

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION RENEWING AND CONTINUING THE CITY COUNCIL'S DETERMINATION THAT CONDUCTING IN-PERSON MEETINGS OF THE CITY COUNCIL AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e), A PROVISION OF AB 361.**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. (See <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>); and

**WHEREAS**, on June 17, 2022 Gavin Newsom issued Executive Order N-11-22 reaffirming that a State of Emergency exists in California as a result of COVID-19. (See <https://www.gov.ca.gov/wp-content/uploads/2022/06/6.17.22-COVID-EO-Rollback-signed.pdf>); and

**WHEREAS**, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

**WHEREAS**, City Council Resolution No. 88075 remains in full force and effect to date; and

**WHEREAS**, the Centers for Disease Control (CDC) continues to recommend physical distancing of at least six (6) feet whenever possible, avoiding crowds and poorly ventilated spaces, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. (See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>); and

**WHEREAS**, the CDC recommends that families with children under 5 and unvaccinated household members continue to take steps to prevent COVID-19 infection including distancing. (See <https://www.cdc.gov/coronavirus/2019-ncov/groups/families-covid-19.html>.); and

**WHEREAS**, the CDC continues to caution that older adults remain more likely to get very sick from COVID-19. (See <https://www.cdc.gov/aging/covid19/covid19-older-adults.html>.); and

**WHEREAS**, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19 symptoms or who have tested positive for COVID-19 stay home. (See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>.); and

**WHEREAS**, the CDC still finds that COVID-19 vaccines are highly effective at preventing severe illness, hospitalizations and death and continues to recommend that all eligible persons get vaccinated for COVID-19 and stay up to date on their COVID-19 vaccines. (See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>.); and

**WHEREAS**, vaccinated persons may still get COVID-19 and can spread the virus to others. (See <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/why-measure-effectiveness/breakthrough-cases.html>.); and

**WHEREAS**, anyone infected with COVID-19 can spread the virus, even if they do not have symptoms. (See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>.); and

**WHEREAS**, the City's public-meeting facilities are indoor facilities not designed to ensure circulation of fresh/outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; and

**WHEREAS**, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or may live with someone who is at high risk; and

**WHEREAS**, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

**WHEREAS**, attendees would use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households; and

**WHEREAS**, prior to the September 12, 2022, the City Council had held teleconference meetings since March 27, 2020, but Council had not met for more than 30 days and thus, discontinued the teleconference meetings that were being conducted pursuant to its previous AB 361 findings;

**WHEREAS**, on September 12, 2022, the City Council adopted Resolution No. 89386 C.M.S. determining that conducting in-person meetings would present imminent risks to

attendees' health, and electing to conduct meetings using teleconferencing in accordance with California Government Code section 54953(e), a provision of AB 361; and

**WHEREAS,** by making these new findings that conducting in-person meetings would present imminent risks to attendees' health, and by making a new election to conduct meetings via teleconference, the Council restarted the process, and may elect to continue to meet via teleconference by adopting subsequent resolutions, at least every 30 days, as part of a broader Council agenda, and need not do so on a single -subject agenda; now therefore be it:

**RESOLVED:** that the City Council finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

**FURTHER RESOLVED:** that, based on these determinations and consistent with federal, state and local health guidance, the City Council renews its determination that conducting in-person meetings would pose imminent risks to the health of attendees; and be it

**FURTHER RESOLVED:** that the City Council firmly believes that the community's health and safety and the community's right to participate in local government, are both critically important, and the City Council is committed to balancing the two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code section 54953(e), a provision of AB 361; and be it

**FURTHER RESOLVED:** that the City Council will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section 54953(e) until the state of emergency related to COVID-19 has been lifted, or the Council finds that in-person meetings no longer pose imminent risks to the health of attendees, whichever is occurs first.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California