed the floor to Public Comments.

Moved by Commissioner Patti seconded by Commissioner Breitenbucher to approve LAFCo's response to Honorable Xapuri B. Villapudua, Presiding Judge regarding the 2020-2021 Grand Jury's Final Report.

Roll Call Vote:

Ayes: Commissioner Breitenbucher, Lincoln, Johnson, Patti, and Chairman Villapudua

Nos: None

Absent: None

Do to time restrictions for Legal Counsel; LAFCo Chairman Villapudua moved Agenda No. 5 to be heard before Agenda Items No. 4.

SPECIAL MATTERS

5. TRANSMITTAL OF THE STATEMENT OF DECISION AND JUDGMENT REGARDING EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a)

Name of Case: Tracy Rural County Fire Protection District with the City of Tracy as named Real Party of Interest v. San Joaquin LAFCo (San Joaquin County Superior Court Case No. 2019-9687)

Jim Glaser, Executive Officer gave an over view of the Courts decision that was in favor of LAFCo. In addition to dismissing the frivolous claims by the opponents, the Court made it clear that LAFCOs have the authority to adopt public policy as specified in the Cortese Knox Hertzberg Act. The ability for agencies to adopt public policy is absolutely fundamental to the function of government.

Dan Truax Legal Counsel sated that Judge Holly's decision clearly shows that LAFCo does have the power to adopt policy. Although there has been an appeal filed, nothing else has been done. It is our hope that the Appeals Court will support the decision.

ACTION ITEMS

4. DISCUSSION AND POSSIBLE ACTION REGARDING MEETINGS OF THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION UNDER AB 361 USING TELECONFERENCE DURING A PROCLAIMED STATE OF EMERGENCY

(Action by All Members)

Consider Resolution to conduct meetings of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 54953 as amended by Assembly Bill 361 for the period October 14, 2021 to November 12, 2021.

Rod Attebery, Legal Counsel and Allison Felkins, Legal Counsel, discussed and proposed a possible action regarding meetings of the San Joaquin Agency Formation Commission under AB 361 using teleconference during a proclaimed state of emergency. It was recommended that the Commission approve the attached LAFCo resolution 1455 authorizing Commission to conduct meeting of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 45942 as amended by AB 361 for the period of October 14, 2021 to November 12, 2021.

Chairman Villapudua opened the floor to Commissioner Comments.

Chairman Villapudua closed the floor to Commissioner Comments.

Commissioner Johnson inquired if this item needed to be on the agenda every month.

Rod Attebery, Legal Counsel, stated that yes, it does need to be on the agenda. It can be under Consent Items or there can be a Special Meeting where it is the only Agenda Item. Governor Newsome stated that if your County is in a State of Emergency than meetings can be held virtual but only if Commission votes now and every month after October 2, 2021 to comply.

Commissioner Patti inquired as to why LAFCo cannot meet in person, as the chambers are ready for in person meetings.

Rod Attebery, Legal Counsel, stated that there is no reason that LAFCo cannot meet in public it is up to the Commission / Chairman to set policy. San Joaquin County is under a state of emergency as well as requesting people stay six feet apart.

Chairman Villapudua inquired if people can call in.

Rod Attebery, Legal Counsel, stated that he was not aware of the capability that the Board of Supervisor Chambers has for that.

Chairman Villapudua stated that hopefully we could start in January with in person meetings.

Commissioner Johnson supports the resolution. We all need flexibility as long as possible. We want to make sure that everyone feels safe.

Commissioner Morowit agrees with Commissioner Johnson, that we need flexibility.

Commissioner Breitenbucher agrees with starting public meetings that allow for flexibility.

Chairman Villapudua opened the floor to Public Comments.

No one came forward.

Chairman Villapudua closed the floor to Public Comments.

Moved by Commissioner Patti seconded by Commissioner Johnson to approve LAFCo's resolution 1445, authorizing Commission to conduct meetings of the San Joaquin Local Agency Formation Commination using teleconferencing pursuant to Government Code 54953 as amended by AB 361 For the period of October 14, 2021 to November 12, 2021.

Roll Call Vote:

Ayes: Commissioner Breitenbucher, Lincoln, Johnson, Patti, and Chairman Villapudua

Nos: None

Absent: None

SPECIAL MATTERS

6. STATUS REPORT REGARDING SUCCESSION PLANNING

Oral Report of the AD HOC Committee regarding Succession Planning

Commissioner Morowit stated the Ad Hoc Committee consisting of himself and Commissioner Peter Johnson met with Executive Officer James Glaser and Rod Attebery, Legal Counsel, to discuss a succession planning. Mr. Glaser, Executive Officer will be leaving LAFCo before the end of the second quarter next year. Rod Attebery will inquire with recruitment firms regarding recruitment for the Executive Officer position.

