



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

701 Atlantic Avenue • Alameda, California 94501-2161

AGENDA **REGULAR MEETING OF THE BOARD OF DIRECTORS**
DATE & TIME **Wednesday, January 19, 2022 - 7:01 PM**

LOCATION

Pursuant to Assembly Bill No.361 (Chapter 165, Statutes of 2021) approved by the Governor on September 16, 2021) codified at Government Code Section 54953 a local legislative body is authorized to hold public meetings remotely via teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when, among other requirements, a legislative body of a local agency holds a meeting during a proclaimed state emergency, and makes the public meeting accessible “via a call-in option or an internet-based service option” to all members of the public seeking to access and attend the meeting, offer public comment, and address the legislative body.

PUBLIC PARTICIPATION

Public access to this meeting is available as follows:

Join Zoom Meeting:

<https://us06web.zoom.us/j/89822835206?pwd=K1d1Qng1TIBsY01uWIRHaEx2U3JSdz09>

Meeting ID: 898 2283 5206

Passcode: 023235

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 (AAHC), please contact (510) 747-4325 (voice), TTY/TRS: 711, or jpolar@alamedahsg.org. Notification 48 hours prior to the meeting will enable the AAHC Board of Directors to make reasonable arrangements to ensure accessibility.



PLEDGE OF ALLEGIANCE

1. ROLL CALL - Board of Directors
2. DIRECTOR RECUSALS
3. Public Comment (Non-Agenda)
4. Closed Session - 6:01 p.m. - Adjournment to Closed Session to Consider:
 - 4.A. Conference with Legal Counsel-Anticipated Litigation: Exposure to litigation pursuant to subdivision (D)(2) of Government Code Section 54956.9: One potential case.

5. 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.

- 5.A. Approve Minutes of the Alameda Affordable Housing Corporation Meeting held on December 15, 2021. **Page 4**

6. AGENDA

- 6.A. Accept the Update Report on the 2800 Fifth Street BMR Purchase of Eighteen Units; Ratify the Regulatory Agreement with the City; and Direct the Executive Director to Execute an Amended and Restated Promissory Note for a Loan from the Housing Authority to AAHC from \$3,500,000 to \$3,750,000. **Page 6**
- 6.B. 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 40**

7. ORAL COMMUNICATIONS, Non-Agenda (Public Comment)

8. EXECUTIVE DIRECTOR'S COMMUNICATIONS

9. DIRECTORS COMMUNICATIONS, (Communications from the Directors)

10. 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.





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**DRAFT MINUTES
REGULAR MEETING OF THE BOARD OF DIRECTORS
WEDNESDAY, DECEMBER 15, 2021**

PLEDGE OF ALLEGIANCE

1. ROLL CALL - Board of Directors

Present: Director Grob, Director Tamaoki,
Director Hadid, and Director Mun

Absent: Director Kay, Director Rickard, and Director Sidelnikov

2. DIRECTOR RECUSALS

None.

3. Public Comment (Non-Agenda)

None.

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 Alameda Affordable Housing Corporation Meetings held on November 17, 2021.
- *4.B. Upon approval from AHA board, Authorize the Executive Director or designee to negotiate and execute a 3 year contract with Life Skills Training and Education Programs, Inc (“LifeSTEPS”) in the amount of \$1,300,000.

Items accepted or adopted are indicated by an asterisk.

Director Hadid moved to approve the Consent Calendar items and Director Mun seconded the motion. This meeting took place via Zoom, so a roll call vote was taken, and the motion passed unanimously.

Yes 4 Director Grob, Director Tamaoki,
Director Hadid, and Director Mun



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.

Director Hadid moved to adopt the 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, and Director Tamaoki seconded the motion. This meeting took place via Zoom, so a roll call vote was taken, and the motion passed unanimously.

Yes 4 Director Grob, Director Tamaoki,
Director Hadid, and Director Mun

6. ORAL COMMUNICATIONS, Non-Agenda (Public Comment)

None.

7. EXECUTIVE DIRECTOR'S COMMUNICATIONS

None.

8. DIRECTORS COMMUNICATIONS, (Communications from the Directors)

None.

