

**Bay Area Infrastructure Financing Authority**  
**BAIFA**

September 28, 2022

Agenda Item 3b - 22-1334

**BAIFA Resolution No. 38 Providing for Remote Meetings Pursuant to AB 361**

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**Subject:**

A request for approval of BAIFA Resolution No. 38 providing for remote meetings pursuant to AB 361.

**Background:**

AB 361 provides for continuing availability of remote meetings during the pandemic-related state of emergency in California. In order to invoke this option, governing boards of Brown Act bodies, or their authorized designated committees must make certain findings in support of remote meetings within 30 days of the first meeting occurring after October 1, 2021, and every 30 days thereafter. Attached for your review and approval is a resolution invoking AB 361 and providing for remote meetings prospectively for 30 days following the Bay Area Infrastructure Financing Authority's action.

**Issues:**

Findings in support of Resolution No. 38 are found in the attached. Given the continuing state of public health emergency and the improved public access afforded by holding public meetings of regional bodies in a virtual setting, the resolution under AB 361 is supportable.

**Recommended Action:**

The Bay Area Infrastructure Financing Authority is requested to adopt Resolution No. 38, authorizing its committees and related entities, to meet remotely pursuant to the provisions of AB 361.

**Attachments:**

- Attachment A: BAIFA Resolution No. 38



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Therese W. McMillan

Date: September 28, 2022  
Referred By: BAIFA

ABSTRACT

Resolution No. 38

This resolution makes findings pursuant to AB 361 to continue virtual public meetings for the Bay Area Infrastructure Financing Authority (BAIFA) during the COVID-19 State of Emergency.

Further discussion of this subject is contained in the BAIFA Summary Sheet dated September 28, 2022.

Date: September 28, 2022  
Referred By: BAIFA

RE: Findings Pursuant to AB 361 to Continue Virtual Public Meetings for the Bay Area Infrastructure Financing Authority (BAIFA), During the COVID-19 State of Emergency

BAY AREA INFRASTRUCTURE FINANCING AUTHORITY  
RESOLUTION NO. 38

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency, as defined under the California Emergency Services Act, due to the COVID-19 pandemic; and

WHEREAS, the State of Emergency remains in effect; and

WHEREAS, beginning in March 2020, the Governor's Executive Order N-29-20 suspended Brown Act requirements related to teleconferencing during the COVID-19 pandemic provided that notice, accessibility, and other requirements were met, and the public was allowed to observe and address the legislative body at the meeting; and

WHEREAS, Executive Order N-08-21 extended the previous order until September 30, 2021; and

WHEREAS, the Bay Area Infrastructure Financing Authority (BAIFA) and its related entities and committees have conducted their meetings virtually, as authorized by the Executive Order, since March 17, 2020; and

WHEREAS, on September 16, 2021, the Governor signed into law AB 361, an urgency measure effective upon adoption, that provides flexibility to government bodies, allowing them to meet virtually without conforming to the Brown Act teleconferencing rules if: (i) the legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; (ii) the legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or (iii) the legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a

result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, the San Francisco Public Health Department continues to recommend and/or require measures to promote social distancing in combination with other safety precautions when activities occur in shared indoor spaces to mitigate the risk of COVID-19 transmission; and

WHEREAS, recently, multiple COVID-19 variants have surged in the United States and are believed by medical experts to be more contagious than previous variants, and data has shown these variants have increased transmissibility even among some vaccinated people; and

WHEREAS, due to uncertainty and concerns about recent COVID-19 variants and current conditions, many workplaces that had announced a return to regular in-person operations have pushed back the full return date; and

WHEREAS, virtual meetings have not diminished the public's ability to observe and participate and have expanded opportunities to do so for some communities; and

WHEREAS, given the heightened risks of the predominant variant of COVID-19 in the community, holding meetings with all members of the legislative body, staff, and the public in attendance in person in a shared indoor meeting space would pose an unnecessary and immediate risk to the attendees;

NOW, THEREFORE, BE IT RESOLVED, that the Bay Area Infrastructure Financing Authority hereby determines that, as a result of the emergency, meeting in person presents imminent risks to the health or safety of attendees; and be it further

RESOLVED, that in accordance with AB 361, based on the findings and determinations herein, meetings of BAIFA, its related entities and its committees will be held virtually, with Brown Act teleconferencing rules suspended; and be it further

RESOLVED, that this resolution shall be effective upon adoption and remain in effect for 30 days in accordance with AB 361.

BAY AREA INFRASTRUCTURE FINANCING AUTHORITY

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Alfredo Pedroza, Chair

The above resolution was entered into by the Bay Area Infrastructure Financing Authority at a duly called and noticed meeting held in San Francisco, California and at other remote locations, on September 28, 2022.