



# ***Joint Exercise of Powers Agency***

*City of Antioch City of Brentwood County of Contra Costa City of Oakley*

## **AGENDA Board of Directors**

**(No In-person Meeting)**

**Thursday, January 13, 2022**

**6:30 p.m.**

Tri-Delta Transit Meeting Room  
801 Wilbur Avenue  
Antioch, California

To slow the spread of COVID-19, in lieu of a public gathering, the State Route 4 Bypass Authority Board of Directors meeting will be accessible via Zoom to all members of the public as permitted by Government Code Section 54953(e). Members of the public may participate in the meeting online, or by telephone. To participate in the meeting please use the information.

To participate by phone, dial +17207072699 US, and meeting ID is 861 0095 4244  
Passcode: 197645

To participate online using Zoom, hold down CTRL + click the following:  
[Join Zoom Meeting Here Meeting ID: 861 0095 4244 \(Passcode: 197645\).](#)

In lieu of making public comments at the meeting, members of the public also may submit public comments before or during the meeting by emailing comments to Program Manager Dale Dennis at [dodennis@theycyberjungle.com](mailto:dodennis@theycyberjungle.com). If you have difficulty emailing a public comment, please contact Nancy Wein, Contra Costa County Public Works Department, at (925) 313-2275.

All comments submitted by email to the above email address before the conclusion of the meeting will be included in the record of the meeting. When feasible, the Board Chair, or designated staff, also will read the comments into the record at the meeting, subject to a two-minute time limit per comment.

The Board Chair may reduce the amount of time allotted to read comments at the beginning of each item or public comment period depending on the number of comments and the business of the day. Your patience is appreciated.

A break may be called at the discretion of the Board Chair.

To obtain a copy of a staff report or other written materials related to an open session item on the agenda, please contact Nancy Wein, at the Contra Costa County Public Works Department, by phone at (925) 313-2275, or by email to [Nancy.Wein@pw.cccounty.us](mailto:Nancy.Wein@pw.cccounty.us).

**Board of Directors:**

Aaron Meadows City of Oakley – Chair  
Diane Burgis, Contra Costa County – Vice Chair  
Lamar Thorpe, City of Antioch  
Joel Bryant, City of Brentwood

**Authority Staff Office:**

Contra Costa County  
255 Glacier Drive  
Martinez, CA 94553  
(925) 313-2000

**AGENDA**  
**January 13, 2022**

1. Call to Order

2. Public Comment

3. Determination

**A. Teleconference Meetings: CONSIDER** adopting **SR4BA Resolution No. 2022/01** to authorize the Board of Directors to conduct teleconference meetings under Government Code section 54953(e) and make related findings; **DETERMINE** that the Authority will hold virtual meetings for the next 30 days; and **DIRECT** the Program Manager or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.

4. Election of Officers

5. Consent Items

**A. APPROVE** minutes of the October 14, 2021 meeting (November and December meetings cancelled).

**B. ACCEPT** Audit Report prepared by Cropper Rowe, LLP, Certified Public Accountants, for the Fiscal Year ending 2021. *(Copies sent to Board Members under separate cover. Copies available to public upon request.)*

6. Boardmember Comments

7. Adjournment

The Authority will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact Staff at least 24 hours before the meeting, at (925) 595-4587. Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the State Route 4 Bypass Authority to a majority of members of the Board of Directors less than 72 hours prior to that meeting are available for public inspection at 255 Glacier Drive, Martinez, CA during normal business hours.

**Board of Directors:**

Aaron Meadows City of Oakley – Chair  
Diane Burgis, Contra Costa County – Vice Chair  
Lamar Thorpe, City of Antioch  
Joel Bryant, City of Brentwood


**Authority Staff Office:**

Contra Costa County  
255 Glacier Drive  
Martinez, CA 94553  
(925) 313-2000

**STATE ROUTE 4  
BYPASS AUTHORITY**

**DATE:** January 13, 2022

**TO:** Board of Directors

**FROM:** Dale Dennis, Program Manager 

**SUBJECT:** Authorizing Teleconference Meetings (AB 361, Government Code § 54953(e))

---

**Recommendation:** Staff recommends the Board take the following actions:

1. **Consider and Adopt ECCRFFA Resolution No. 2022/01** to authorize the Board of Directors to conduct teleconference meetings under Government Code section 54953(e) and make related findings;
2. **Determine** that the Authority will hold virtual meetings for the next 30 days; and
3. **Direct** the Program Manager and/or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.