9. ADJOURNMENT OF REGULAR MEETING

Director Grob adjourned the meeting at 8:00 p.m.

Vanessa M. Cooper
Secretary and Executive Director

Carly Grob, President
Board of Directors





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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: January 19, 2022

Re: Accept the Update Report on the 2800 Fifth Street BMR Purchase of Eighteen Units; Ratify the Regulatory Agreement with the City; and Direct the Executive Director to Execute an Amended and Restated Promissory Note for a Loan from the Housing Authority to AAHC from \$3,500,000 to \$3,750,000.
6.A.

BACKGROUND

In April 2021, the Board of Directors approved the purchase of 18 below market rate units at 2800 Fifth Street by the Alameda Affordable Housing Corporation, utilizing a \$3,500,000 loan from Housing Authority reserves. To date, eight homes have been purchased and three additional homes are scheduled to be purchased in early 2022.

DISCUSSION

A 12% contingency was approved in April 2021 and reflected in the loan amount between the Housing Authority and the AAHC. This contingency was meant to cover closing costs, initial insurance, HOA, taxes, or other fees. Since eight purchases have now occurred, staff have better estimates of closing costs and additional fees. In particular, staff have identified three items that increased costs:

1. Solar system purchase - After research and negotiation, staff advised that the AAHC purchase the solar systems provided for each unit. A lease was not available for most of the units. This purchase increases the purchase price of the houses by \$9,400 - \$10,120 each. With this ownership, AAHC receives the benefits of the electrical generation and can charge higher rent as the electrical cost will not be calculated into the utility allowance typically provided. Over time, the cost of the systems should be repaid by the benefits.
2. Prepaid taxes – Staff will pursue a welfare exemption for property taxes for these units. However, this exemption will take some time, and taxes need to be paid now,



- and then refunded. The additional cost of these taxes is estimated at \$3,780 per unit.
3. HOA fees – Staff prefers to pay HOA fees on an annual basis, to avoid the late fees associated with monthly payments. For the Pulte units, staff plans to pay the annual HOA fees on the settlement statement, resulting in an increased cost of \$3,600 per unit.

The total extra cost is approximately \$17,500 per unit. Staff is requesting \$250,000 in additional funds to cover the extra costs. A schedule regarding the new estimated costs is included in Attachment 1. A draft amended and restated promissory note is included as Attachment 2.

The City required a Regulatory Agreement for these properties, a sample of which is included for review and ratification as Attachment 3. Each home has been pre-assigned a rental restriction at either 50% or 80% of Area Median Income (AMI) by the City, as part of its regulatory agreement with the developer. The properties purchased in December are being marketed actively to households meeting these restrictions.

FISCAL IMPACT

In April 2021, the Board approved up to \$3,500,000 for costs associated with the purchase. The new estimate of costs is \$3,750,000, which still contains a small cushion to cover an increase in home price for the later purchases, which may occur after HUD increases its median income levels.

There is no change in the other terms of the loan except to add section 3d, which allows for prepayment with no penalty. Until repaid, the AHA loan will accrue simple interest at 3% and require an annual payment equivalent to 75% of residual receipts from operating the properties.

The additional \$250,000 will come from Housing Authority funds per the 2021 Reserve policy, which already contemplated a total of \$3,750,000 for the Pulte purchases (see October 2021 Board Report).

CEQA

Not applicable.

RECOMMENDATION

Accept the Update Report on the 2800 Fifth Street BMR Purchase of Eighteen Units; Ratify the Regulatory Agreement with the City; and Direct the Executive Director to Execute an Amended and Restated Promissory Note for a Loan from the Housing Authority to AAHC from \$3,500,000 to \$3,750,000.

ATTACHMENTS

1. Attach 1 Pulte New Estimated Costs
2. Attach 2 Draft AR 2800 Fifth St BMR AHA Promissory Note
3. Attach 3 Pulte Regulatory Agreement - Recorded



Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Sylvia Martinez', with a stylized, cursive script.

