

**Association of Bay Area Governments Publicly Owned Energy Resources**

**ABAG POWER**

**Executive Committee**

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November 17, 2022

Agenda Item 3.a.

Resolution No. 22-11 Providing for Remote Meetings Pursuant to AB 361

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**Subject:**

Approval of Resolution No. 22-11 regarding 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 retroactive to Oct. 1 of this year and prospectively for 30 days following the action of the Board of Directors for the Association of Bay Area Governments Publicly Owned Energy Resources (ABAG POWER).

**Issues:**

Findings in support of Resolution No. 22-11 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 Executive Committee for ABAG POWER is requested to adopt Resolution No. 22-11 authorizing its committees and related entities to meet remotely pursuant to the provisions of AB 361.

**Attachments:**

- ABAG POWER Resolution 22-11

**Reviewed:**

DocuSigned by:  
*Brad Paul*  
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Brad Paul

**ABAG PUBLICLY OWNED ENERGY RESOURCES  
EXECUTIVE COMMITTEE**

**RESOLUTION NO. 22-11**

**ABSTRACT**

This resolution makes findings pursuant to AB 361 to continue virtual public meetings for the Association of Bay Area Governments (ABAG) Publicly Owned Energy Resources (ABAG POWER), its related entities and committees during the COVID-19 State of Emergency.

Further discussion of this subject is contained in the ABAG POWER Summary Sheet dated November 17<sup>th</sup>, 2022.

**ABAG PUBLICLY OWNED ENERGY RESOURCES  
EXECUTIVE COMMITTEE**

**RESOLUTION NO. 22-11**

**FINDINGS PURSUANT TO AB 361 TO CONTINUE VIRTUAL PUBLIC MEETINGS FOR THE  
ASSOCIATION OF BAY AREA GOVERNMENTS PUBLICLY OWNED ENERGY  
RESOURCES (ABAG POWER) AND ITS RELATED ENTITIES AND COMMITTEES DURING  
THE COVID-19 STATE OF EMERGENCY**

**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 Association of Bay Area Governments Publicly Owned Energy Resources (ABAG POWER) 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 to 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 Executive Committee on behalf of ABAG POWER 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 ABAG POWER, 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 after the first meeting held in accordance with AB 361.

This foregoing was adopted by the Executive Committee at its meeting on this 17<sup>th</sup> day of November, 2022.

By: \_\_\_\_\_  
Angela Walton, Chair

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

Certification of Executive Committee Approval

I, the undersigned, the appointed and qualified Secretary of the ABAG Publicly OWned Energy Resources (ABAG POWER), do hereby certify that the foregoing resolution was adopted by the Executive Committee of ABAG POWER at a duly called meeting held on the 17<sup>th</sup> day of October, 2022.

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Jennifer Berg, Secretary  
ABAG POWER