PUBLIC HEARING

7. DISSOLUTION OF NEW MARIPOSA DRAINAGE DISTRICT (LAFCo 21-21)

(Action by Regular Members)

Request from New Mariposa Drainage District to dissolve.

Mr. Glaser, Executive Officer presented a PowerPoint presentation overview of the New Mariposa Drainage District. The District is located near the intersection of Dodds Road and Mariposa Road, Eastern unincorporated county area.

On November 5, 2014, the Board of Trustees approved a resolution consenting to dissolving the New Mariposa Drainage District and submitted an application to LAFCo for processing. If the Commission approves the dissolution of the New Mariposa Drainage District the district will cease to exist, and all authorized powers will terminate upon the recordation of the Certificate of Completion. In its approval, the Commission may determine a successor district and impose terms and conditions to the dissolution [GC §57451(d)].

Staff recommends that the Commission name Central San Joaquin Water Conservation District as the successor district as it has and will continue to provide the services previously provided by the New Mariposa Drainage District. In addition, a condition should be included which would provide that all of the remaining assets of the dissolved district be allocated to Central San Joaquin Water Conservation District and that the received funds shall first be used to the extent necessary for payment of any outstanding obligations of the dissolved district (GC §57455).

Chairman Villapudua opened the floor to Commissioner Comments.

No comments were made.

Chairman Villapudua closed the floor to Commissioner Comments.

Chairman Villapudua opened the floor to Public Comments.

Reid Roberts, Counsel for Central San Joaquin Water Conservation District, inquired who pays any remaining debt.

James Glaser, Executive Officer, stated that New Mariposa Drainage District would pay the debt.

Chairman Villapudua closed the floor to Public Comments.

Moved by Commissioner Patti seconded by Commissioner Breitenbucher to approve Resolution 1453, approving the dissolution of the New Mariposa Drainage District.

Roll Call Vote:

Ayes: Commissioner Breitenbucher, Lincoln, Johnson, Patti, and Chairman Villapudua

Nos: None

Absent: None

EXECUTIVE OFFICER COMMENTS

8. Comments from the Executive Officer

James Glaser, Executive Officer, informed the Commission that there would be no November meeting but we will have a Special Meeting regarding AB 361. Staff has received the Mountain House Incorporation application and now can proceed with the process in becoming a city. This process is a lengthy one and hopefully can be completed this fiscal year. Manteca is working on their Municipal Service Review, The Cities of Lodi and Escalon are currently working on their Municipal Service Reviews and Spheres of Influence plans. There is a very complex plan with County Service Area No. 41- Eagle Crest that is in the beginning stages. The LAFCo offices have officially relocated to the County Building.

COMMISSIONER COMMENTS

9 Comments, Reports, or Questions from the LAFCO Commissioners

Commissioner Patti wanted to thank Mr. Glaser for his excellent knowledge and his assistance regarding growth and making sure everything is done properly. He is grateful for all his years of service and he has made it very easy to be on this Commission. He is a fantastic leader and whomever comes on board as the next Executive Officer has big shoes to fill.

Commissioner Johnson wanted to add that Mr. Glaser has set the bar high and that he enjoys working with him on LAFCo. Commissioner Johnson also stated that he appreciates the fact that Mr. Glaser will assist with the transition process.

CLOSED SESSION

10. Open Session Disclosure Regarding Closed Session Items pursuant to Government Code Section 54957.7

11. CLOSED SESSION

A. Conference with Legal Counsel-Existing Litigation pursuant to
Government Code Section 54956.9(a)

Name of Case: Tracy Rural County Fire Protection District with the City
of Tracy as named Real Party of Interest v. San Joaquin LAFCo
(San Joaquin County Superior Court Case No. 2019-9687)

12. Open Session Report on Closed Session pursuant to Government Code Section 54957.1

There was no closed session required.

The meeting adjourned at 10:01 a.m.

SAN JOAQUIN

LOCAL AGENCY FORMATION COMMISSION

AGENDA ITEM NO. 2

LAFCo

44 N. SAN JOAQUIN STREET SUITE 374 □ STOCKTON, CA 95202

EXECUTIVE OFFICER'S REPORT

November 9, 2021

TO: LAFCo Commissioners

FROM: James E. Glaser, Executive Officer

SUBJECT: **CITY OF STOCKTON OUT-OF-AGENCY SERVICE REQUEST**

Recommendation

It is recommended that the Commission approve the requests from the City of Stockton to provide out-of-agency sewer service under the Government Code §56133 to property located at 2913 South Odell Avenue in Stockton.

