

RESOLUTION NUMBER 2.A

A RESOLUTION OF THE SANTA MONICA GROUNDWATER SUSTAINABILITY AGENCY (“GSA”) MAKING FINDINGS AS REQUIRED BY AB 361 TO PERMIT THE GSA TO CONTINUE TO BE CONDUCTED BY TELECONFERENCE WHILE THE COVID-19 EMERGENCY REMAINS IN PLACE

**WHEREAS** international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

**WHEREAS**, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for broader spread of COVID-19; and

**WHEREAS**, on March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

**WHEREAS**, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

**WHEREAS**, the Governor’s March 4, 2021 declaration of a state of emergency based on the COVID-19 pandemic remains in place; and

**WHEREAS**, throughout the emergency resulting from the COVID-19 pandemic, the Los Angeles County Department of Public Health (“LACDPH”) has issued a series of Health Officer Orders containing mandates and recommendations for keeping safe and preventing the spread of COVID-19; the most recent Health Officer Order, issued September 17, 2021, states that all individuals and business are strongly urged to follow the LACDPH Best Practice Guidance, containing health and safety recommendations for COVID-19; the LACDPH Best Practice Guidance for individuals titled “COVID-19: Reducing Risk, Keeping Safe & Preventing Spread,” in a section titled “How to Reduce the Risk of COVID-19,” states “Keep your distance. Use two arms lengths as your guide (about 6 feet) for social distancing with people outside your household when you are not sure they are fully vaccinated”; and the LACDPH Best Practices to Prevent COVID-19, Guidance for Businesses and Employers, in a section titled “Maintain healthy business operations,” recommends implementation of policies and practices that support physical distancing, stating, “Whenever possible, take steps to reduce crowding indoors and enable employees and customers to physically distance from each other. Generally, at least 6 feet of distance (2 arm lengths) is recommended, although this is not a guarantee of safety, especially in enclosed or poorly ventilated spaces.”; and

**WHEREAS**, the Ralph M. Brown Act, Government Code Section 549, et seq. (“the Brown Act”), allows for meetings of legislative bodies of a local agency, as those terms are defined in the Brown Act, to occur via teleconferencing subject to certain

requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, and that members of the public be allowed to address the legislative body at each teleconference location; and

**WHEREAS**, Paragraph 3 of Executive Order N-29-20, issued by the Governor on March 17, 2020, among other things, suspended the Brown Act requirements for teleconferencing, provided that notice and accessibility requirements were met, the public was allowed to observe and address the legislative body at the meeting, and the legislative body had a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, specifying that this suspension would remain in place during the period in which state or local public health officials have imposed or recommended social distancing measures; and

**WHEREAS**, paragraph 42 of Executive Order N-08-21, issued by the Governor on June 11, 2021, withdrew and replaced paragraph 3 of Executive Order N-29-20's suspension of the Brown Act requirements for teleconferencing with a similar suspension of those requirements that it specified would remain in place only through September 30, 2021; and

**WHEREAS**, on September 16, 2021, the Governor signed into law Assembly Bill No. 361 ("AB 361"), which, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing or when the

legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, AB 361 requires legislative bodies that hold teleconferenced meetings under its abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body; and

WHEREAS, AB 361 requires the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored; and

WHEREAS, AB 361 prohibits the legislative body from requiring public comments to be submitted in advance of the meeting and specifies that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time; and

WHEREAS, AB 361 prohibits the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the

public comment period has elapsed or until a reasonable amount of time has elapsed, as specified; and

WHEREAS, when there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, AB 361 requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under AB 361's abbreviated teleconferencing procedures; and

WHEREAS, on September 20, 2021, to avoid potential conflict between AB 361 and Executive Order N-08-21, the Governor signed Executive Order N-15-21, which specifies that Executive Order N-08-21 continues to government meetings of local legislative bodies through September 30, 2021; and

WHEREAS, in light of the continuing State and local declarations of emergency resulting from the COVID-19 pandemic, the continuing recommendation by Los Angeles County public health officials of measures to promote social distancing, and the imminent risks to the health of safety of attendees at meetings conducted in person, the GSA desires to make the findings required by AB 361 to allow the GSA to meet under AB 361's abbreviated teleconferencing procedures.

NOW, THEREFORE, THE SANTA MONICA GROUNDWATER SUSTAINABILITY AGENCY DOES RESOLVE AS FOLLOWS:

SECTION 1. The Santa Monica Groundwater Sustainability Agency ("GSA") finds that the State and local declarations of emergency resulting from the COVID-19 pandemic remain in place.

SECTION 2. The GSA finds that local officials, namely, the Los Angeles County Department of Public Health, has continued to recommend measures to promote social distancing.

SECTION 3. The GSA finds that, as a result of the emergency resulting from the COVID-19 pandemic, in-person meetings of the GSA would present imminent risks to the health and safety of attendees, including in particular, members of the public attending such meetings.

SECTION 4. As a result of the findings in Sections 1 through 3 above, the GSA is authorized to conduct meetings under AB 361's abbreviated teleconferencing procedures, without complying with the requirements set forth in Government Code Section 54953(b)(3), subject to compliance with the requirements set forth in Government Code Section 54953(e)(2).

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The GSA hereby declares that it would have passed this Resolution and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Resolution would be subsequently declared invalid or unconstitutional.

SECTION 6. The Secretary of the GSA shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

I, Lisette Gold, Secretary of the Santa Monica Groundwater Sustainability Agency, do hereby certify that Resolution No. \_\_\_\_\_ was duly adopted at a meeting of the Santa Monica Groundwater Sustainability Agency held on the \_\_\_\_\_th day of December 2021, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

---

GSA Chairperson [Name]