

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 35-2022

AUTHORIZING THE CONTINUATION OF TELECONFERENCED MEETINGS AND MAKING FINDINGS IN SUPPORT THEREOF UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(e)

WHEREAS, The Board of Supervisors of the City and County of San Francisco established, by Ordinance No. 215-12 (Oct. 4, 2012), the Successor Agency Commission to exercise state authority implementing the Redevelopment Dissolution Law, Cal. Health & Safety Code §§ 34170 et seq.; and,

WHEREAS, The Successor Agency Commission, commonly known as the Commission on Community Investment and Infrastructure, (the “Commission”) is a legislative body of a local agency under the state law requiring that all meetings of a legislative body of a local agency shall be open and public and that all persons shall be permitted to attend any meeting of the legislative body. Cal. Government Code § 54950 et seq. (the “Brown Act”); and,

WHEREAS, In March, 2020, the Governor of the State of California proclaimed, under Section 8625 of the California Government Code, a state of emergency in California in connection with the Coronavirus Disease 2019 (“COVID-19”) pandemic, and that state of emergency remains in effect (the “State of Emergency”); and,

WHEREAS, In February 25, 2020, the Mayor of the City and County of San Francisco (the “City”) declared a local emergency, and on March 6, 2020 the City’s Health Officer declared a local health emergency, and both those declarations also remain in effect; and,

WHEREAS, On September 16, 2021, the Governor signed AB 361 (Statutes 2021, chapter 165), a bill that amends the Brown Act to allow local legislative bodies to meet by teleconferencing during a State of Emergency without complying with restrictions in State law that would otherwise apply, provided that the legislative bodies make certain findings at least once every 30 days; and,

WHEREAS, On October 5, 2021, the Commission adopted Resolution No. 34-2021 and made findings in support of meeting remotely, as required under AB 361 (*codified at* Section 54953 (e) of the California Government Code), that: (1) the State of California and the City remain in a State of Emergency due to the COVID-19 pandemic, (2) State and City officials continue to recommend, in some settings, measures to promote physical distancing and other social distancing measures, (3) conducting Commission meetings in person would present imminent risks to the safety of attendees because of the COVID-19 pandemic, and (4) the State of Emergency continues to directly impact the ability of members to meet safely in person; and,

WHEREAS, AB 361 requires that a legislative body make certain findings every thirty days to continue to justify meeting remotely, namely that (1) “the legislative body has reconsidered the circumstances of the state of emergency” and (2) either “the state of emergency continues to directly impact the ability of the members to meet safely in person” or “state or local officials continue to impose or recommend measures to promote social distancing,” Cal. Health and Safety Code § 54953 (e) (3); and,

WHEREAS, The Commission adopted, by Resolution Nos. 38-2021 (Nov. 2, 2021), 43-2021 (Dec. 7, 2021), 01-2022 (January 10, 2022), 03-2022 (February 14, 2022), 04-2022 (March 15, 2022), 10-2022 (April 19, 2022), 16-2022 (June 21, 2022), 24-2022 (August 2, 2022), and 27-2022 (September 20, 2022) the required findings under AB 361 to continue meeting remotely; and,

WHEREAS, The City's Health Officer has recently updated Health Officer Order No. C19-07y, as amended September 15, 2022, (*available online at www.sfdph.org/healthorders*) and continues to recommend, among other things, measures to promote physical distancing and other social distancing measures, such as masking, in certain contexts, to prevent the spread of COVID-19; *see also www.sfdph.org/directives*.

WHEREAS, The California Department of Industrial Relations Division of Occupational Safety and Health ("Cal/OSHA") has promulgated Section 3205 of Title 8 of the California Code of Regulations, which remains in effect and requires most employers in California, including in the City, to train and instruct employees about measures that can decrease the spread of COVID-19, including physical distancing and other social distancing measures; and,

WHEREAS, The Commission has met remotely during the COVID-19 pandemic and can continue to do so in a manner that allows public participation and transparency while minimizing health risks that would be present with in-person meetings while this emergency continues; now, therefore, be it

RESOLVED, That the Commission reconsiders the circumstances of the State of Emergency and authorizes teleconferenced meetings based on the following findings:

1. The State of California and the City remain in a State of Emergency due to the COVID-19 pandemic and the State of Emergency continues to impact directly the ability of Commission members to meet safely in person.
2. State and City officials continue to recommend measures to promote social distancing.

FURTHER RESOLVED, That for at least the next 30 days meetings the Successor Agency Commission will occur exclusively by teleconferencing technology (and not by any in-person meetings or any other meetings with public access to the places where any legislative body member is present for the meeting). Such meetings of the Successor Agency Commission that occur by teleconferencing technology will provide an opportunity for members of the public to address this body, will comply with requirements of Section 54953 (e) (2) of the Government Code, attached as Exhibit 1, and as it may be amended from time to time, and will otherwise occur in a manner that protects the statutory and constitutional rights of parties and the members of the public attending the meeting via teleconferencing.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of October 18, 2022.

Commission Secretary

Exhibit 1: Section 54593 (e) (2) of the Government Code

EXHIBIT 1

Section 54593 (e) (2) of the Government Code.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item

EXHIBIT 1

to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.