Background

Government Code Section §56133 states that the Commission may authorize a city or special district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization and that prior to providing new or extended service, the city or district must first receive approval from LAFCo. The Commission adopted a policy that conditions their approval for out-of-agency service requiring the recordation of an agreement with the landowner consenting to annexation of their property when annexation becomes feasible.

The City of Stockton submitted the request for approval to extend sanitary sewer services to single-family residence outside the city limits but within the City's sphere of influence. A vicinity map is attached showing the location of the out-of-agency request. Connections to City sewer lines are available to the property and the property owner has paid the appropriate connection fees to the City. The request for out-of-agency service is in compliance with the Government Code §56133 and Commission policies. Staff recommends approval of the attached Resolution 1456 approving out-of-agency service.

Attachment: Resolution No. 1456
Vicinity Map

Resolution No. 1456

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION
APPROVING AN OUT-OF-AGENCY SANITARY SEWER SERVICE FROM THE
CITY OF STOCKTON TO 2913 SOUTH ODELL AVENUE IN STOCKTON**

WHEREAS, the above-reference requests have been filed with the Executive Officer of the San Joaquin Local Agency Formation Commission pursuant to §56133 of the California Government Code.

NOW THEREFORE, the San Joaquin Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. Said out-of-agency service request is hereby approved.

Section 2. The proposal is found to be Categorically Exempt from CEQA.

Section 3. The proposal is subject to the following conditions:

- a. Prior to connection to the city sewer or water, the City of Stockton shall record a covenant and agreement with the property owners to annex to the City of Stockton in a form acceptable to the Executive Officer.
- b. This approval and conditions apply to current and future property owners.

PASSED AND ADOPTED this 9th day of November 2021, by the following roll call votes:

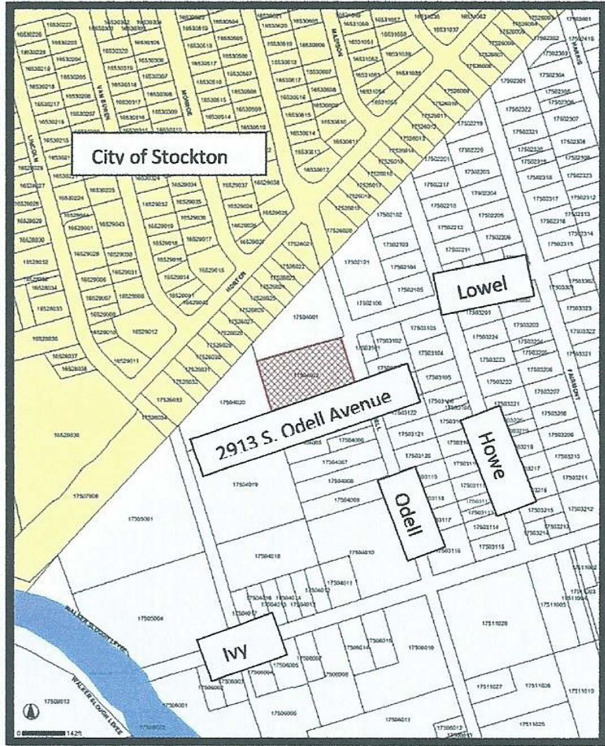
AYES:

NOES:

ABSENT:

MIGUEL VILLAPUDUA, Chairman
San Joaquin Local Agency
Formation Commission

Res. No. 1456
11-09-21



LAFCo

44 NORTH SAN JOAQUIN STREET, SUITE 374 □ STOCKTON, CA 95202

EXECUTIVE OFFICER'S REPORT

DATE: November 9, 2021

FROM: Rod Attebery, General Counsel

SUBJECT: Discussion and Possible Action Regarding Meetings of the San Joaquin Agency Formation Commission Under AB 361 Using Teleconference During a Proclaimed State of Emergency

Recommendation

It is recommended that the Commission approve the attached LAFCo resolution 1457 authorizing Commission to conduct meeting of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 45942 as amended by AB 361 for the period of November 9 to December 9, 2021.

Background

On September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361 ("AB 361") into law, amending the Ralph M. Brown Act (Gov. Code, § 54950 *et seq.*) (the "Brown Act"). AB 361 codified certain modified requirements for teleconference meetings held by public agencies, similar to those previously authorized and extended by executive order during the COVID-19 State of Emergency.