Sylvia Martinez, Director of Housing Development

Attachment 1:

Pulte Purchases - New estimated costs

Purchases - Dec 15-29

<u>Addresses</u>	<u>Closing Date</u>	<u>Due from Buyer</u>	<u>Solar included</u>	<u>Purchase Prices</u>	<u>Other costs</u>
441 Mitchell AV	15-Dec	\$ 173,579.74		\$ 162,654.00	\$ 10,925.74
445 Mitchell AV	15-Dec	\$ 294,491.36		\$ 282,002.00	\$ 12,489.36
2803 Tradewind CT	15-Dec	\$ 173,580.81		\$ 162,654.00	\$ 10,926.81
2811 Tradewind Ct	15-Dec	\$ 256,146.43		\$ 244,152.00	\$ 11,994.43
605 Martin Mariner AV	15-Dec	\$ 170,525.14		\$ 161,934.00	\$ 8,591.14
611 Martin Mariner AV	15-Dec	\$ 291,436.76		\$ 281,282.00	\$ 10,154.76
2825 Tradewind CT	29-Dec	\$ 148,193.14		\$ 138,038.00	\$ 10,155.14
2833 Tradewind CT	29-Dec	\$ 294,043.10		\$ 282,002.00	\$ 12,041.10
		\$ 1,801,996.48		\$ 1,714,718.00	\$ 87,278.48

Future purchases

			<u>Solar</u>		
2838 Fifth ST	Jan	\$ 233,373.00	\$ 10,120.00	\$ 243,493.00	\$ 12,000.00
2855 Tradewind DR	Jan	\$ 152,534.00	\$ 10,120.00	\$ 162,654.00	\$ 11,000.00
2863 Tradewind DR	Jan	\$ 152,534.00	\$ 10,120.00	\$ 162,654.00	\$ 11,000.00
2873 Tradewind DR	2022	\$ 113,787.00	\$ 10,120.00	\$ 123,907.00	\$ 11,000.00
2833 Fifth ST	2022	\$ 113,787.00	\$ 10,120.00	\$ 123,907.00	\$ 11,000.00
2857 Fifth ST	2022	\$ 266,968.00	\$ 10,120.00	\$ 277,088.00	\$ 13,000.00
2829 Fifth ST	2022	\$ 233,374.00	\$ 10,120.00	\$ 243,494.00	\$ 12,000.00
2803 Fifth ST	2022	\$ 134,147.00	\$ 10,120.00	\$ 144,267.00	\$ 11,000.00
2828 Tradewind CT	2022	\$ 113,787.00	\$ 10,120.00	\$ 123,907.00	\$ 11,000.00
2860 Tradewind DR	2022	\$ 134,147.00	\$ 10,120.00	\$ 144,267.00	\$ 11,000.00
				\$ 1,749,638.00	\$ 114,000.00

\$ 84,365.52 Contingency

\$ 3,464,356.00	\$ 285,644.00	\$ 3,750,000.00
New Total		

AMENDED AND RESTATED PROMISSORY NOTE

(this "Note")

(2800 Fifth Street BMR Purchase)

\$3,~~500~~750,000.00

January 19, 2022 ~~1, 2021~~

— ~~May~~

Alameda, California

FOR VALUE RECEIVED, the undersigned, Alameda Affordable Housing Corporation., a California nonprofit public benefit corporation ("Borrower"), hereby promises to pay to the order of the Housing Authority of the City of Alameda, a public body, corporate and politic (together with its successors and assigns, the "Authority"), having an address at 701 Atlantic Avenue in the City of Alameda, CA 94501, at the Authority's said address or at such other place or to such other person as may be designated in writing to Borrower by the Authority, the sum of Three Million Five-Hundred Thousand Dollars (\$3,~~75~~500,000.00) (the "Loan"), which amount includes principal plus interest accrued thereon at the rate hereinafter set forth.

1. Purpose. This promissory note (the "Note") evidences the Borrower's obligation to pay the Authority the principal amount of Three Million Five-Hundred Thousand Dollars (\$3,~~75~~500,000.00) for the funds loaned to Borrower by the Authority for the acquisition of the Improvements, as defined herein, commonly known 2800 Fifth Street Below Market Rate Units, located at 2800 Fifth Street, in the City of Alameda (the "Property"), in which Borrower has an an ~~leasehold~~ interest.

