

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2022-27

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BAY AREA AIR
QUALITY MANAGEMENT DISTRICT AUTHORIZING REMOTE
TELECONFERENCE MEETINGS FOR THE PERIOD
DECEMBER 7, 2022 TO JANUARY 6, 2023**

WHEREAS, the Bay Area Air Quality Management District (Air District) is committed to preserving and nurturing public access to and participation in meetings of the Board of Directors, Board Committees, and all other legislative bodies of the Air District; and

WHEREAS, all meetings of Air District legislative bodies are open and public, as required by the Ralph M. Brown Act (Brown Act), Cal. Gov. Code §§ 54950-54963, so that any member of the public may attend, participate in, and watch such meetings as the Air District's legislative bodies conduct their business; and

WHEREAS, beginning in 2020, the COVID-19 pandemic gave rise to significant health risks that made it unduly risky for the Air District's legislative bodies to hold in-person public meetings; and

WHEREAS, the Brown Act authorizes remote teleconferencing participation in meetings by members of a legislative body, but as of the beginning of the pandemic, it included certain restrictions in Government Code section 54953(b)(3) that made fully remote meetings impractical; and

WHEREAS, in response to this situation, and in order to facilitate remote meetings to promote public health and allow for social distancing during the COVID-19 pandemic, the Legislature enacted AB 361 (Rivas), which (among other things) created Government Code section 54953(e); and

WHEREAS, Government Code section 54953(e) makes provision 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, on October 6, 2021, the Board of Directors adopted Resolution No. 2021-14 finding that the requisite conditions exist for the Air District's legislative bodies to conduct remote teleconference meetings without compliance with Government Code section 54953(b)(3), including (i) that there was a proclaimed state of emergency and state or local officials had imposed or recommended measures to promote social distancing, and (ii) that as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, Government Code section 54953(e) authorized the Board of Directors to continue to hold remote public meetings without compliance with Government Code section 54953(b)(3) as

long as the Board reconsidered the circumstances of the state of emergency at least every thirty days and made findings that (i) the state of emergency continued to directly impact the ability of members to meet safely in person and/or (ii) state or local officials continued to impose or recommend measures to promote social distancing; and

WHEREAS, the Board of Directors has continued to hold remote public meetings without compliance with Government Code section 54953(b)(3) since 2021, and accordingly has made the requisite findings at least every thirty days as required by Government Code section 54953(e)(3); and

WHEREAS, the Board of Directors has ceased holding public meetings pursuant to the provisions of Government Code section 54953(e) during certain periods since 2021, and therefore stopped reconsidering the circumstances of the state of emergency and making the requisite findings at least every thirty days as required by Government Code section 54953(e)(3) during these periods of cessation; and

WHEREAS, the most recent such cessation occurred when the Air District's legislative bodies ceased holding public meetings pursuant to the provisions of Government Code section 54953(e) after the most recent AB 361 30-day resolution expired on December 2, 2022;

WHEREAS, although the COVID-19 public health emergency has abated sufficiently to allow some members of the Air District's legislative bodies to participate safely in in-person meetings, it continues to present imminent risks to the health or safety of other members, including but not limited to those who may have weakened immune systems, those who may have reasons preventing them from being vaccinated, and those who may live in a household in close proximity with such persons; and

WHEREAS, the Board of Directors therefore wishes to authorize the Air District's legislative bodies to re-commence holding public meetings without compliance with Government Code section 54953(b)(3) as provided for under Government Code section 54953(e); and

WHEREAS, the Board of Directors has considered the circumstances set forth in Government Code section 54953(e)(1)(A) under which such meetings may be held, and has determined that there is a proclaimed state of emergency and that state or local officials have imposed or recommended measures to promote social distancing, including but not limited to the Santa Clara County Public Health Officer, who reaffirmed on September 21, 2022, that public bodies such as Air District Boards and Committees should continue to meet remotely to the extent possible; and

WHEREAS, the Board of Directors also recognizes and finds that the circumstances necessary for a continuing 30-day resolution under Government Code section 54953(e)(3) exist, because the state of emergency remains active and state or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, as a consequence of the COVID-19 pandemic, the Board of Directors does hereby find that the legislative bodies of the Air District shall conduct their meetings without compliance

with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e)(1)(A), and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2); and

WHEREAS, the Board of Directors does hereby authorize the legislative bodies of the Air District to conduct hybrid meetings where appropriate, wherein members of a legislative body who feel comfortable attending in person can do so, while others who may find the health risks from in-person attendance unreasonably high can participate remotely; and

WHEREAS, the Air District is publicizing in its meeting agendas zoom and webcast links and phone numbers for members of the public to participate remotely in meetings of the Air District's legislative bodies; and

WHEREAS, as long as the Board of Directors desires to continue to hold public meetings without compliance with Government Code section 54953(b)(3), it will reconsider the circumstances of the state of emergency at least every 30 days and will not hold such meetings unless it makes findings that (i) the state of emergency continues to directly impact the ability of members to meet safely in person, and/or (ii) state or local officials continue to impose or recommend measures to promote social distancing.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT 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. Affirmation of Local Emergency. The Board of Directors hereby finds that a proclaimed state of emergency related to COVID-19 exists within the San Francisco Bay Area and that measures to promote social distancing have been ordered or recommended by state or local public health authorities.

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

Section 4. Affirmation of Continuation of State Emergency. The Board of Directors has reconsidered the circumstances of the state of emergency since previous resolutions, and based on such reconsideration, hereby finds that state or local officials continue to impose or recommend measures to promote social distancing.

Section 5. Consideration of Hybrid Meetings: The Board of Directors hereby finds that although the COVID-19 public health emergency has abated sufficiently to allow some members of the Air District's legislative bodies to participate safely in in-person meetings, it continues to present imminent risks to the health or safety of other members, including but not limited to those who may have weakened immune systems, those who may have reasons preventing them from being vaccinated, and those who may live in a household in close proximity with such persons, such that

the Air District’s legislative bodies have a need to hold hybrid and/or fully-remote meetings, as appropriate, to protect the health of the members of the legislative bodies, Air District staff, and the public.

Section 6. Remote Teleconference Meetings. The staff and legislative bodies of the Air District 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 by remote teleconference without compliance with Government Code section 54953(b)(3) – either as hybrid remote/in-person meetings or as fully remote meetings, as appropriate under the circumstances – as provided for under Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 7. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) January 6, 2023, or (ii) such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the Air District may continue to teleconference without compliance with section 54953(b)(3).

The foregoing resolution was duly and regularly introduced, passed, and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the motion of DIRECTOR YOUNG, seconded by SECRETARY BARRETT, on the 7TH day of DECEMBER, 2022, by the following vote:


AYES: MARGARET ABE-KOGA, TERESA BARRETT, JOHN BAUTERS, JOHN GIOIA, CAROLE GROOM, ERIN HANNIGAN, DAVID HAUBERT, LYNDIA HOPKINS, DAVID HUDSON, DAVINA HURT, TYRONE JUE, OTTO LEE, SERGIO LOPEZ, NATE MILEY, KAREN MITCHOFF, ROB RENNIE, KATIE RICE, MARK ROSS, BRAD WAGENKNECHT, SHAMANN WALTON, STEVE YOUNG.


NOES: NONE.

ABSTAIN: NONE.

ABSENT: DAVID CANEPA, PAULINE RUSSO CUTTER, MYRNA MELGAR.

ATTEST:


John J. Bauters
Chair of the Board of Directors


Teresa Barrett
Secretary of the Board of Directors