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701 Atlantic Avenue • Alameda, California 94501-2161

AGENDA **SPECIAL MEETING OF THE BOARD OF DIRECTORS**
DATE & TIME **Thursday, September 29, 2022 - 7:01 PM**

LOCATION

Independence Plaza, 703 Atlantic Avenue, Alameda, CA

PUBLIC PARTICIPATION

Public access to this meeting is available as follows:

Join Zoom Meeting:

<https://us06web.zoom.us/j/81499349988?pwd=aE5KbzN6WThWa3ZGdDk0TmF4NnpuUT09>

Meeting ID: 814 9934 9988

Passcode: 931660

Persons wishing to address the Board of Directors are asked to submit comments for the public speaking portion of the Agenda as follows:

- Send an email with your comment(s) to jpolar@alamedahsg.org and vcooper@alamedahsg.org prior to or during the Board of Directors meeting
- Call and leave a message at (510) 871-7435.

When addressing the Board, on agenda items or business introduced by Directors, members of the public may speak for a maximum of three minutes per agenda item when the subject is before the Board.

Persons in need of special assistance to participate in the meetings of the Alameda Affordable Housing Corporation Board of Directors, please contact (510) 747-4325 (voice), TTY/TRS: 711, or jpolar@alamedahsg.org. Notification 48 hours prior to the meeting will enable the Alameda Affordable Housing Corporation Board of Directors to make reasonable arrangements to ensure accessibility.

PLEDGE OF ALLEGIANCE

1. **ROLL CALL** - Board of Directors
2. **COMMISSIONER RECUSALS**
3. Public Comment (Non-Agenda)
4. **CONSENT CALENDER**

Consent Calendar items are considered routine and will be approved or accepted by one



motion unless a request for removal for discussion or explanation is received from the Board of Directors or a member of the public.

- 4.A. Approve Minutes of the Board of Directors Meeting held June 15, 2022. **Page 3**
- 4.B. Approval to Write-off of Uncollectible Accounts Receivable from Former Tenants. **Page 11**
- 4.C. Accept a Review of the AAHC Conflict of Interest Policy. **Page 14**
- 4.D. Accept Quarterly Report on Construction in Progress. **Page 19**
- 4.E. Adopt the 2022-23 Alameda Affordable Housing Trust Fund Guidelines. **Page 21**
- 4.F. Approve and authorize the Executive Director/President or Designee to take all necessary actions to recast the existing North Housing predevelopment loan and other loan commitments between the Housing Authority and Island City Development as a grant from the Housing Authority to Alameda Affordable Housing Corporation for business needs. **Page 39**
5. AGENDA
- 5.A. Adopt Resolution of the Board of Directors of the Alameda Affordable Housing Corporation Ratifying the Proclamation of a State of Emergency by the Governor of the State of California on March 4, 2021, and Making Findings Authorizing Continued Remote Teleconference Meetings of the Board of Directors Pursuant to Brown Act Provisions, as amended by Assembly Bill No. 361. **Page 43**
6. ORAL COMMUNICATIONS, Non-Agenda (Public Comment)
7. EXECUTIVE DIRECTOR'S COMMUNICATIONS
8. DIRECTORS COMMUNICATIONS, (Communications from the Directors)
9. ADJOURNMENT OF REGULAR MEETING

* * * Note * * *

Documents related to this agenda are available for public inspection and copying at the Alameda Affordable Housing Corporation office, 701 Atlantic Avenue, during normal business hours.

KNOW YOUR RIGHTS UNDER THE Ralph M. Brown Act: Government's duty is to serve the public, reaching its decisions in full view of the public. The Board of Directors exists to conduct the business of its constituents. Deliberations are conducted before the people and are open for the people's review.

In order to assist the Alameda Affordable Housing Corporation's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the Alameda Affordable Housing Corporation accommodate these individuals.



**DRAFT MINUTES
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
WEDNESDAY, JUNE 15, 2022**

PLEDGE OF ALLEGIANCE

1. ROLL CALL

Present: Chair Tamaoki, Commissioner Hadid
Commissioner Rickard, and Commissioner Sidelnikov

Absent: Commissioner Grob & Commissioner Mun

2. BOARD COMMISSIONER RECUSALS

None.

3. Public Comment (Non-Agenda)

None.

4. Closed Session - 6:00 p.m. - Adjournment to Closed Session to Consider:

Chair Tamaoki called the meeting to order at 6:00 p.m. and announced that the Board would adjourn to Closed Session.

4.A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR pursuant to Government Code Section 54956.8.

Property Location: 1845 Bay Street, Alameda, CA 94501, 1825 Paru Street, Alameda, CA 94501, 1416 Sherman Street, Alameda, CA 94501, 745 Lincoln Avenue, Alameda, CA 94501, 2102 Clement Avenue, Alameda, CA 94501, 2116 Clement Avenue, Alameda, CA 94501, 1911 Mulberry Street, Alameda, CA 94501, 2101 Eagle Avenue, Alameda, CA 94501, 2137 Otis Drive, Alameda, CA 94501, 2209 Otis Drive, Alameda, CA 94501, 1825 Shoreline Drive, Alameda, CA 94501, 955 Shorepoint Court, Alameda, CA 94501, 955



Shorepoint Court, Alameda, CA 94501, 955 Shorepoint Court, Alameda, CA 94501, 965 Shorepoint Court , Alameda, CA 94501
Assessor's Parcel Numbers: 73-425-1, 72-384-68, 72-345-25-1, 73-414-14, 71-228-3, 71-228-10, 71228-24, 71-228-46, 71-228-46, 74-1230-104, 74-1230-129, 74-1250-17, 74-1285-300, 74-1285-275, 74-1285-272, 74-1285-220
Agency Negotiation: Vanessa Cooper, Executive Director, Stephanie Shipe, Director of Portfolio Management, Sylvia Martinez, Director of Housing Development and Cheley Quiambao, Asset Manager
Negotiating Parties: Housing Authority of the City of Alameda and Alameda Affordable Housing Corporation
Property Owner: Housing Authority of the City of Alameda
Under Negotiation: Investment in Real Property, Price and Terms of Payment

- 4.B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR pursuant to Government Code Section 54956.8.
Property Location: 1825 Poggi Street Alameda, CA 94501
Assessor's Parcel Numbers: 74-451-1-8
Agency Negotiation: Vanessa Cooper, Executive Director and Sylvia Martinez, Director of Housing Development
Negotiating Parties: Housing Authority of the City of Alameda and Vue Alameda Owner L.P.
Property Owner: Vue Alameda Owner L.P.
Under Negotiation: Investment in Real Property, Price and Terms of Payment
- 4.C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR Pursuant to Government Code Section 54956.8.
Property Location: 1628 Webster Street, Alameda CA 94501
Assessor's Parcel Number 73-418-4-1
Agency Negotiators: Vanessa Cooper, Executive Director, and Sylvia Martinez, Director of Housing Development, Negotiating Parties: Alameda Hospitality, LLC; Under Negotiation: Price and Terms of Payment.
- 4.D. Pursuant to Government Code Section 54956.9(a)
Conference with Legal counsel re existing litigation: Housing Authority of the City of Alameda v. Johnson, Alameda County Superior Court No. RG18-933615
- 4.E. Pursuant to Government Code Section 54956.9(a)
Conference with Legal counsel re existing litigation: Housing Authority of the City of Alameda v. Camanag, Alameda County Superior Court No. RG21109420
- 5. Adjournment of Closed Session

Chair Tamaoki adjourned Closed Session at approximately 7:35 p.m.

- 6. RECONVENE REGULAR MEETING - 7:00 p.m.

Chair Tamaoki reconvened the Regular Meeting at approximately 7:36 p.m.



7. Announcement of Action Taken in Closed Session, if any.

Chair Tamaoki announced that the Board provided direction to staff on items 4.A through 4.E.

8. Public Comment (Non-Agenda)

No Public Comments.

The Housing Authority of the City of Alameda (AHA) Summer Interns introduced themselves and provided a brief overview of their areas of study(ies) and the AHA projects on which they are working.

9. CONSENT CALENDER

Consent Calendar items are considered routine and will be approved or accepted by one motion unless a request for removal for discussion or explanation is received from the Board of Commissioners or a member of the public.