2. Security. This Note is secured by that certain Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust"), of even date herewith, wherein the Borrower is the Trustor and the Authority is the Beneficiary, covering the Project.

3. Terms of Payment.

a. Term. The term (the "Term") of this Note shall commence on May 1, 2021 ~~with the date of this Note~~ and shall expire thirty (30) years from that date ~~the date of the Note~~.

b. Interest. The Loan shall bear 3% simple interest.

c. Repayment. Commencing on July 1, 2022 and on July 1 of each fiscal year thereafter through the end of the Term, Borrower shall make payments on the Loan from seventy-five percent of Residual Receipts from the prior fiscal year. Payments under this Note shall be made in lawful money of the United States of America. Borrower shall provide the Authority with any documentation reasonably requested by the Authority to substantiate

Borrower's determination of the payments due. The balance of the Loan, if any, shall be due and payable at the end of the Term.

e.d. Prepayment. Borrower shall have the right to prepay all or a portion of the principal due under this Note without any charge or penalty being made therefor.

4. Definitions. Except as otherwise noted, the following definitions shall apply for purposes of this Note.

(i) "Affordable Housing Agreement" means the Affordable Housing Agreement recorded against the Property and restricts its use to affordable rental housing dated October 7th, 2020.

(ii) "Annual Operating Expenses" means with respect to a particular fiscal year the following costs reasonably and actually incurred for operation and maintenance of the Property to the extent that they are consistent with the annual operating budget for the Property approved in advance by the Authority and an annual independent audit performed by a certified public accountant using generally accepted accounting principles:

- (A) property taxes and assessments imposed on the Project, if any;
- (B) debt service currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash) on loans associated with the Property and approved by the Authority;
- (C) property management fees and reimbursements, not to exceed fees and reimbursements which are standard in the industry and pursuant to a management contract approved by the Authority;
- (D) asset management fees and property management fees payable to any partner or affiliate of Borrower, if any.
- (E) premiums for property damage and liability insurance;
- (F) utility services not paid for directly by tenants, including water, sewer, and trash collection;
- (G) maintenance and repair;
- (H) any annual license or Certificate of Occupancy fees required for operation of the Project;
- (I) security services;
- (J) advertising and marketing;
- (K) loan monitoring fees;

- (L) fees for resident service;
- (M) cash deposited into reserves for capital replacements;
- (N) cash deposited into an operating reserve;
- (O) cash deposited into any other reserve accounts, if any, and as approved by the Authority;
- (P) extraordinary operating costs specifically approved in writing by the Authority;
- (Q) payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses not listed above.

Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses; any amount expended from a reserve account; and any capital cost with respect to the Property, as determined by the accountant for the Property.

(iii) "Dwelling Units" means the eighteen (18) units of low income rental housing located at 2800 Fifth Street, Alameda CA.

(iv) "Gross Revenue" means with respect to a particular fiscal year all revenue, income, receipts, and other consideration actually received from operation and leasing of the Property. Gross Revenue shall include, but not be limited to:

- (A) all rents, fees and charges paid by tenants;
- (B) Section 8, or other rental subsidy payments received for the dwelling units;
- (C) deposits forfeited by tenants;
- (D) all cancellation fees;
- (E) price index adjustments and any other rental adjustments to leases or rental agreements resulting in actual income;
- (F) proceeds from vending and laundry room machines;
- (G) the proceeds of business interruption or similar insurance;
- (H) subject to the rights of any lender of a loan to Borrower to which the Loan has been subordinated, the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Property (or applied toward the cost of recovering such proceeds); and

(I) condemnation awards for a taking of part of all of the Property for a temporary period.

Gross Revenue does not include tenants' security deposits, loan proceeds, capital contributions, or similar advances.

(v) "Improvements" means the buildings, structures (including without limitation, the Dwelling Units) and other improvements, including the building fixtures therein, now or hereafter located on the Property.

(vi) "Residual Receipts" shall mean in a particular fiscal year the amount by which Gross Revenue exceeds Annual Operating Expenses.

