

RESOLUTION NO. 2022-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
MAKING FINDINGS CONSISTENT WITH THE
REQUIREMENTS OF AB 361 TO ALLOW FOR
IN-PERSON/VIRTUAL (HYBRID) PUBLIC
MEETINGS**

WHEREAS, on March 13, 2020, the Merced County Office of Emergency Services (OES) and Merced County Department of Public Health proclaimed a local and public health emergency; and

WHEREAS, on March 17, 2020, the Governor of California executed Executive Order N-29-20 which suspended and modified specified provisions in the Ralph M. Brown Act (Government Code Section § 54950 *et seq.*) and authorized local legislative bodies to hold public meetings via teleconferencing and to make public meeting accessible telephonically or otherwise electronically to all members of the public seeking to observe and address the local legislative body; and

WHEREAS, on June 11, 2021, the Governor of California executed Executive Order N-08-21 which extended the provisions of Executive Order N-29-20 concerning teleconference accommodations for public meetings through September 30, 2021; and

WHEREAS, on September 16, 2021, the Governor of California signed into law Assembly Bill 361 (AB 361, Rivas) (Stats. 2021, ch. 165) amending Government Code § 54953 and providing alternative teleconferencing requirements to conduct public meetings during a proclaimed state of emergency; and

WHEREAS, AB 361 (Stats. 2021, ch. 165) imposes requirements to ensure members of the public are able to attend and participate in public meetings conducted via teleconference, including:

- Notice of the means by which members of the public may access the meeting and offer public comment, including an

opportunity for all persons to attend via a call-in option or an internet-based service option;

- The legislative body shall take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored;
- Prohibits the legislative body from requiring public comments to be submitted in advance of the meeting and specifies that the legislative body must provide an opportunity for members of the public to address the legislative body and offer comments in real time;
- Prohibits the legislative body from closing the public comment period until the public comment period has elapsed or until a reasonable amount of time has elapsed; and

WHEREAS, the City has already implemented and is in full compliance with the requirements listed above when conducting public meetings via teleconference, which are now codified in Government Code § 54953(e)(2)(B-G); and,

WHEREAS, pursuant to Government Code § 54953(e)(B), the legislative body shall hold 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 and safety of attendees. The City Council must make these findings no later than 30 days after the first teleconferenced meeting is held pursuant to AB 361 (Stats. 2021, ch. 165) after September 30, 2021, and must also make these findings every 30 days thereafter, in order to continue to allow teleconference accessibility for conducting public meetings.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby declares that the recitals set forth above are true and correct, and incorporated into this resolution as findings of the City Council.

SECTION 2. The City Council hereby declares that a state of emergency as a result of the threat of COVID-19 still exists and continues to impact the ability of members of the public, the City Council, City Boards, Commissions, and Committees, City staff and consultants to meet safely in person.

SECTION 3. The State of California and the City of Merced continue to follow safety measures in response to COVID-19 as ordered or recommended by the Centers for Disease Control and Prevention (CDC), California Department of Public Health (DPH), and/or County of Merced, as applicable, including facial coverings when required and social distancing.

SECTION 4. The City Council hereby declares that, pursuant to the findings listed in this Resolution, the City Manager is authorized to utilize in-person/virtual (hybrid) meetings to conduct public meetings pursuant to AB 361 (Stats. 2021, ch. 165) and Government Code § 54953, as amended thereby.

SECTION 5. Severability: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Resolution is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have adopted this Resolution and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

SECTION 6. Effective Date: This Resolution shall become effective immediately upon adoption.

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PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2022, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEPHANIE R. DIETZ, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Kimberly Madsen 1/11/22
City Attorney Date