- *9.A. Approve Minutes of the Board of Commissioners Meeting held May 18, 2022.
- *9.B. Accept the Communications and Outreach Plan Update.
- *9.C. Accept the Monthly Overview Report for Housing Development.
- *9.D. Accept the Monthly Development Report for Rosefield Village.
- *9.E. Accept Revised Procurement Policy.
- *9.F. Accept the Monthly Overview Report for the Alameda Rent Program and Authorize the Executive Director or Designee to take all actions necessary to transfer the Program to the City, by the target date of October 1, 2022, including, if necessary, issuing a 180-day notice to the City.

Items accepted or adopted are indicated by an asterisk.

Commissioner Sidelnikov moved to accept the Consent Calendar items, and Commissioner Rickard seconded the motion. This meeting took place via Zoom, so a roll call vote was taken, and the motion passed unanimously.

Yes	4	Chair Tamaoki, Commissioner Hadid, Commissioner Rickard, and Commissioner Sidelnikov
Absent	2	Commissioner Grob and Commissioner Mun

10. AGENDA

10.A. Moving To Work Presentation.



Tonya Schuler-Cummins, Principal Management Analyst provided a presentation that summarized the activities included in AHA’s MTW Application, other activities to implement in year 1, and other activities to implement after year 1, noting that none of these include activities that were prohibited by Landlord Incentive Cohort PIH Notice, and the tentative MTW Implementation Timeline.

Vanessa Cooper, Executive Director clarified that within the parameters of this cohort, AHA is not limited to offering the proposed items as incentives, but can choose other items to waive as incentives.

The Board expressed gratitude for the detailed presentation.

- 10.B. Establish a Nominating Ad Hoc Committee for the Appointment of the Chair and Vice Chair of the Board of Commissioners for the Period of July 1, 2022 - June 30, 2023.

Ms. Cooper stated that per the bylaws, prior to the next regular meeting, the Board will need to nominate a Chair and Vice-Chair. In keeping with practice, Ms. Cooper requested two volunteers to serve on the Ad Hoc Committee which will receive and/or provide nominations for these positions.

Chair Tamaoki volunteered to serve on the Ad-Hoc Committee.

In response to Chair Tamaoki, Jhaila R. Brown, General Counsel clarified that the only action that can take place during this meeting is the establishment of a nominating Ad-Hoc Committee.

Commissioner Sidelnikov volunteered to serve on the Ad-Hoc Committee.

Chair Tamaoki moved to establish a nominating Ad Hoc Committee for the appointment of the Chair and Vice Chair of the Board of Commissioners for the Period of July 1, 2022 - June 30, 2023, and Commissioner Sidelnikov seconded the motion. This meeting took place via Zoom, so a roll call vote was taken, and the motion passed unanimously.

Yes 4 Chair Tamaoki, Commissioner Hadid, Commissioner Rickard, and Commissioner Sidelnikov

Absent 2 Commissioner Grob and Commissioner Mun

- 10.C. Approve Amended and Restated Island City Development (ICD) Bylaws and Accept Names for Appointee to the ICD Board.



Sylvia Martinez, Director of Housing Development provided a presentation that summarized the proposed amendments to be made to the ICD Bylaws.

In response to Chair Tamaoki, Ms. Cooper stated that, in an effort to keep the Board informed of ICD actions, the staff is looking to temporarily assign a Board member to fill Commissioner Grob’s seat during her absence. This position is not needed to constitute a quorum, but is preferred in order to keep the Board informed of ICD business.

Following discussion, Ms. Brown confirmed that, as there are no current vacancies on the ICD Board, the Board would first need to remove Commissioner Grob from her ICD Board position in order to appoint an alternative to serve in her absence. Ms. Martinez confirmed that the Board of Commissioners nominate all ICD Board Members.

Commissioner Rickard moved to appoint Commissioner Sidelnikov, to fill the seat held by Commissioner Grob, upon expiration, if needed, and Commissioner Hadid seconded the motion. This meeting took place via Zoom, so a roll call vote was taken, and the motion passed unanimously.

Yes 4 Chair Tamaoki, Commissioner Hadid,
Commissioner Rickard, and Commissioner Sidelnikov

Absent 2 Commissioner Grob and Commissioner Mun

Commissioner Rickard moved to approve the amended and restated Island City Development (ICD) Bylaws, and Commissioner Sidelnikov seconded the motion. This meeting took place via Zoom, so a roll call vote was taken, and the motion passed unanimously.

Yes 4 Chair Tamaoki, Commissioner Hadid,
Commissioner Rickard, and Commissioner Sidelnikov

Absent 2 Commissioner Grob and Commissioner Mun

10.D. Authorize the Executive Director to Negotiate and Execute a Purchase and Sale Agreement for 1628 Webster Street.

Ms. Martinez provided a presentation that summarized the Purchase and Sale agreement for 1628 Webster Street, and the staff request made as Agenda item 10.E.

In responses to Chair Tamaoki, Ms. Martinez stated that affordable housing developments operated by ICD are typically done so as nonprofits and file for the welfare tax exemption every year; so, they do not get the automatic



governmental exemption. As this property is expected to be 100 percent affordable, it is not expected that there will be challenges getting the governmental exemption. While at this time it is planned that ICD will take ownership of this property under an LLC, as the sole member and manager, the purchase agreement provides the right for AHA to assign the contract to a different ownership structure. As this transaction is scheduled for 2023, the new ownership structure that is being contemplated for some of the other properties may be considered for this property.

Commissioner Hadid moved to authorize the Executive Director to Negotiate and Execute a Purchase and Sale Agreement for 1628 Webster Street, and Commissioner Sidelnikov seconded the motion. This meeting took place via Zoom, so a roll call vote was taken, and the motion passed unanimously.

Yes 4 Chair Tamaoki, Commissioner Hadid,
Commissioner Rickard, and Commissioner Sidelnikov

Absent 2 Commissioner Grob and Commissioner Mun

- 10.E. Authorize the Executive Director, or her designee, to Execute an Option for Island City Development, or its affiliate, to purchase the Improvements at 1628 Webster Street.

Discussed with item 10.D.

Commissioner Hadid moved to authorize the Executive Director, or her designee, to Execute an Option for Island City Development, or its affiliate, to purchase the Improvements at 1628 Webster Street, and Commissioner Sidelnikov seconded the motion.

Yes 4 Chair Tamaoki, Commissioner Hadid,
Commissioner Rickard, and Commissioner Sidelnikov

Absent 2 Commissioner Grob and Commissioner Mun

- 10.F. Adopt Resolution of the Board of Commissioners of the Housing Authority of the City of Alameda Ratifying the Proclamation of a State of Emergency by the Governor of the State of California on March 4, 2021, and Making Findings Authorizing Continued Remote Teleconference Meetings of the Board of Commissioners Pursuant to Brown Act Provisions, as amended by Assembly Bill No. 361.

Ms. Cooper stated that this Resolution must be adopted by the Board every 30 days in order to continue hosting meetings online, if adopted during this meeting, a meeting will need to be held during the week of July 11th in order to readopt



15. Announcement of Action Taken in Closed Session, if any.

Chair Tamaoki adjourned the meeting at 8:40 p.m.

Vanessa M. Cooper
Secretary and Executive Director

Kenji Tamaoki, Acting Chair
Board of Commissioners





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701 Atlantic Avenue • Alameda, California 94501-2161

To: Board of Directors

From: Stephanie Shipe, Director of Portfolio Management

Prepared By: Stephanie Shipe, Director of Portfolio Management

Date: September 29, 2022

Re: Approval to Write-off of Uncollectible Accounts Receivable from Former Tenants.
4.B.

BACKGROUND

Periodically, the Housing Authority and its affiliates write-off uncollectible rent and miscellaneous charges from its books. The term write-off indicates a procedure where past due amounts from tenants who are no longer residents in a Housing Authority or an affiliated community. These amounts are removed from its books after the usual means of collection have been exhausted. For budget purposes, this write-off appears as an expense. This procedure does not preclude the Housing Authority or its affiliates from continuing to pursue collection through a collection agency. Future collection of amounts previously written-off will reduce future expenses.