5. Acceleration. Except as may be otherwise provided in the Deed of Trust or the other loan documents evidencing this Loan, this Note shall be due and payable in one lump sum upon the sale, conveyance, assignment, hypothecation, or refinance of the Property without prior written consent of the Authority. With the prior written consent of the Authority, which consent shall not be unreasonably withheld, conditioned or delayed, this Note may be assumed for an assumption fee equal to time and expenses of Authority staff needed to process such a request by any permitted assignee of Borrower.

6. Default. Any failure in the performance by Borrower of any non-monetary term, condition, provision or covenant set forth in this Note, the Regulatory Agreement or any regulatory agreement for the Project shall be a default under this Note, and shall cause, at the option of the Authority, the entire unpaid balance, together with all unpaid sums then payable under this Note to become immediately due and payable upon written notice by the Authority to Borrower without further demand.

7. Prepayment. No prepayment penalty, fee or premium will be charged to Borrower for payment of all or any portion of the Loan amount prior to the end of the term described herein.

8. Authority's Remedies for Default.

a. Upon the occurrence of a default, the Authority shall provide Borrower written notice of said occurrence, and Borrower shall have thirty (30) days to cure the default unless the Authority shall agree in writing to an extension of such cure period prior to its expiration which consent shall not be unreasonably withheld; provided, however, if the default is of the type which is incapable of being cured within thirty (30) days, Borrower shall have such time as is reasonably necessary (not to exceed ninety (90) days) to cure such default, provided Borrower has commenced such cure within such thirty (30) days and continues to diligently proceed to cure such default. If, after the cure period provided in this subparagraph (a), (i) Borrower has not cured the default, and (ii) the Authority has not waived its rights under this Note, the entire unpaid balance, together with all unpaid sums then payable under this Note shall, at the option of the Authority, become immediately due and payable upon written notice by the Authority to Borrower without further demand.

b. If default shall occur and be continuing beyond any applicable notice and cure period, the Authority may pursue all rights and remedies available under this Note or as may be otherwise available to the Authority.

9. Recourse. This Note shall be a recourse obligation of Borrower.

10. Notice. Formal notices, demands, and communications between the Authority and Borrower shall be sufficiently given if, and shall not be given unless, dispatched by certified mail, postage prepaid, return receipt requested or sent by express delivery service or overnight courier service, to the principal office of the Authority and Borrower as follows, or at such other address as the parties may designate in writing from time to time:

AUTHORITY:

Housing Authority of the City of Alameda
Housing and Community Development Department
701 Atlantic Avenue
Alameda, CA 94501
Attn: Executive Director

BORROWER:

Alameda Affordable Housing Corporation
701 Atlantic Avenue
Alameda, CA 94501
Attn: Executive Director

Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which the delivery was refused.

11. Attorneys' Fees. In the event of litigation arising from the enforcement of or a default under this Note, the non-prevailing party promises to pay all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in such litigation.

12. Modifications. This Note may not be changed orally. Any waiver, change, modification or discharge of this Note may be made only by the written consent of both parties.

13. Governing Law. This Note shall be governed by and construed in accordance with the laws of the State of California.

[Signature Page Follows]

| DRAFT

IN WITNESS WHEREOF, Borrower has executed this Note as of the day and year first above written.

Borrower:

Alameda Affordable Housing Corporation,
a California nonprofit public benefit corporation

By: _____

Name: Vanessa Cooper

Title: Executive Director

RECORDING REQUESTED BY:

First American Title Company

WHEN RECORDED MAIL DOCUMENT TO:

City of Alameda Community Development
Department
950 W. Mail Square, Suite 205
Alameda, CA 94501
Attn: Executive Director

CONFORMED COPY - has not been compared with Original.

