

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2022-30

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT AUTHORIZING
CONTINUED REMOTE TELECONFERENCE MEETINGS FOR THE PERIOD
DECEMBER 21, 2022 TO JANUARY 20, 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 meetings at which 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 December 7, 2022, the Board of Directors adopted Resolution No. 2022-25, finding that the requisite conditions exist for the legislative bodies of the Air District to conduct remote teleconference meetings without compliance with Government Code section 54953(b)(3), including that there was and is a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, as a condition of continuing the use of the provisions found in section 54953(e) after adopting Resolution No. 2022-25 on December 7, 2022, at least every 30 days thereafter, the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District, and the Board of Directors has done so; and

WHEREAS, the COVID-19 state of emergency remains active and Governor Newsom's COVID-19 Emergency Proclamation of March 4, 2020 remains in effect to prevent, mitigate, and respond to the spread of COVID-19; and

WHEREAS, state and local officials continue to impose or recommend 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 the Air District Board of Directors and Committees should continue to meet remotely to the extent possible; and

WHEREAS, in reaffirming this recommendation, the Santa Clara County Public Health Officer identified the continued increased safety protection that social distancing provides as one means by which to reduce the risk of COVID-19 transmission;

WHEREAS, as a consequence of the local emergency persisting and the continued recommendation by public officials for measures to promote social distancing, the Board of Directors does hereby find that the legislative bodies of the Air District 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 continue to 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

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.

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 that Local Emergency Persists. The Board of Directors hereby finds that the state of emergency related to COVID-19 in the District remains active and that measures to promote social distancing have been ordered or recommended by public health authorities.

Section 3. Re-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. 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 continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Consideration of Hybrid Meetings: The Board of Directors hereby finds that although the COVID-19 public health emergency has abated somewhat, and that it may now be appropriate

in certain circumstances for some members of the Air District's legislative bodies to participate safely in in-person meetings, the public health emergency 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. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) January 20, 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 HUDSON, seconded by DIRECTOR CUTTER, on the 21st day of DECEMBER, 2022, by the following vote:


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

NOES: NONE.

ABSTAIN: NONE.

ABSENT: DAVID CANEPA, CAROLE GROOM, MYRNA MELGAR, SHAMANN WALTON.

ATTEST:

DocuSigned by:

C7389B49E2C9458...
John J. Bauters
Chair of the Board of Directors

DocuSigned by:

604102E6B48F42E...
Teresa Barrett
Secretary of the Board of Directors