DISCUSSION

This request is to write-off accounts receivable for tenants who have vacated and have outstanding balances due to the Alameda Affordable Housing Corporation (AAHC). One more notice will be sent to the tenants before the outstanding balance is written off. The total is \$48,652.76; this amount is a combination of rent due, damages and miscellaneous maintenance charges. Uncollected Tenant Accounts Receivable is a budgeted expense item. A minor write-off of \$256 for Island City Development (ICD) will be separately approved by the Executive Director.

FISCAL IMPACT

This tenant account write-off will result in an expense to AAHC of \$48,652.76 in the fiscal year ending June 30, 2023 and will be present in the audited financial statement.

CEQA



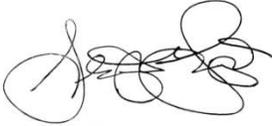
RECOMMENDATION

Staff recommends approval to write-off the attached tenant accounts receivable totaling \$48,652.76 after one final notice is sent to the tenant.

ATTACHMENTS

1. AAHC Write Off Report as of 09-2022

Respectfully submitted,



Stephanie Shipe, Director of Portfolio Management



PHONE: (510) 747-4300
FAX: (510) 522-7848
TTY/TRS: 711

701 Atlantic Avenue • Alameda, California 94501-2161

To: Board of Directors

From: Sylvia Martinez, Director of Housing Development

Prepared By: Sylvia Martinez, Director of Housing Development

Date: September 29, 2022

Re: Accept a Review of the AAHC Conflict of Interest Policy.
4.C.

BACKGROUND

The Alameda Affordable Housing Corporation was formed as a nonprofit ownership entity in 2017 to support the activities of the Housing Authority of the City of Alameda. At that time, a Conflict of Interest Policy was adopted as part of the authorizing resolution. The Policy calls for certain maintenance activities. Annually, each director, principal officer and member of a committee must sign a statement regarding the conflict of interest. In addition, the Board is required to perform periodic reviews (Article VII) to ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status. The review should include certain aspects of the Corporation's arrangements, purposes and any possible private or excess benefits. A copy of the Policy is attached.

DISCUSSION

The following table indicates the parameters that should be part of this periodic review, and how the Board has exercised its responsibility to conduct a review in regards to the Conflict of Interest Policy.

Parameter	Review Activity	Date of Last Review
Board members to sign annual Conflict of Interest Statements	Executive Director (Board Secretary) to assure that all Board Members sign the annual Conflict of Interest Statements	June 2022
Whether compensation	Annual Audit, conducted by 3rd	May 2022



arrangements and benefits are reasonable, based on competent survey information	party auditors and reviewed by the Board	
Whether partnerships, joint ventures and arrangements with management conform to written policies, are properly recorded, reflect reasonable investment for goods and services, and do not result in inurement or impermissible private benefits	Annual Audit, conducted by 3rd party auditors and reviewed by the Board. The audit and Form 990 delineate any compensation to the Board and key staff, and provides a letter to management that calls out any concerns from their review of all partnerships, joint ventures and other management arrangements. The 2021 audit management letter did not indicate any concerns regarding conflict of interest.	May 2022
Whether partnerships, joint ventures, and arrangements with management further charitable purposes	Activities and policies of the Corporation are reviewed at Board meetings on a case by case basis for compliance with charitable purposes.	Case by case basis

Staff believes that this periodic review is sufficiently complete, as supported by the annual audit and charitable tax return process performed by a third party auditor. It is recommended, however, that the Board request that staff prepare a review on the AAHC Conflict of Interest Policy at least once every two years so that it is fulfilling its responsibilities under the Policy on a regular basis.

FISCAL IMPACT

None.

CEQA

Not applicable

RECOMMENDATION

Accept a Review of the AAHC Conflict of Interest Policy.

ATTACHMENTS

1. Attach 1 AAHC Conflict of Interest Policy

Respectfully submitted,



Sylvia Martinez, Director of Housing Development



EXHIBIT A

Conflict of Interest Policy ALAMEDA AFFORDABLE HOUSING CORPORATION Adopted November 15, 2017

Article I Purpose

The purpose of the conflict of interest policy is to protect the interests of Alameda Affordable Housing Corporation (the "Corporation") when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Corporation or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable corporations. Provided, however, if there is a conflict between this Conflict of Interest Policy and any state or federal law, the stricter provision shall prevail.

Article II Definitions

1. Interested Person

Any director, principal officer, or member of a committee with Board of Directors ("Board") delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- a. An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;
 - b. A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or
 - c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.
- Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate Board or committee decides that a conflict of interest exists.

Article III Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with Board delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

a. An interested person may make a presentation at the Board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

b. The President of the Board or the Chair of the committee shall, if appropriate, appoint a disinterested person or committee to investigate alternative to the proposed transaction or arrangement.

c. After exercising due diligence, the Board or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

a. If the Board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV
Records of Proceedings

The minutes of the Board and all committees with Board delegated powers shall contain:

a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed.

b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternative to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Article V Compensation

- a. A voting member of the Board who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.
- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI Annual Statements

Each director, principal officer and member of a committee with Board delegated powers shall annually sign a statement which affirms such person:

- a. Has received a copy of the conflict of interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and
- d. Understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Article VII Periodic Reviews

To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's-length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefits or in an excess benefit transaction.

Article VIII Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted.



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To: Board of Directors

From: Joseph Nagel, Construction Project Manager

Prepared By: Joseph Nagel, Construction Project Manager

Date: September 29, 2022

Re: Accept Quarterly Report on Construction in Progress.
4.D.

BACKGROUND

There were a number of costs and planned portfolio projects described in the Reserve Policy and other approvals from the May 2022 Board of Commissioner meeting. Because of the large number of items currently underway, staff will provide a periodic update on Construction In Progress (CIP) activities.

DISCUSSION

1. Independence Plaza-

The Board approved up to \$1,850,000 in funds to complete the Independence Plaza balcony and guardrail repairs are awaiting final approval of the permits from the building department. Permit applications were submitted electronically to the building department on June 16, 2022 for all five (5) buildings (703, 705, 707, 709, 711) and three (3) have been approved.

Alameda Affordable Housing Corporation (AAHC) was notified that one of the buildings, building 707, is located within the FEMA Special Flood Hazard Area (SFHA). Due to this building being located within the FEMA SFHA there would be additional documents required (detailed construction cost estimates, and an appraisal of the existing structure). This information has been submitted. The building department has also requested additional information and detailed plans for this repair. AAHC has contracted with Peoples Associates Structural Engineers, the same firm that provided the structural peer review, to provide any needed additional documentation required by the city building department and assist in expediting the permit process.

2. 701 Office/Maintenance Garage Conversion



- a. Architect RFQ-The RFQ for a design architect has been drafted and is being reviewed for final approval. Once this RFQ has been reviewed and approved, it will be issued for responses. We anticipate this RFQ will be issued in September 2022.
- b. GC RFP- The RFP for a General Contractor is being drafted. We expect that this RFP will be issued by November 1, 2022.

3. Tilden Commons – Security & Readiness for AHA Maintenance

At the recently acquired AUSD property at 2615 Eagle Ave., smoke detectors, security alarms and cameras have been installed to properly secure the property. The existing access driveway on the west side of the property has been replaced. The existing driveway presented a tripping/safety hazard due to tree roots breaking and lifting the concrete. The AHA maintenance staff is scheduled to move into this property by August 15, 2022. The Tilden Demo RFP is expected to be issued by October 1, 2022.

4. Physical Needs Assessments

AAHC has contracted with the consulting firm PPA (Physical Property Analysis LLC) to conduct PNA's (Physical Needs Assessments) on the portfolio of properties. As of August 10, 2022, assessments at 20 of the 23 properties have been completed. The final (3) assessments are scheduled for August 24th and 25th.

FISCAL IMPACT

The Board has approved these costs from the Construction in Progress section of the 2022 Reserves Policy (May 2022 BOC).

CEQA

None.

RECOMMENDATION

Accept Quarterly Report on Construction in Progress.

ATTACHMENTS

None

Respectfully submitted,



Joseph Nagel, Construction Project Manager





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To: Board of Directors

From: Sylvia Martinez, Director of Housing Development

Prepared By: Sylvia Martinez, Director of Housing Development

Date: September 29, 2022

Re: Adopt the 2022-23 Alameda Affordable Housing Trust Fund Guidelines.
4.E.