2021397560 12/15/2021 01:57 PM 26 PGS



OFFICIAL RECORDS OF ALAMEDA COUNTY
MELISSA WILK, CLERK-RECORDER
RECORDING FEES: \$0.00

Space Above This Line for Recorder's Use Only

A.P.N.: 074-1380-009

File No.: 3403-348524004

441 Mitchell Avenue, Alameda, CA 94501

Regulatory Agreement and Declaration of Restrictive Covenants

(Please fill in document title(s) on this line)

Exempt from fee under GC 27388.1(a)(2) due to being recorded in connection with a concurrent transfer that is subject to the imposition of documentary transfer tax, or

Exempt from fee under GC 27388.1(a)(1) due to the maximum fees (\$225) being paid on documents in this transaction, or

Exempt from fee under GC 27388.1(a)(2) due to being recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier, or

Exempt from fee under GC 27388.1(a) (1); Not related to real property, or,

Document is executed or recorded by the state or any county, municipality, or other political subdivision of the state - GC 27388.1(a)(2)

Exempt from fee under GC 27388.1(a) (1) for the following reasons:

NOTE: The following exemptions may not be acceptable for use in all counties:

Exempt from fee under GC 27388.1 due to being recorded in connection with a transaction that was subject to documentary transfer tax which was paid on document recorded as Document No. of Official Records, or

Exempt from fee under GC 27388.1 due to the maximum fees having been paid on document(s) recorded as Document No. of Official Records, or

Exempt from fee under GC 27388.1 due to it being recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier. The recorded document transferring the dwelling to the owner-occupier was recorded as Document No. of Official records.

THIS PAGE ADDED TO PROVIDE EXEMPTION INFORMATION FOR THE BUILDING HOMES AND JOBS ACT FEE
(SB-2; AFFORDABLE HOUSING FEE)
(Additional recording fee applies)

**Recording requested by
And when recorded mail to:**

City of Alameda
Community Development Department
950 W. Mall Square, Suite 205
Alameda, CA 94501
Attention: Executive Director

Exempt from recording fees pursuant to
Cal. Gov't Code § 27383

3403-348524004 (SM)

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
(441 Mitchell Avenue, Alameda, CA – Very Low)

(Rental Units Required Pursuant to City Inclusionary Housing Requirements
Set Forth in Section 30-16 of the City Municipal Code)

This Regulatory Agreement and Declaration of Restrictive Covenants (“**Agreement**”) is dated December 15, 2021 (“**Effective Date**”) and is entered into between the **CITY OF ALAMEDA**, a municipal corporation (“**City**”) and **ALAMEDA AFFORDABLE HOUSING CORPORATION**, a California nonprofit public benefit corporation (“**Owner**”).

RECITALS

The following recitals are a substantive part of this Agreement.

A. Owner is the owner of that certain real property located at **441 Mitchell Avenue** in the City of Alameda, County of Alameda, State of California, more particularly described in Exhibit 1 attached hereto (“**Property**” or “**Affordable Unit**”).

B. City Municipal Code Section 30-16, added by Ordinance No. 2965-NA adopted on June 15, 2004, sets forth certain inclusionary housing requirements for residential development in the City (“**City Inclusionary Policy**”).

C. The Property is located on the site of a 357 unit residential project (“**Project**”) developed by Pulte Home Company, LLC, a Michigan Limited Liability Company (“**Developer**”) in accordance with City of Alameda Planning Board Resolutions PB 19-27, PB 19-21, and PB 19-22, on file with the City of Alameda's Planning and Building Department, and (b) City of Alameda Planning Board Resolution PB 19-21 Approving the Development Plan and Density Bonus Application which includes certain conditions of approval, including Condition of Approval No. 14, which requires that the Developer reserve at least 39 units (48 units minus a 9 unit credit from Stargell Commons) in the Project for sale to moderate-, low- and very low-income households in accordance with the City Inclusionary Policy (the “**Project Inclusionary Requirement**”).

D. Owner and City desire by the execution of this Agreement to assure the Property meets the requirements of the City Inclusionary Policy, and that the Affordable Unit remains

affordable to a very low-income household for a minimum of fifty-nine (59) years following the date of recordation of this Agreement.

NOW THEREFORE, the parties acknowledge and agree as follows:

ARTICLE 1. DEFINITIONS

1.01 “**Affordable Rent**” is the amount of rent considered as “affordable rent” for very low and low income households, adjusted for family size appropriate to the unit, less a utility allowance, pursuant to California Health and Safety Code Section 50053 or any successor statute thereto. If the statute is no longer in effect and no successor statute is enacted, the City shall establish the Affordable Rent for purposes of this Agreement. For purposes of this Section 1.01 “adjusted for family size appropriate to the unit” shall mean a household of two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

1.02 “**Applicable Laws**” means all applicable laws, ordinances, statutes, codes, orders, decrees, rules, regulations, official policies, standards and specifications (including any ordinance, resolution, rule, regulation standard, official policy, condition, or other measure) of the United States, the State of California, United States Department of Housing and Urban Development (“HUD”), the County of Alameda, City of Alameda, or any other political subdivision in which the Project is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the Owner or the Project.