**Discussion:**

When the COVID-19 pandemic began, Governor Newsom issued an executive order that allowed local agencies to meet remotely without complying with all teleconferencing requirements of the Brown Act. Executive Order N-29-20 suspended certain non-emergency teleconferencing rules, including the requirements that each teleconference location be listed on the agenda and be physically accessible to the public during the meeting and that the public must be given an opportunity to comment at each teleconference location. Since March 2020, the Board of Supervisors and its advisory bodies met virtually, as authorized by Executive Orders N-29-20, N-35-20, N-08-21 and N-15-21. This authority expired September 30, 2021.

New legislation known as Assembly Bill 361, amended the teleconferencing provision of the Brown Act, Government Code section 54953. Effective October 1, 2021, section 54953, subsection (e), authorizes a local agency to use special teleconferencing rules when a legislative body of a local agency holds a meeting during a state of emergency declared by the state and either A) state or local health officials have imposed or recommended measures to promote social distancing, or B) the legislative body is meeting to determine whether, or has determined, by majority vote, that meeting in person would present imminent risks to the health or safety of meeting attendees.

When a legislative body uses the emergency teleconferencing provisions under section 54953(e), the following rules apply:

- The agency must provide notice of the meeting and post an agenda as required by the Brown Act, but the agenda does not need to list each teleconference location or be physically posted at each teleconference location.
- The agenda must state how members of the public can access the meeting and provide public comment.
- The agenda must include an option for all persons to attend via a call-in or internet-based service option.
- The body must conduct the meeting in a manner that protects the constitutional and statutory rights of the public.
- If there is a disruption in the public broadcast of the meeting or of the call-in or internet-based meeting service, the legislative body must stop the meeting and take no further action on agenda items until public access and ability to comment is restored.
- Local agencies may not require public comments to be submitted in advance of the meeting and must allow virtual comments to be submitted in real time.
- The body must allow a reasonable amount of time per agenda item to permit members of the public to comment, including time to register or otherwise be recognized for the purposes of comment.
- If the body provides a timed period for all public comment on an item, it may not close that period before the time has elapsed.
- The body must reconsider the circumstances of the state of emergency and the findings in support of emergency teleconference meetings every 30 days.
- AB 361 sunsets on January 1, 2024.

A Board resolution authorizing teleconferencing under section 54953(e) is attached. It would determine that the State has declared a state of emergency related to COVID-19 and find that social distancing recommendations are in place and that there is an imminent risk of harm to the public, staff, and officials if live meetings are conducted. If adopted, for the next 30 days the resolution would require the Board of Directors to hold teleconference meetings consistent with the above-described rules.

If the Board wishes to continue teleconferencing under section 54953(e), every 30 days after adopting the attached resolution the Board must reconsider the circumstances of the state of emergency and find that one or both of the following circumstances exists: the state declared emergency continues to directly impact the ability of members to safely meet in person, or state or local officials continue to impose or recommend measures to promote social distancing. If the state-declared emergency no longer exists, or if the

Board does not make these findings by majority vote, then it will no longer be exempt from the Brown Act's teleconferencing rules. The attached resolution directs the Program Manager and/or Secretary to return no later than 30 days after the resolution is adopted with an item for the Board to consider whether to continue meeting under the provisions of Government Code section 54953 (e). If the resolution is not adopted, the Board, would not conduct teleconference meetings under the provisions of Government Code section 54953(e), added by Assembly Bill 361.

RESOLUTION NO. 2022/01

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
STATE ROUTE 4 BYPASS AUTHORITY AUTHORIZING TELECONFERENCE  
MEETINGS UNDER  
GOVERNMENT CODE SECTION 54953(e) (AB 361)

Recitals

- A. On March 4, 2020, Governor Gavin Newsom proclaimed the existence of a state of emergency in California under the California Emergency Services Act, Gov. Code § 8550 et seq.
- B. On March 10, 2020, the Contra Costa County Board of Supervisors found that due to the introduction of COVID-19 in the County, conditions of disaster or extreme peril to the safety of persons and property had arisen, commencing on March 3, 2020. Based on these conditions, pursuant to Government Code section 8630, the Board adopted Resolution No. 2020/92, proclaiming the existence of a local emergency throughout the County.
- C. On March 17 and 21, 2020, Governor Newsom issued Executive Orders N-29-20 and N 35-20, which suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the Brown Act), provided certain requirements were met and followed.
- D. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which clarified the suspension of the teleconferencing rules set forth in the Brown Act and further provided that those provisions would remain suspended through September 30, 2021.
- E. On September 16, 2021, Governor Newsom signed Assembly Bill 361, which provides that under Government Code section 54953(e), a legislative body subject to the Brown Act may continue to meet using teleconferencing without complying with the non-emergency teleconferencing rules in Government Code section 54953(b)(3) if a state declared state of emergency exists and either state or local officials have imposed or recommended measures to promote social distancing or meeting in person would present imminent risks to health and safety of meeting attendees.
- F. On September 20, 2021, Governor Newsom issued Executive Order N-15-21, which suspended the provisions of Assembly Bill 361 until October 1, 2021.
- G. On September 20, 2021, the Contra Costa County Health Officer issued recommendations for safely holding public meetings that include recommended measures to promote social distancing.
- H. Among the Health Officer's recommendations: (1) on-line meetings (teleconferencing meetings) are strongly recommended as those meetings present the lowest risk of

