

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION FINDING THAT THE COVID-19 PANDEMIC STATE OF EMERGENCY CONTINUES TO PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES AND THAT IT CONTINUES TO DIRECTLY IMPACT THE ABILITY OF MEMBERS OF THE BOARD OF SUPERVISORS TO MEET SAFELY IN PERSON

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that:

WHEREAS, on March 4, 2020, pursuant to section 8550, *et seq.*, of the California Government Code, Governor Newsom proclaimed a state of emergency related to the COVID-19 novel coronavirus and, subsequently, this Board declared a local emergency related to COVID-19, and the proclamation by the Governor and declaration by this Board remain in effect; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions in the California Open Meeting Law, codified at Government Code section 54950, *et seq.* (the "Brown Act"), related to teleconferencing by local agency legislative bodies, provided that certain requirements were met and followed; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended certain provisions of Executive Order N-29-20 that waive otherwise-applicable Brown Act requirements related to remote/teleconference meetings by local agency legislative bodies through September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed into law Assembly Bill 361 (“AB 361”), which provides that a local agency legislative body may continue to meet remotely without complying with otherwise-applicable requirements in the Brown Act related to remote/teleconference meetings by local agency legislative bodies, provided that a state of emergency has been declared and the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and provided that the legislative body continues to make such findings at least every 30 days during the term of the declared state of emergency; and

WHEREAS, at its meeting of September 28, 2021, this Board adopted, by unanimous vote, Resolution No. 078447, wherein this Board found, *inter alia*, that as a result of the continuing COVID-19 state of emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, at its meetings of October 19, 2021, November 16, 2021, December 14, 2021, January 11, 2022, February 8, 2022, and March 8, 2022, this Board adopted, by unanimous vote, Resolution Nos. 078482, 078550, 078609, 078653, 078701, and 078752 respectively, wherein this Board found, *inter alia*, that the COVID-19 state of emergency continues to directly impact the ability of members of the Board to meet safely in person and that meeting in person would present imminent risks to the health or safety of meeting attendees; and

WHEREAS, this Board has again reconsidered the circumstances of the state of emergency and finds that the state of emergency continues to impact the ability of members of the Board to meet in person because there is a continuing threat of COVID-19 to the community, and because Board meetings have characteristics that give rise to

risks to health and safety of meeting participants (such as the increased mixing associated with bringing together people from across the community, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to participate fully in public governmental meetings, and the challenges with fully ascertaining and ensuring compliance with vaccination and other safety recommendations at such meetings); and

WHEREAS, on November 30, 2021, the Omicron variant of COVID-19 was classified as a Variant of Concern in the United States; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) has advised that the Omicron variant spreads more easily than the original virus that causes COVID-19 and the Delta variant, and expects that anyone with Omicron infection can spread the virus to others, even if they are vaccinated or do not have symptoms; and

WHEREAS, the presence and severity of symptoms associated with the Omicron variant can be affected by COVID-19 vaccination status, the presence of other health conditions, age, and history of prior infection;

WHEREAS, while preliminary data suggest that Omicron may cause more mild disease than previous variants, some people may still have severe disease, need hospitalization, and could die from the infection, and the CDC warns that, even if only a small percentage of people with Omicron infection need hospitalization, the large volume of cases could overwhelm local healthcare systems; and

WHEREAS, while the level of transmission has decreased considerably from an early January 2022 peak, the County's current case activity keeps us in the CDC's "high" level of community transmission; and

WHEREAS, effective February 16, 2022, only unvaccinated persons are required to mask in most indoor settings, but it is recommended that fully vaccinated individuals continue to mask indoors when the risk of transmission may be high; and

WHEREAS, the County has an important interest in protecting the health and safety of those who participate in meetings of this Board and of the County's various other legislative bodies; and

WHEREAS, this Board and several other County legislative bodies typically meet in-person in public building where other essential governmental functions take place, such that increasing the number of people present in those buildings may impair the safety of the occupants; and

WHEREAS, the COVID-19 pandemic has informed County agencies about the unique advantages of online public meetings, which are substantial, as well as the unique challenges posed by online public meetings, which are frequently surmountable; and

WHEREAS, in the interest of public health and safety, as affected by the state of emergency caused by the spread of COVID-19, the Board finds that this state of emergency continues to directly impact the ability of members of this Board to meet safely in person and that meeting in person would present imminent risks to the health or safety of attendees, and the Board will therefore continue to invoke the provisions of

AB 361 related to teleconferencing for meetings of the Board, and this Board strongly encourages other County legislative bodies to consider making similar findings to continue meeting remotely through teleconferencing.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that

1. The recitals set forth above are true and correct.
2. This Board has reconsidered the circumstances of the state of emergency caused by the spread of COVID-19.
3. This Board finds that the state of emergency caused by the spread of COVID-19 continues to directly impact the ability of members of the Board to meet safely in person.
4. The Board further finds that meeting in person would present imminent risks to the health or safety of meeting attendees and directs the Clerk and County Manager to continue to agendize public meetings of the Board only as online teleconference meetings.
5. The Board strongly encourages all legislative bodies of the County of San Mateo that are subject to the Brown Act, including but not limited to, the Planning Commission, the Assessment Appeals Board, the Civil Service Commission, and all other oversight and advisory boards, committees and commissions established by this Board and subject to the Brown Act, to make similar findings and continue to avail themselves of teleconferencing until the risk of community transmission has further declined, and directs the County Manager to provide necessary support for these legislative bodies to

continue teleconferencing procedures when they have adopted such findings.

6. Staff is directed to return to this Board in a public meeting not later than thirty (30) days after the date of adoption of this resolution with an item for the Board to consider regarding whether to make the findings required by AB 361 in order to continue meeting remotely under its provisions.

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