BACKGROUND

In July 2021, the Alameda Affordable Housing Corporation (AAHC) created the Alameda Affordable Housing Trust Fund (AAHTF) to provide a permanent local funding source for affordable housing in the City of Alameda. The AAHTF was capitalized with a \$7.5 million grant from the Housing Authority of the City of Alameda, and subsequently received \$2.5 million in matching funds from the Local Housing Trust Fund (LHTF) Program, funded by the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1) and administered by the California Department of Housing and Community Development (HCD).

The State of California Local Housing Trust Fund program requires that there is an annual public hearing to hear comments on the AAHTF guidelines, for the purpose of discussing the criteria that will be used to select projects to be funded. AAHC held a public hearing for this purpose on May 18, 2022.

DISCUSSION

The Board heard a variety of comments from the public and staff at the May 18, 2022 public hearing. The following changes were made in the 2022-23 AAHTF Guidelines, as also shown in the attached redline.

Staff suggests the following updates to the guidelines:

1. Clarify that any funds specifically awarded to apply for a match from the State of California LHTF program must meet the current guidelines of that program as well.
2. Clarify that the General Partner of a development must actively facilitate the transfer of the ROFR to AAHC, or its affiliate, in the Limited Partnership Agreement



3. Increase the loan fee to up to 5% of the award amount to the terms. This fee, if required as part of the original grant to the AAHTF, may be fulfilled by a grant fee of up to 5% to the initial grantee. The loan fee will be due no earlier than 30 days after placed in service, preferably at permanent conversion.
4. Specifically, allow the AAHTF to accept land, with the specific requirement that the property be subject to a subsidized ground lease, for projects subject to a LHTF match application. Clarify that land owned by AAHTF or by AAHC is also included in the above priority.
5. Add: "Or Developments in Moderate to Highest Opportunity Areas of the City of Alameda, per the California Tax Credit Allocation Committee methodology" to the section regarding "where a majority of units are PSH."
6. Increase the predevelopment loan fraction to up to 100% of each loan rather than 20%.
7. Add a one-page summary term sheet to the guidelines, per 2021 Board request.
8. Increase the construction cost contingency to no more than 10% of the construction budget, rather than 8%.
9. Clarify that donors to the AAHTF may have additional terms that a project will have to meet to qualify for an award.

These changes have been included in the attached redline.

FISCAL IMPACT

No impact.

CEQA

Not applicable.

RECOMMENDATION

Adopt the 2022-23 Alameda Affordable Housing Trust Fund Guidelines.

ATTACHMENTS

1. Alameda Housing Trust Fund Guidelines_Aug 2022_Redline

Respectfully submitted,



Sylvia Martinez, Director of Housing Development



ALAMEDA AFFORDABLE HOUSING TRUST FUND

Administrative Guidelines

Alameda Affordable Housing Corporation

701 Atlantic Avenue
Alameda, CA 94501

As adopted by the Board of Directors on ~~July 21, 2021~~ August 17, 2022

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Alameda Affordable Housing Trust Fund

Chapter 1: Statement of Purpose

The purpose of the Alameda Affordable Housing Trust Fund, (AAHTF), is to assist in the creation of affordable housing in the City of Alameda for the benefit of low-income households.

Chapter 2: Definitions

1. “Area median income” or “AMI” is established for metropolitan areas or non-metropolitan counties by the U.S. Department of Housing and Urban Development (HUD), pursuant to 42 U. S. C. Chapter 1437 et seq., to establish local income classification levels. These classifications are also used in California housing law with respect to income eligibility limits.
2. “Affordable Housing” for purposes of these Guidelines shall mean rental housing that is affordable to low and/or very-low income households.
3. “Extremely low income household” shall mean a household having an income not exceeding thirty (30) percent of AMI adjusted for household size.
4. “Very low income household” shall mean a household having an income not exceeding fifty (50) percent of AMI adjusted for household size.
5. “Low income household” shall mean a household having an income not exceeding eighty (80) percent of the AMI adjusted for household size.
6. “Moderate income household” shall mean a household having an income between eighty (80) percent to one-hundred-twenty (120) percent of the AMI adjusted for household size.
7. “State of California Local Housing Trust Fund Program” shall mean the Local Housing Trust (LHTF) Program, funded by the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1) and administered by the California Department of Housing and Community Development (HCD).

Chapter 3: Housing Trust Fund Established.

1. On July 21, 2021, the Alameda Affordable Housing Corporation established a trust fund for a special revenue account under the name of the “Alameda Affordable Housing Trust Fund”.

2. Grants from the Housing Authority of the City of Alameda shall become AAHTF property and shall be deposited directly into the AAHTF. Other private and public funding may also be deposited, from time to time, for use as part of the AAHTF.

3. The AAHTF may accept donations from individuals or organizations. Such donations may be designated for a specific project or purpose and may carry additional terms, so long as it is not in conflict with these guidelines, or with the guidelines of the Local Housing Trust Fund Program (Housing and Safety Code (HSC) Section 50843.5, as may be updated and amended.

4. Any funds specifically awarded utilizing a match from the State of California LHTF Program must meet the current guidelines of that program for both the local and State match.

5. The AAHTF may accept land as a donation, with the understanding that the property will be utilized subject to a subsidized ground lease for projects subject to a LHTF match application or award.

64. All monies remaining in the AAHTF at the end of any fiscal year, whether or not expended, remain AAHTF property. All repayments of principal and interest from an AAHTF loan remain AAHTF property.

75. Initial Grant – An initial grant shall be made through a legally binding commitment from the Housing Authority of the City of Alameda and shall be used for purposes of the AAHTF to create affordable housing.

86. Dedicated ongoing funding source – On an ongoing basis, for a period of up to 5 years, the Housing Authority of the City of Alameda has committed a share of its unrestricted general funds/annual operating revenue. Estimated at \$60,000/year for a period of five years, these funds will be deposited by 9/15 of each year and used to offset costs of operating the AAHTF. Conditioned on an award from the State of California Local Housing Trust Fund Program, the Housing Authority will commit to an additional 5 years of ongoing deposits, with a 10% increase, estimated at \$66,000/year.

Chapter 4: Management

1. The Housing Authority of the City of Alameda shall serve as the Manager of the Affordable Housing Trust Fund. The responsibilities of the Manager shall include:

- a. Maintaining all records of the AAHTF.
- b. Assisting prospective applicants requesting AAHTF support in the

preparation and presentation of their applications.

- c. Monitoring the use of monies distributed to successful applicants for AAHTF support to assure ongoing compliance with the purposes of the AAHTF and the conditions under which these monies were granted or loaned.
- d. Reporting annually to the AAHC Board of Directors regarding the operation and activity of the AAHTF.
- e. Submittal of any required reports or documentation to the Local Housing Trust Fund from the California Department of Housing and Community Development Department.

2. The Manager shall be responsible for the following:

- a. Disbursing and collecting AAHTF monies.
- b. Maintaining and managing a separate account or accounts for AAHTF monies.
- c. Maintaining financial records for the AAHTF.

Chapter 5: Distribution and Use of Housing Trust Fund Assets

1. Distributions may be made to private or public, profit or non-for-profit entities.
2. The types of investments the fund may make must be development, construction and permanent loans or other similar disbursements deemed necessary and appropriate to fulfill the purposes of the AAHTF, if in compliance with Health and Safety Code (HSC) Section 50843.5. For loan terms, see Term Sheet below.
3. Organizations or individuals bestowing a gift or grant to the AAHTF may specify how such a gift or grant may be used. If the gift or grant has not been used for such purpose within a reasonable amount of time, or a time period specified as a condition of the gift or grant, the gift or grant shall be returned upon the request of the donor. Such requests must be in compliance with Health and Safety Code (HSC) Section 50843.5.
4. Types of projects in which the AAHTF shall invest include:
 - a. Creation of new affordable units through new construction only.
 - b. Conversion of market rate units to affordable housing units, only if the units are less than three years old.
 - c. Predevelopment loans/grants to assist non-profit and for-profit developers with project feasibility studies, site acquisition and preliminary design studies for potential affordable housing projects.
 - i. Administrative costs for the AAHTF for up to 5% of the AAHTF balance.
5. First priority in all disbursements shall be given to new construction developments that are on land owned by the Housing Authority of the City of Alameda or one of its affiliates and that provide a right of first refusal (ROFR) to the Alameda Affordable Housing Corporation, or its designee, after the initial tax credit compliance has been met. The General Partner of this development must actively facilitate the use of the ROFR, through language in the limited partnership agreement.
6. Priority in all disbursements shall be given first to housing projects that guarantee a term of affordability of at least 55 years together with full repayment of the AAHTF investment.
7. Priority in all disbursement shall also be given to new construction developments that provide a majority of units that are permanent supportive housing opportunities
8. Priority for developments in Moderate to Highest Opportunity Areas of the City of Alameda, per the California Tax Credit Allocation Committee methodology. -
98. The following categories identify income groups that the AAHTF will serve. The percentages shown are minimum target amounts or maximum allowed amounts of

funding that will be expended in each category. Administrative costs shall be deducted from these calculations. Regulatory Agreement affordability and income targets are in the Term Sheet below.