transmission of SARS-CoV-2, the virus that causes COVID-19; (2) if a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended when possible to give those at higher risk of an/or higher concern about COVID-19 an alternative to participating in person; (3) a written safety protocol should be developed and followed, and it is recommended that the protocol require social distancing – i.e., six feet of separation between attendees – and face-masking of all attendees; (4) seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times.

- I. The California Department of Public Health (CDPH) and the federal Centers for Disease Control and Prevention (CDC) caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations.
- J. The emergence of the Delta variant has led to a severe rise of COVID-19 infections, hospitalizations and deaths in Contra Costa County in the past two months. The Delta variant became the predominant strain among samples sequenced in Contra Costa County and California in early July 2021, and currently represents over 95% of samples sequenced both at the Contra Costa County Public Health lab and per reports of statewide sequencing.
- K. According to the Centers for Disease Control (CDC), as of November 30, 2021, the seven-day rolling average of new cases in Contra Costa County was approximately 13.35 cases per day per 100,000 of population. As of November 30, 2021, the CDC reports that Contra Costa County is in the “moderate” community transmission tier, the third most serious of the CDC’s community transmission tiers.
- L. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Board of Directors of the State Route 4 Bypass Authority intends to invoke the provisions of Government Code section 54953(e), added by Assembly Bill 361, related to teleconferencing.

NOW, THEREFORE, the Board of Directors of the State Route 4 Bypass Authority resolves as follows:

- 1. The Board of Directors finds that the state of emergency proclaimed by Governor Newsom on March 4, 2020, remains in place.
- 2. The Board of Directors finds that the Contra Costa County Health Officer has strongly recommended that public meetings be held by teleconferencing as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19.

3. The Board of Directors finds that in person meetings of the Board of Directors would present imminent risks to the health or safety of the public, staff, and officials attending meetings, in light of the case rate of COVID-19 infections in the County.
4. As authorized by Assembly Bill 361, effective immediately and for the next 30 days the Board of Directors will use teleconferencing for meetings in accordance with the provisions of Government Code section 54953(e).
5. The Program Manager and Secretary of the Board are authorized and directed to take all actions necessary to implement the intent and purpose of this resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act.
6. The Program Manager and/or Secretary of the Board are directed to return to the Board no later than 30 days after this resolution is adopted, with an item to reconsider the state of emergency and whether to continue meeting virtually under the provisions of Government Code section 54953(e) and to make required findings.

PASSED AND ADOPTED on January 13, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Board Chair

ATTEST:

By:

\_\_\_\_\_  
Secretary

SMS

H:\Client Matters\ECCRFFA & TRANSPAN\AB 361 resolution ECCRFFA 120121 updated.docx



**STATE ROUTE 4 BYPASS AUTHORITY**  
**Antioch - Brentwood - Oakley and Contra Costa County**

JOINT EXERCISE OF POWERS AGENCY

October 14, 2021

The Regular Meeting of the STATE ROUTE 4 BYPASS AUTHORITY (SR4BA) was convened via a web-based platform in locations not open to the public to provide the safest environment for staff and the public as permitted by Government Code Section 54953(e). Members of the public were allowed to participate in the meeting online, or by telephone.

Chair Aaron Meadows called the meeting to order at 6:36 P.M.

**ROLL CALL**

PRESENT: Joel Bryant (Brentwood), Diane Burgis (Contra Costa County), Lamar Thorpe\* (Antioch), and Chair Aaron Meadows (Oakley)  
\*Arrived after Roll Call

ABSENT: None

STAFF: Dale Dennis, Program Manager  
Stephen Siptroth, Deputy County Counsel

**PUBLIC COMMENT**

No written comments were submitted, or oral comments made, by any member of the public.

**DETERMINATION**

Teleconference Meetings: CONSIDER adopting SR4BA Resolution No. 2021/01 to authorize the Board of Directors to conduct teleconference meetings under Government Code Section 54953(e) and make related findings; DETERMINE that the Authority will hold virtual meetings for the next 30 days; and DIRECT the Program Manager or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.

