

RESOLUTION NO. BIFA 2022 - XX

A RESOLUTION OF THE GOVERNING BOARD OF THE BRENTWOOD INFRASTRUCTURE FINANCING AUTHORITY (“AUTHORITY” OR “BIFA”) APPROVING THE CONTINUED USE OF TELECONFERENCING FOR MEETINGS OF THE AUTHORITY GOVERNING BOARD FROM JANUARY 11, 2022 THROUGH FEBRUARY 10, 2022, PER ASSEMBLY BILL 361 (2021)

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

WHEREAS, on March 17, 2020, the City Council adopted Resolution 2020-36, confirming the Director of Emergency Services’ proclamation of the existence of a local emergency due to the spread of a severe acute respiratory illness caused by the novel coronavirus designated as COVID-19. Said Resolution remains in effect; and

WHEREAS, also on March 17, 2020, the Governor of California executed Executive Order N-29-20, which suspended and modified specified provisions in the Ralph M. Brown Act (Government Code § 54950, *et seq.*) and authorized local legislative bodies to hold public meetings via teleconference and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and participate in the meeting of the local legislative body; and

WHEREAS, on June 11, 2021, the Governor of California executed Executive Order N-08-21, which extended the provisions of Executive Order N-29-20 concerning teleconference accommodations for public meetings through September 30, 2021; and

WHEREAS, on September 16, 2021, the Governor of California signed into law Assembly Bill 361 (AB 361, Rivas) (Stats. 2021, ch. 165) (“AB 361”), which, among other actions, amended Government Code § 54953 by providing alternative teleconferencing requirements to conduct public meetings during a proclaimed state of emergency; and

WHEREAS, AB 361 imposes requirements to ensure that members of the public are able to attend and participate in public meetings conducted via teleconference, including:

- 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, such as Zoom; and
- The legislative body shall take no further action on agenda items when there is a disruption that prevents the Authority from broadcasting the meeting, or in the event of a disruption within the Authority’s control that prevents members of the public from offering public comments, until public access is restored; and
- Prohibits the legislative body from requiring public comments to solely be submitted in advance of the meeting and specifies that the legislative body must provide an

opportunity for members of the public to address the legislative body and offer comments in real time; and

WHEREAS, the Authority has already implemented and is in full compliance with the requirements listed above when conducting public meetings via teleconference, which are now codified in Government Code § 54953(e)(2)(B-F); and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for safely holding public meetings, set forth in the attached Exhibit 1, including:

- strongly recommending teleconferencing meetings, as those meetings present the lowest risk of transmission of the virus that causes COVID-19; and
- recommending that, if a local legislative body determines to hold in-person meetings, that the public be offered the opportunity to attend via a call-in option or an internet-based service option, when possible, to give those at higher risk of and/or higher concern about COVID-19 an alternative to participating in person; and
- the development of and adherence to a written safety protocol requiring social distancing – i.e., six feet of separation between attendees – and face masking of all attendees, among other things; and
- and further recommended social distancing and face masking of all public meeting attendees; and

WHEREAS, pursuant to Government Code § 54953(e)(1)(A), a local legislative body such as the Governing Board may hold a meeting using teleconferencing during a proclaimed state of emergency when, among other conditions, state or local officials have imposed or recommended measures to promote social distancing. After the first such meeting held after October 1, 2021, the Governing Board must thereafter make certain findings no later than 30 days after the first teleconferenced meeting is held pursuant to AB 361, and must also make said findings every 30 days thereafter, in order to continue to allow teleconference accessibility for conducting public meetings; and

WHEREAS, on October 12, 2021, the Governing Board of the Authority, by Resolution No. BIFA-32, approved the continued use of teleconferencing for meetings of the Authority from October 12, 2021 through November 11, 2021, per AB 361 (2021); and

WHEREAS, on November 9, 2021, the Governing Board of the Authority, by Resolution No. BIFA-33, approved the continued use of teleconferencing for meetings of the Authority from November 9, 2021 through December 9, 2021, per AB 361 (2021); and

WHEREAS, on November 16, 2021, the Governing Board of the Authority, by Resolution No. BIFA-34, approved the continued use of teleconferencing for meetings of the Authority from November 16, 2021 through December 16, 2021, per AB 361 (2021); and

WHEREAS, on December 14, 2021, the Governing Board of the Authority, by Resolution No. BIFA-35, approved the continued use of teleconferencing for meetings of the Authority from December 14, 2021 through January 13, 2022, per AB 361 (2021).

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Brentwood Infrastructure Financing Authority, as follows:

1. That the recitals set forth above are true and correct, and incorporated into this resolution as findings of the Governing Board.
2. That it acknowledges that local officials, specifically, the Contra Costa County Health Officer, continue to recommend measures to promote social distancing, as set out in the attached Exhibit 1.
3. That the State of California and the Authority continue to follow safety measures in response to COVID-19 as ordered or recommended by the Centers for Disease Control and Prevention (CDC), the California Department of Public Health (DPH), and/or the County of Contra Costa, as applicable, including the use of facial coverings when required and social distancing.
4. That, given the fact that state and local officials continue to impose or recommend measures to promote social distancing, the Governing Board will continue to use teleconferencing for meetings from the period of January 11, 2022, through February 10, 2022, per AB 361 and Government Code § 54953, as amended thereby.
5. That if any section, subsection, subdivision, sentence, clause, phrase, or portion of this Resolution is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Resolution.
6. That it would have adopted this Resolution and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.
7. That this Resolution will become effective immediately upon adoption.

PASSED, APPROVED, and ADOPTED at a regular meeting of the Authority Governing Board held on this _____ day of January, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

EXHIBIT 1

**“Recommendations for Safely Holding Public Meetings” issued on September 20, 2021,
by Chris Farnitano, MD, Health Officer with Contra Costa Health Services**