109. After the initial priorities have been met (#5-7 above), projects will be evaluated with respect to criteria that are consistent with AAHTF goals and policies. In addition, projects must demonstrate the following attributes:
- a. At least one other funding source, which may include a subsidized ground lease, has been identified and committed and the project has received site plan approval for the proposed development.
 - b. Rental projects which benefit the highest percentage of very low- and low-income persons, provide the lowest rents, include a greater percentage of affordable units, or will maintain longer periods of affordability.
 - c. Rental projects that use program funds as a match or leveraging tool to stimulate the use of conventional and below-market resources, including tax credits, state and federal funding programs, and/or other funding sources.
 - d. Rental projects proposed by an applicant with a successful history of project development and/or property management, as appropriate. Any development must have a general partner that can meet the minimum requirement of two affordable 100% affordable new construction developments in the City of Alameda, in full compliance with all City of Alameda or Housing Authority of the City of Alameda loans and contracts.
 - e. A Nonprofit Community or Government Organization receiving an AAHTF grant and/or loan must be a legally established tax-exempt nonprofit community organization recognized by the Internal Revenue Service and the Franchise Tax Board, a public agency, or other governmental agency.
 - f. Security and equity requirements are in the Term Sheet below.

119. Loan and Underwriting Guidelines for the AAHTF are provided as an attachment to these Program Guidelines: The AAHTF Term Sheet is also included.

ATTACHMENT

I

Alameda Affordable Housing Trust Fund Loan and Underwriting Guidelines and Procedures

I. AAHTF LOAN AND UNDERWRITING GUIDELINES:

For purpose of the Alameda Affordable Housing Trust Fund (AAHTF), underwriting involves the analysis of project assumptions and risks to determine if the public investment is reasonable and the project can be expected to meet all applicable program requirements. The following are core components of the AAHC's underwriting and subsidy layering review of an AAHTF project. Required actions/procedures are noted at the end of each section. It is anticipated that the guidelines and review will occur at the application stage, within 90 days of loan funding and/or at construction loan closing.

1. **Sources and Uses Statement and Pro Forma** - An examination of the sources and uses of funds for the proposed project and a determination that all project costs are reasonable. Before committing AAHTF funds the AAHC shall evaluate a proposed project to ensure that funds are invested such that the project is likely to succeed over time. The AAHC may assess all of the assistance that has been, or is expected to be, made available to that project, and take into account all the factors relevant to project feasibility, which may include, but are not limited to total development costs and available funds; impacts of restrictions from AAHTF and/or other sources of funding such as eligible costs, maximum subsidy limits, cost allocation, and rent/utility allowance limitations; rates of return to owners, developers, sponsors, or investors; and the long-term needs of rental projects and tenants. The following elements may be reviewed and analyzed in forecasting project success:

- a. **Sources and Uses Statement** – the sources and uses document shall include the following:

- i. **Sources** - all sources, both private and public, of funds with dollar amounts and timing of availability for each source must be identified. Commitment letters or awards for all sources must be submitted at least 90 days before disbursement.
- ii. **Required Debt Coverage ratio/Positive Cash Flow requirement** – Debt coverage ratio and cash flow requirements are described in the Term Sheet below.
- iii. **Senior Lender/Junior Lender loan types** – See Term Sheet below.

ACTION TO BE TAKEN: The Board of Directors shall determine whether funding sources are adequate and timely in their availability to cover costs at all phases of the project at least 90 days before disbursement.

ii. **Uses** - All uses of funds (acquisition costs, site preparation and infrastructure costs, rehabilitation/or construction costs, financing costs, professional fees, developer fees and other soft costs) associated with the project and their costs. All costs must be necessary and reasonable.

DOCUMENTATION: The following documentation shall be required 90 days before disbursement:

- Acquisition documentation such as purchase agreement, option or closing statement and appraisal or other documentation of value.
- Construction cost must be substantiated by a construction cost review by the permanent lender, or the proposed tax credit investor. Contingency requirements are in the Term Sheet below.
- A third-party appraisal to substantiate the value of the land and the value of the property after rehabilitation or the structure being built.
- If low-income housing tax credits are utilized, documentation on the syndication costs (legal, accounting, tax opinion, etc.) from the organization/individual who will syndicate and sell the offering to ensure that the project can support the fees necessary to syndicate/fund the project.
- Project schedule.

ACTION TO BE TAKEN: The AAHC shall determine that that all of the proposed costs for the project are necessary and reasonable by considering costs of comparable projects in the same geographical area and costs published by recognized industry cost index services or affordable housing development comparable benchmarks published by the California Tax Credit Allocation Committee.

b. Operating Pro Forma

DOCUMENTATION: Developer shall submit an operating pro forma (project income and expense statement) for the length of the Affordability Period pertaining to the project at least 90 days before disbursement.

ACTION TO BE TAKEN: The AAHC shall evaluate the pro forma for the following:

- Minimum projected operating expense will meet the published annual schedule of the California Tax Credit Allocation Committee for the project type, size and age.
- Reasonableness of the financial assumptions of the project to establish minimum total per unit operating costs.
- Sufficiency of specific line item and total operating costs.
- Determination that long-term operating projections over the Affordability

Period are based on reasonable assumptions.

- Demonstration that project can cover expenses and debt service throughout the affordability period.
- Ensuring that cash flow projections are realistic in light of economic conditions.
- Determination that long-term operating projections are based on reasonable assumptions about how revenues and operating costs are expected to change over time.
- Determination that long-term operating projections over the affordability period are based on reasonable assumptions.
- Demonstration that project can cover expenses and debt service throughout the affordability period.
- Ensuring that cash flow projections are realistic in light of economic conditions.
- Determination that long-term operating projections are based on reasonable assumptions about how revenues and operating costs are expected to change over time.
- That non-residential revenue from fees/late charges, commercial income, interest, laundry/vending are projected conservatively.
- That vacancy projections reflect local market conditions and account for physical vacancies and collections loss. Vacancy terms are in the Term Sheet below. .
- That the rate of projected growth for rental income and other revenues are appropriate and that in projects with deeply targeted rents, lower than average rate of revenue increases are used for comparison when possible.

ACTION TO BE TAKEN: The AAHC shall determine that Projected Income assumptions as provided in the pro forma are reasonable based on the following that:

- Non-residential revenue from fees/late charges, commercial income, interest, laundry/vending are projected conservatively.
- Vacancy projections reflect local market conditions and account for physical vacancies and collections loss.
- The rate of projected growth for rental income and other revenues are appropriate.
- For projects with deeply targeted rents, lower than average rate of revenue increases are used.
- Net operating income is sufficient to cover debt service obligations and mandatory replacement reserve funding.
- Reasonable but not excessive cash flow is generated throughout the

affordability period.

- The rate of annual increase in project income is reasonable.
- The operations meet requirements for positive cash flow, as indicated above in the Sources section.

ACTION TO BE TAKEN: The AAHC shall determine that Projected Expenses are reasonable as provided in the pro forma submittals, including:

- Operating costs given the scope and size of the project.
- Management fees and other fees to the owner.
- Replacement deposits and use – See Term Sheet below..

2. Market Assessment

DOCUMENTATION: At least 90 days before disbursement, the Developer shall provide data that supports unit absorption rates used in the Operating Pro Forma. Data submitted to the AAHC in support of the project market assessment shall be no more than one year old.