Deputy County Counsel Stephen Siptroth advised that Governor Newsom's series of Executive Orders that allowed teleconferenced meetings expired on September 30, 2021. Legislation known as Assembly Bill 361 effective October 1, 2021, amended the teleconferencing provision of the Brown Act (Government Code Section 54953) which allowed continued meetings telephonically under unique conditions during a state of emergency declared by the state.

Those conditions were that either a state or local health official imposed or recommended measures to promote social distancing, or the legislative body was meeting to determine by majority vote that meeting in-person would present imminent risks to the health or safety of meeting attendees.

Once adopted, the proposed resolution required a return every 30 days to make a determination, and if the Board did not meet within 30 days the item would be returned when it did meet for consideration.

Director Burgis recommended approval of the resolution because of the high spread of COVID-19 in East Contra Costa, the low vaccination rate in East Contra Costa, with no intent to encourage the spread of COVID-19, and given the current masking order anyone in the room not vaccinated would require a mask for everyone, which would not create an ideal situation. She therefore recommended continuing to meet virtually.

On motion by Director Burgis, seconded by Director Bryant, the Authority APPROVED Resolution No. 2021/01 authorizing the Board of Directors to conduct teleconference meetings under Government Code Section 54953(e) and make related findings; DETERMINED that the Authority will hold virtual meetings for the next 30 days; and DIRECTED the Program Manager or Secretary of the Board to return this matter to the Board within 30 days for reconsideration. The motion carried by the following Roll Call vote:

AYES: Bryant, Burgis, Thorpe, Meadows  
NOES: None  
ABSTAIN: None  
ABSENT: None

### **CONSENT ITEMS**

On motion by Director Bryant, seconded by Director Burgis, the Authority APPROVED the Consent Items, as follows, which carried by the following Roll Call vote:

- A. APPROVED minutes of the June 10, 2021 meeting (*July, August, and September 2021 meetings cancelled*).
- B. SR4BA Segment 2 Right of Way – Purchase and Sales Agreement with LRG Investors, LLC: The Board was asked to take the following actions:
  - a. RATIFY the Program Manager’s execution of two amendments to the Purchase and Sale Agreement between the State Route 4 Bypass Authority and LRG Investors, LLC, for the purchase of excess Authority property located on Sand Creek Road in the City of Brentwood, to extend the Due Diligence Period through October 20, 2021;

- b. APPROVE Amendment to the Purchase and Sale Agreement between the State Route 4 Bypass Authority and LRG Investors, LLC, for the purchase of excess Authority property located on Sand Creek Road in the City of Brentwood to further extend the Due Diligence Period from October 20, 2021, to March 3, 2022, and to give LRG the option to exercise up to three additional consecutive 90-day extensions of that period; and
- c. AUTHORIZE the Secretary or designee to sign the Amendment on behalf of the Authority.

AYES: Bryant, Burgis, Thorpe, Meadows  
NOES: None  
ABSTAIN: None  
ABSENT: None

#### **BOARDMEMBER COMMENTS**

There were no comments from the Board.

#### **ADJOURNMENT**

Chair Meadows adjourned the meeting of the State Route 4 Bypass Authority at 6:40 P.M. to Thursday, November 11, 2021 at 6:30 P.M. or other day/time deemed appropriate.

Respectfully submitted,

Anita L. Tucci-Smith  
Minutes Clerk

**STATE ROUTE 4 BYPASS  
AUTHORITY**

**DATE:** January 13, 2022

**TO:** Board of Directors  
**FROM:** Dale Dennis, Program Manager   
**SUBJECT:** Accept Audit Report for Fiscal Year 2021/22

---

**Recommendation:** **ACCEPT** Audit Report prepared by Cropper Rowe, LLP, Certified Public Accountants, for the Fiscal Year ending June 30, 2021. *(Copies sent to Board Members under separate cover. Copies available to public upon request.)*

**Discussion:**

An audit for the 2020/21 Fiscal Year has been performed on the finances of the Authority as required by the Joint Exercise of Powers Agreement. The report of the independent auditor, Cropper Rowe, LLP, Certified Public Accountants, has no recommendations for changes or improvements.

Staff Report Accept SR4BA Audit Report 01.13.22

**ACTION OF BOARD ON** \_\_\_\_\_

**APPROVED AS RECOMMENDED** \_\_\_ **OTHER**\_\_\_

**VOTE OF DIRECTORS**

\_\_\_\_\_ **UNANIMOUS (ABSENT** \_\_\_\_\_)

**AYES:** \_\_\_\_\_ **NOES:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_ **ABSTAIN:** \_\_\_\_\_

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Directors on the date shown.

**ATTESTED** \_\_\_\_\_

Secretary to the Authority