AB 361 was introduced to provide a longer-term solution for teleconference meetings during states of emergency, effective until January 1, 2024. AB 361 amends Section 54953 of the Government Code to allow the legislative body of a local agency to meet remotely without complying with the normal teleconference rules for agenda posting, physical location access, or quorum rules. To do so, one of three scenarios must exist, all of which require that the Governor has proclaimed a State of Emergency pursuant to Government Code section 8625:

- A. State or local officials have imposed or recommended measures to promote social distancing;
- B. The agency is holding a meeting for the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees; or

C. The agency is holding a meeting and has determined that meeting in person would present imminent risks to the health or safety of attendees.

(Gov. Code, § 54953(e)(1).)

An agency and any committee that is required to comply with the Brown Act, that holds a meeting under either of the three scenarios must continue to post its agenda in the time required by the Brown Act, and ensure that the public is able to address the agency or committee directly through teleconference means. (*Id.* at subd. (e)(2).) If a disruption prevents the agency or committee from broadcasting the meeting or receiving public comments in real time, the agency or committee cannot take further action until those functions are restored; any actions taken during such a disruption are subject to legal challenge. (*Id.*)

Assuming the State of Emergency remains in effect, if the San Joaquin Local Agency Formation Commission (“LAFCo” or the “Commission”) or LAFCo committees wish to continue meeting under the modified rules, then the Commission, and each committee that wants to continue to meet using teleconference must each individually adopt an initial resolution within 30 days of the first teleconference meeting, and then must adopt an extension resolution at least every 30 days thereafter. (*Id.* at subd. (e)(3).) The resolutions must contain findings stating that the Commission or committee has reconsidered the circumstances of the State of Emergency and either (1) the State of Emergency continues to directly impact the ability of the members to meet safely in person; or (2) State or local officials continue to impose or recommend measures to promote social distancing. (*Id.*)

Where consecutive regular meetings fall outside the 30-day time frame, the Commission or committee should hold a special “AB 361” remote meeting within the 30-day window simply to reauthorize the AB 361 exceptions. Without the AB 361 exceptions, the Commission or committee will be required to return to normal in-person meetings or provide public access at each remote location under the traditional teleconference rules, as of October 1, 2021. Therefore, if the AB 361 authorization lapses and the Commission or a committee wishes to hold a teleconference meeting, it will be required to post agendas and provide public access at each remote location, identify those locations in the agenda, and maintain a quorum of the Commission within agency boundaries. If a meeting is not held in conformity with AB 361, commissioners may not teleconference from their residences or other locations which are not open and accessible to the public.

FISCAL IMPACT:

None.

Attachment: Resolution 1457

Resolution No. 1457

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING COMMISSION TO CONDUCT MEETINGS OF THE SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION USING TELECONFERENCING
PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361 FOR THE
PERIOD NOVEMBER 9, 2021 TO DECEMBER 9, 2021.**

WHEREAS, the San Joaquin Local Agency Formation Commission (“LAFCo”) is committed to preserving and nurturing public access and participation in meetings of the Commission; and

WHEREAS, all meetings of LAFCo’s legislative bodies 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 LAFCo’s legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), as amended by AB 361 (2021), 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, 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; and

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, Cal-OSHA adopted emergency regulations (Section 3205) imposing requirements on California employers, including measures to promote social distancing; and

WHEREAS, an Order of the San Joaquin County Public Health Officer acknowledges that close contact to other persons increases the risk of transmission of COVID-19; and

WHEREAS, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations, therefore, meeting in person would present imminent risks to the health or safety of attendees.

NOW, THEREFORE, BE IT RESOLVED, that the San Joaquin Local Agency Formation Commission approves

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

Section 2. Finding of Imminent Risk to Health or Safety of Attendees. LAFCo does hereby find that the current dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations has caused, and will continue to cause, conditions of peril to the safety of persons, thereby presenting an imminent risk to health and/or safety to LAFCo's employees and attendees of the Commission's public meetings; and

Section 3. Teleconference Meetings. LAFCo does hereby determine as a result of the State of Emergency proclaimed by the Governor, and the recommended measures to promote social distancing made by State and local officials that the Commission may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e)(1)(A) and (B) of section 54953, and shall 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

Section 4. Direction to Staff. The Executive Officer and LAFCo staff 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 other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED this 9th day of November 2021, by the following roll call vote:

AYES:

NOES:

ABSENT:

MIGUEL VILLAPUDUA, Chairman
San Joaquin Local Agency
Formation Commission