ACTION TO BE TAKEN: The AAHC shall assess the current market demand in the area to confirm the need for the project and that the type and number of units in the project. Given the housing shortage in the City of Alameda, it is assumed that there will be high demand for housing in general. The goal is to encourage the projects that prioritizes current community needs for size, price, and other factors affecting the projects marketability.

- Identify recent real estate trends that indicate demand for types and sizes of units.
- Estimate the absorption period by determining how many units can be successfully leased each month and how long it will take to achieve initial occupancy of the AAHTF units and stabilized occupancy for the project as a whole.

3. **Developer Capacity Assessment:** There are two elements of underwriting analysis related to the developer: 1) the experience and the capacity of the developer (including the staff and project team) to implement the project and 2) the fiscal soundness of the developer to meet its financial obligations and risks of the project. The AAHC shall use the following procedures shall determine what constitutes acceptable experience and financial capacity of the developer based on the size, scope, and complexity of the project.

a. Experience

DOCUMENTATION: The Developer is required to provide information on their experience and provide references in the funding application

including:

- Corporate or organizational experience of the developer.
- Experience of the staff assigned to the project and overall quality of the development team.
- Prior experience of the developer's team members compared to their roles in the proposed project.
- Skills and capacity including property management, asset management, service provision (as applicable), and financing.
- Demonstration that the developer has completed successfully a minimum of two new construction 100% affordable developments in the City of Alameda.

ACTION TO BE TAKEN: The AAHC shall consider prior experience and the current capacity of the developer and determine if the developer has the technical and managerial experience, knowledge, and skills to successfully complete the development.

b. **Developer Financial Capacity** – The following elements shall be analyzed to determine developer financial capacity:

ACTION TO BE TAKEN: The AAHC will review the following information taken from the developer's operating pro forma and information provided in the funding application (audit, references, prior projects) to determine that the developer's experience and financial capacity are adequate to implement the project and meet financial obligations and risks of the project. The following information will be analyzed for this purpose:

- Financial management systems and practices.
- Sufficient financial resources to carry the project to completion.
- Financial statements and audits to determine the developer's net worth, portfolio risk, pre-development funding, and liquidity.

4. **Developer Profit and Return** –

ACTION TO BE TAKEN: The AAHC shall require that any profits or returns on the owner's or developer's investment are not excessive. At least 90 days before disbursement, the AAHC shall conduct an analysis that reviews profit expected to flow to the developer as operating cash flow from rental projects and any other professional fees being paid to the developer or related entities. The analysis shall focus on the following areas to determine that developer fees, cash flow, equity appreciation, and profit associated with the project are reasonable: Developer fees and developer cash flow are also described in the Term Sheet below.

c. Identity of Interest Roles

- i. If the developer owns a construction company that will be working on the project, the AAHC shall determine that the profit and overhead of the contractor is reasonable.
- ii. If the owner of a rental property assisted with AAHTF funds also operates a property management company contracted to service the property, the AAHC shall determine that the management fees are reasonable.

ATTACHMENT II

Alameda Affordable Housing Trust Fund Term Sheet

I. **Loan Terms -**

a. AAHTF funds used to provide construction loans and/or deferred payment permanent financing loans shall be at simple interest rates of no higher than 3 percent per annum, for payment of predevelopment costs, acquisition, or construction of Eligible Projects.

b. AAHTF funds shall be repaid from 75% of residual receipts, or as shared with other soft lenders at the sole discretion of the AAHTF.

c. AAHTF funds shall be provided on a minimum 55-year term.

II. **Regulatory Agreement** - Target set aside amounts and other restrictions are as follows:

a. Initial loans (up to \$10,000,000 as approved on 7/21/21, including the Letters of Intent for future/potential LHAF match funding)

i. Extremely low-income (at or below 30% of AMI): Minimum target is 30% of AAHTF funds.

ii. Lower-income (no more than 60% of AMI): Up to 70% of AAHTF funds.

iii. Each project and each AAHTF loan must serve these affordability restrictions on its own.

b. Future loans/Projects - Each loan and project must serve these affordability restrictions on its own.

i. Extremely low-income (at or below 30% of AMI): minimum target is 30% of AAHTF funds.

ii. Moderate-income (between 80%-120% of AMI) – No more than 20% of AAHTF funds or units, whichever is lower.

iii. All other units must be lower income – household incomes at or below 80% of AMI.

III. **Security and Equity requirements** - Permanent financing shall be secured by a deed of trust against the land or a security agreement against physical improvements. A promissory note may be used for pre-development costs for up to 1005% of the ~~estimated project cost~~ local portion of the loan. There must be at least 10% equity in the property after completion of a project. This value may be established by AAHTF staff and/or an appraiser. Exceptions may be approved by the Board of Directors.

- IV. **AAHTF Loan Fees** - The AAHTF will charge a legal closing cost fee of \$25,000 and reserves the right to charge additional fees for financial review (up to \$5,000) and construction cost review (\$5,000). In addition, the AAHTF will charge a loan fee of up to 54% of total loan proceeds, payable at construction loan closing.
- V. **Debt Coverage and Cash Flow requirements** The development should demonstrate a debt service coverage ratio for any amortizing debt of no more than 1.15 unless a greater ratio is needed to demonstrate positive cash flow through year 15 (this alternative is only available to supportive housing projects). At its sole discretion, the Board of Directors may require that the development show positive cash flow through year 20.
- VI. **Senior and Junior loan types** - The development may have only one senior lender, although a Tranche A and B loan structure is available for developments with project-based Section 8 contracts. The senior lender should be an experienced affordable housing lender procured through a competitive bid process. The senior loan must have a term longer than or coterminous with the initial tax credit period. Any junior lender must be a soft lender whose loans have terms similar to the AAHTF, i.e. 3% soft interest and minimum 55-year term, unless they agree to be completely subordinate to the AAHTF loan. The AAHTF loan may share lien priority with other soft lenders, at the sole discretion of the AAHTF, and may share residual receipts *pari passu* with other soft lenders.
- VII. **Contingency requirements** - New construction projects must have no more than an 108% contingency at construction loan closing, although they may carry additional contingency during the predevelopment phase (not to exceed 12%).
- VIII. **Vacancy terms** - In general, all projects should show a 5% vacancy rate, and supportive housing and special needs developments should use a 10% vacancy rate. A blended rate is possible for developments that have a mix of units
- IX. **Reserve deposits and Uses** –
- a. Adequate replacement reserve deposits. The minimum required replacement reserve deposits will align with the published reserve requirements of either the California Tax Credit Allocation Committee or California Housing and Community Development as applicable. Reserve use in excess of \$50,000 in occurrence or per year requires prior written approval by the AAHTF.
 - b. Required capitalized operating reserve. The minimum required capitalized operating reserve will align with the published operating reserve requirements of either the California Tax Credit Allocation Committee or California Housing and Community Development as applicable. Reserve use in excess of \$50,000 in occurrence or per year requires prior written approval by the AAHTF.

X. **Developer Fees and developer cash flow** - For LIHTC projects, the developer fee may not exceed the limits established by the awarding state or federal agencies. The developer fees must reflect the local market and shall be reviewed with respect to the following:

1. The scope and complexity of the project.
2. The size of the project.
3. The relative risk the developer is taking.
4. The fees that are regularly and customarily allowed in similar programs and projects.
5. Other fees the project is generating for the developer and its related entities.
6. Cash-Flow – Reasonableness of net cash flow assumptions and distribution of same to developer/owner and lenders.



PHONE: (510) 747-4300
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701 Atlantic Avenue • Alameda, California 94501-2161

To: Board of Directors

From: Tony Weng, Senior Project Manager

Prepared By: Tony Weng, Senior Project Manager

Date: September 29, 2022

Re: Approve and authorize the Executive Director/President or Designee to take all necessary actions to recast the existing North Housing predevelopment loan and other loan commitments between the Housing Authority and Island City Development as a grant from the Housing Authority to Alameda Affordable Housing Corporation for business needs.
4.F.

BACKGROUND

The North Housing project has an existing predevelopment loan of \$6,238,000 from the Housing Authority to Island City Development for the acquisition of the land, demolition of the existing buildings, holding costs, master planning, and predevelopment expenses for Block A, the first phase of North Housing project, which includes the 90 permanent supportive housing units.

The chart below are expenses through August 31, 2022:

<u>North Housing</u>	<u>Total</u>
12 Acre Site Pre-Development (includes master planning and demolition)	\$4,156,327
First Phase Pre-Development (Block A, includes all three projects)	\$1,034,230
Carrying Costs (includes perimeter fencing, security, insurance, and ongoing landscape maintenance)	\$499,923
Total Spent	\$5,690,480
Funds Remaining	\$547,520

Per the approved October 2021 and May 2022 Reserve Policy:

1. \$1,262,000 was approved for predevelopment; together with the existing \$6,238,000



- predevelopment loan, the total predevelopment funds approved by the Board is \$7,500,000.
2. \$3,000,000 was approved for North Housing PSH I
 3. \$2,438,000 was approved for North Housing Senior Apartments

In 2021, Alameda Affordable Housing Corporation, a nonprofit affiliate of the Housing Authority, created the Alameda Affordable Housing Trust Fund and allocated \$5 million to each of the two permanent supportive housing projects.

1. \$5,000,000 (\$3,750,000 in local match funds and \$1,250,000 in State Local Housing Trust funds) for North Housing PSH I
2. \$5,000,000 (\$3,750,000 in local match funds and \$1,250,000 in State Local Housing Trust funds) for North Housing PSH II

DISCUSSION

Alameda Affordable Housing Trust Fund - Local Match Funds

As required by the Local Housing Trust Fund (LHTF) Program, the Housing Authority is required to fund \$7,500,000 of local match grant funds to a restricted account for Alameda Affordable Housing Trust Fund.

To meet this obligation, staff requests that the Housing Authority Board of Commissioners to approve and authorize the existing North Housing predevelopment loan between the Housing Authority and Island City Development to be recast as a grant from the Housing Authority to Alameda Affordable Housing Corporation for business needs. All of the funds contemplated in this action have been allocated previously through Board actions and the Reserve Policy.

The following actions are expected to occur simultaneously:

1. Island City Development to approve and repay the existing predevelopment loan in the amount of \$6,238,000 to the Housing Authority.
2. The Housing Authority to accept the predevelopment loan repayment in the amount of \$6,238,000 from Island City Development.
3. The Housing Authority to recast the predevelopment funds in the amount of \$7,500,000 to Alameda Affordable Housing Corporation as local match grant funds for the Alameda Affordable Housing Trust Fund.
4. Alameda Affordable Housing Corporation to accept the local match grant funds in the amount of \$7,500,000 from the Housing Authority for the Alameda Affordable Housing Trust Fund.
5. Alameda Affordable Housing Corporation to make a predevelopment loan in the amount of \$7,500,000 to Island City Development.
6. Island City Development to accept the predevelopment loan in the amount of \$7,500,000 from Alameda Affordable Housing Corporation/Alameda Affordable Housing Trust Fund.

Please refer to the attached chart summarizing the steps to be taken concurrently. (Attachment 1).



This staff report has been reviewed by Carle, Mackie, Power & Ross LLP and Novogradac & Company LLP, our legal counsel and auditor for the North Housing projects.

Moreover, the Housing Development Department is working with the Finance Department to create a master plan cost center to track and account for each separate development phases at North Housing. This information will be brought back to the Board before the end of 2022.

FISCAL IMPACT

The financial impact on the Housing Authority and its affiliates is expected to be cash neutral as no new money is involved. The actions discussed in this memo are to implement previously approved financing commitments and reserve policies. The existing predevelopment loan between the Housing Authority and Island City Development will be cancelled. The predevelopment loan funds will be recast as local match grant funds from the Housing Authority to Alameda Affordable Housing Corporation for the Alameda Affordable Housing Trust Fund. Ultimately, Island City Development will have a predevelopment loan and permanent loan from Alameda Affordable Housing Corporation via the Alameda Affordable Housing Trust Fund for the same amount as previously approved by the Housing Authority Board of Commissioners in July 2021.

CEQA

Not Applicable

RECOMMENDATION

Approve and authorize the Executive Director/President or Designee to take all necessary actions to recast the existing North Housing predevelopment loan and other loan commitments between the Housing Authority and Island City Development as a grant from the Housing Authority to Alameda Affordable Housing Corporation for business needs.

ATTACHMENTS

1. Attachment 1 Concurrent Steps Summary Chart

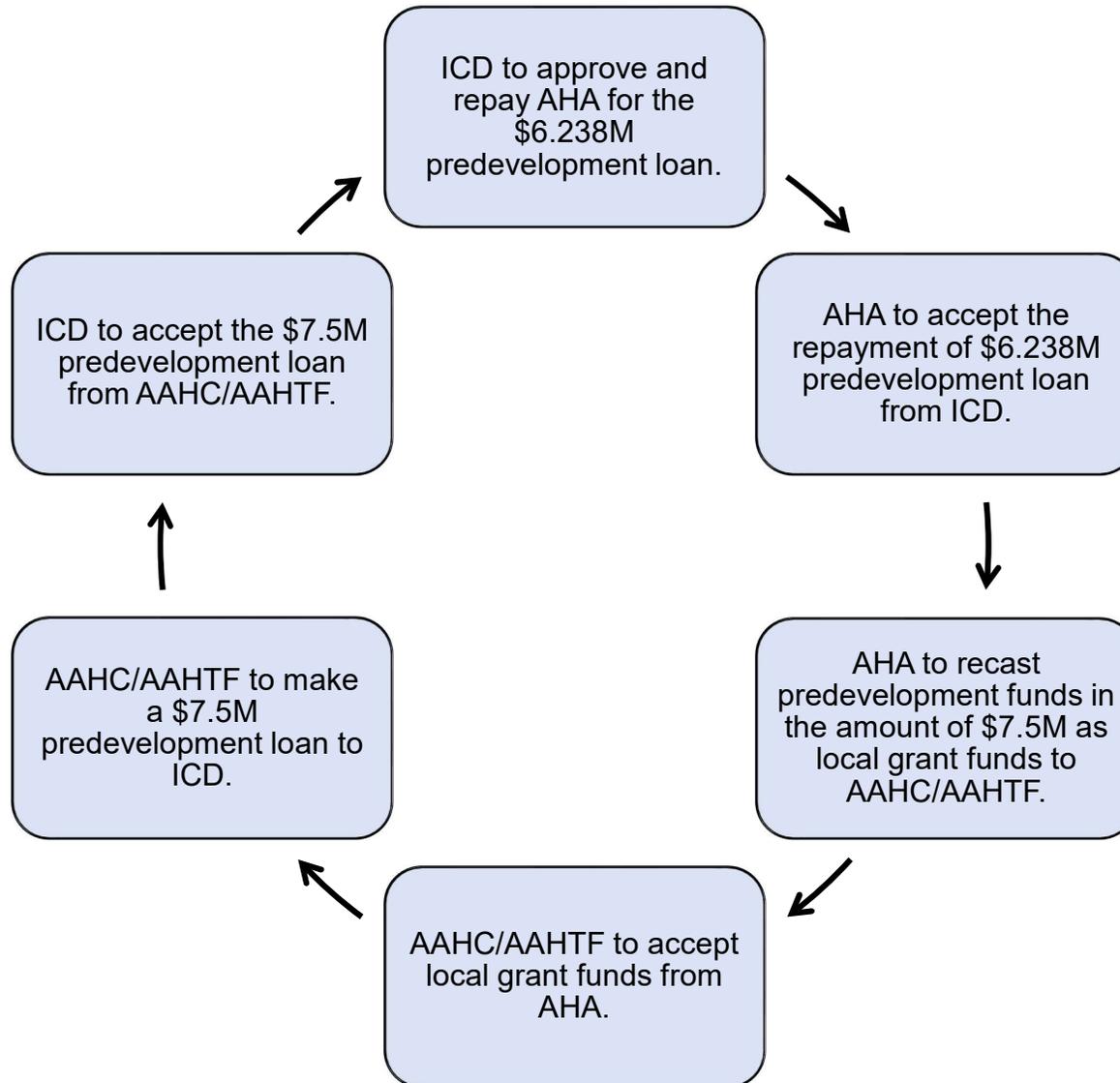
Respectfully submitted,



Tony Weng, Senior Project Manager



Attachment 1: Chart summarizing concurrent actions to recast the predevelopment loan funds as grant funds for the North Housing project.





PHONE: (510) 747-4300
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701 Atlantic Avenue • Alameda, California 94501-2161

To: Board of Directors

From: Vanessa Cooper, Executive Director

Prepared By: Vanessa Cooper, Executive Director

Date: September 29, 2022

Re: Adopt Resolution of the Board of Directors of the Alameda Affordable Housing Corporation Ratifying the Proclamation of a State of Emergency by the Governor of the State of California on March 4, 2021, and Making Findings Authorizing Continued Remote Teleconference Meetings of the Board of Directors Pursuant to Brown Act Provisions, as amended by Assembly Bill No. 361.
5.A.

BACKGROUND

On March 17, 2020, Governor Newsom issued Executive Order N-29-20 which allowed for relaxed provisions of the Ralph M. Brown Act (Brown Act) that allowed legislative bodies to conduct meetings through teleconferencing without having to meet the strict compliance of the Brown Act. All provisions of Executive Order N-29-20 concerning the conduct of public meetings via teleconferencing expired on September 30, 2021.

DISCUSSION

Assembly Bill 361(Chapter 165, Statutes of 2021) (AB 361) was signed into law by the Governor on September 16, 2021, and went into effect immediately. It amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology after the September 30, 2021 expiration of the current Brown Act exemptions as long as there is a "proclaimed state of emergency" by the Governor. This allowance also depends on state or local officials imposing or recommending measures that promote social distancing or a legislative body finding that meeting in person would present an imminent safety risk to attendees. Though adopted in the context of the pandemic, AB 361 will allow for virtual meetings during other proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk. AB 361 will sunset on January 1, 2024.

AB 361 requires the following to continue to conduct teleconferenced meetings:



1. Notice of the meeting must still be given in compliance with the Brown Act, and the notice must include the means by which the public may access the meeting and provide public comment remotely.
2. The public must be provided access to the meeting via a call-in option or internet-based service option and allowed to “address the legislative body directly.” The Alameda Affordable Housing Corporation does not have to provide an in-person option for the public to attend the meeting.
3. The meeting must be conducted “in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.”
4. If there is a disruption to the meeting broadcast or in the ability to take call-in or internet-based public comment, no further action can be taken on agenda items until the issue is resolved, even if this means stopping the meeting at that point and continuing all remaining items.
5. The Board of Directors cannot require comments to be submitted before the start of the meeting. The public must be allowed to make “real time” public comment.
6. Reasonable time for public comment must be provided. If the Board provides a timed public comment period, the public comment period must be left open until the time expires.
7. All votes must be taken by roll call.
8. The Board of Directors must approve a resolution making findings by majority vote within 30 days of the first teleconferenced meeting under AB 361 and every 30 days thereafter to continue to conduct teleconference meetings under AB 361. The body must find it has reconsidered the circumstances of the state of emergency and either 1) the emergency continues to impact the ability to meet safely in person, or 2) State or local officials continue to impose or recommend social distancing.

In light of AB 361, the continuing COVID-19 State of Emergency declared by the Governor, the continuing Local Emergency declared by the City of Alameda, the continuing recommendations by the County of Alameda Health Officer of social distancing as a mechanism for preventing the spread of COVID-19, and the continued threats to health and safety posed by indoor public meetings, staff recommends the Board of Directors adopt the proposed Resolution making the findings required to initially invoke AB 361.

The procedures currently set up for Board of Directors' meetings, which provide public attendance and comment through a call-in or internet-based service option, satisfy the requirements of AB 361. The Executive Director, or designee, will work with the Board to ensure that meeting procedures for all teleconferenced meetings comply with AB 361. Continued reliance will require the Board of Directors to adopt a new resolution making required findings every 30 days.

FISCAL IMPACT

None.

CEQA

N/A

RECOMMENDATION



Adopt Resolution of the Board of Directors of the Alameda Affordable Housing Corporation Ratifying the Proclamation of a State of Emergency by the Governor of the State of California on March 4, 2021, and Making Findings Authorizing Continued Remote Teleconference Meetings of the Board of Directors Pursuant to Brown Act Provisions, as amended by Assembly Bill No. 361.

ATTACHMENTS

1. DRAFT RESOLUTION No. 2022-009 - AB 361 (09.29.22)
2. AB 361.pdf 2021

Respectfully submitted,



Vanessa Cooper, Executive Director



ALAMEDA AFFORDABLE HOUSING CORPORATION

Resolution No. 2022-009

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ALAMEDA AFFORDABLE HOUSING CORPORATION RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF CALIFORNIA ON MARCH 4, 2021, AND MAKING FINDINGS AUTHORIZING CONTINUED REMOTE TELECONFERENCE MEETINGS OF THE BOARD OF DIRECTORS PURSUANT TO BROWN ACT PROVISIONS, AS AMENDED BY ASSEMBLY BILL NO. 361

WHEREAS, the Alameda Affordable Housing Corporation ("AAHC") is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of the AAHC's Board of Directors are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the AAHC's Board of Directors conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist within the jurisdiction of the AAHC which includes the City of Alameda, specifically, on March 17, 2020 the Governor of the State of California proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, as a result of the COVID-19 pandemic the California Department of Health and the Health Officer of the County of Alameda continue to recommend measures to promote social distancing. Additionally, On March 17, 2020, in response to the COVID-19 pandemic, the City Council of the City of Alameda, declared a local emergency as set forth in Ordinance No. 3267; and

WHEREAS, the Board of Directors does hereby find that the COVID-19 pandemic has caused, and will continue to cause, imminent risk to the health and safety of attendees meeting in person for a Board of Directors' meeting, and the COVID-19 pandemic has caused conditions of peril to the safety of persons within the jurisdiction of the AAHC that are likely to be beyond the control of services, personnel, equipment, and facilities of the AAHC, and desires to ratify the proclamation of a local emergency by the City of Alameda, ratify the proclamation of a state of emergency by the Governor of the State of California and ratify the California Department of Health and the Health Officer of the County of Alameda's recommended measures to promote social distancing; and

WHEREAS, as a consequence of the local emergency and state of emergency the Board of Directors does hereby find that the Board of Directors of the AAHC shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that the Board of Directors shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of Government Code section 54953; and

WHEREAS, when holding teleconferenced meetings under abbreviated teleconferencing procedures permitted under the Brown Act, the AAHC will ensure access for the public by complying with all requirements set forth in Government Code section 54953(e), including, but not limited to, giving notice of the meeting and posting agendas, to allow members of the public to access the meeting and address the legislative body, to give 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, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE ALAMEDA AFFORDABLE HOUSING CORPORATION DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Reconsideration. The Board hereby reconsiders the circumstances of the state of emergency.

Section 3. Ratification of the City of Alameda's Proclamation of a Local Emergency. The Board hereby ratifies the City of Alameda's proclamation of a Local Emergency as set forth in Ordinance No. 3267 adopted on March 17, 2020.

Section 4. Ratification of the California Department of Health and the Health Officer of the County of Alameda's recommended measures to promote social distancing. The Board hereby finds that state and local officials continue to recommend measures to

promote social distancing. The Board further hereby ratifies the California Department of Health and the Health Officer of the County of Alameda's recommended measures to promote social distancing and finds that, as a result of the state of emergency, meeting in person would present imminent risk to the health or safety of attendees.

Section 5. Ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020, and hereby finds that the state of emergency continues to directly impact the ability of the Board of Directors and members of the public to meet safely in person.

Section 6. Remote Teleconference Meetings. The AAHC's Executive Director, and designee, and the Board of Directors are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continued teleconferencing and conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 7. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) 30 days from the adoption of this Resolution, or, (ii) such time as the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Board of Directors of the AAHC may continue to teleconference without compliance with Government Code section 54953(b)(3).

PASSED AND ADOPTED by the Board of Directors of the Alameda Affordable Housing Corporation this 29th day of September, 2022, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Vanessa M. Cooper, Secretary
Board of Directors

Kenji Tamaoki, Acting President
Board of Directors

Adopted: September 29, 2022

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with
Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give 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, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to 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. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:

89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds 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 or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(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 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.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds 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 or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(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 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.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member’s private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public’s right to access information concerning the conduct of the people’s business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

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