1.03 “**Area Median Income**” shall mean the median income for households in Alameda County, California, as published from time to time by HUD in a manner consistent with the determination of median gross income under Section 8 of the United States Housing Act of 1937, as amended, and as defined in Title 25, California Code of Regulations, Section 6932. In the event that such income determinations are no longer published by HUD, or are not updated for a period of at least 18 months, the City shall provide the Owner with other income determinations that are reasonably similar with respect to methods of calculation to those previously published by HUD.

1.04 “**Eligible Households**” shall mean households meeting the income restrictions as set forth in Section 2.01.

1.05 “**Housing Authority**” shall mean the Housing Authority of the City of Alameda.

ARTICLE 2. RENT, INCOME AND OCCUPANCY RESTRICTIONS

2.01 Rent and Income Restrictions. The Affordable Unit to be located on the Property shall be rented to low income households whose gross income does not exceed fifty percent (50%) of the Area Median Income at an Affordable Rent

No less than one (1) person per bedroom shall be allowed. No more than two (2) persons shall be permitted to occupy a studio Affordable Unit, no more than three (3) persons shall be permitted to occupy a one (1) bedroom Affordable Unit, no more than five (5) persons shall be permitted to occupy a two (2) bedroom Affordable Unit, and no more than seven (7) persons shall be permitted to occupy a three (3) bedroom Affordable Unit. City may make exceptions to the foregoing occupancy standards to the extent such exceptions are required by Applicable Laws, and

do not increase City's obligations or liabilities under this Agreement, or diminish or impair City's rights and remedies under this Agreement.

Not more than once per year, Owner may adjust the rent in the occupied Affordable Unit to the level allowed for the family size appropriate to the unit. Owner may adjust the rent upon vacancy of an Affordable Unit to the level allowed for the family size appropriate to the unit. City shall annually publish a list of all rent ceilings reflecting the annual adjustments in the income limits for Eligible Households provided by HUD and the State of California Department of Housing and Community Development ("HCD"). Owner must notify the tenant of the Affordable Unit and City in writing of any increase in monthly rent at least thirty (30) days in advance of the effective rent adjustment date. The written notice of rent increase provided to City shall indicate: (1) the rent adjustment for the Affordable Unit; (2) the new rental amount for the Affordable Unit; and (3) the effective date of the adjustment for the Affordable Unit. Failure to provide the notice required shall be considered a default by Owner under this Agreement.

The determination of a status as an Eligible Household shall be made by Owner prior to initial occupancy of the Affordable Unit by such household and shall be subject to review and approval by City. The income of all persons residing in the Affordable Unit shall be considered for purposes of calculating the household income. Owner shall not discriminate against prospective tenants with qualified Public Housing Authority Section 8 certificates or vouchers who are otherwise qualified. Owner shall notify City in writing whenever the tenant in an Affordable Unit changes. The notice shall indicate the name and household size of the tenant vacating the Affordable Unit. Once the Affordable Unit is reoccupied, Owner shall notify City in writing of the new tenant's name, household size and income.

Immediately prior to the first anniversary date of the occupancy of the Affordable Unit by an Eligible Household, and on each anniversary date thereafter, Owner shall re-certify the income of the occupants of the Affordable Unit by obtaining a completed Tenant Income Certification based upon the current income of each occupant of the Affordable Unit. The Tenant Income Certification shall be in the form attached hereto as Exhibit 2 or in such other format as may be agreed to by City and Owner. If an occupant of an Affordable Unit no longer qualifies as an Eligible Household due to an increase in income above the limitation set forth in paragraph (a) and/or (b), as appropriate, of this Section 2.01, the occupant may continue to occupy the former Affordable Unit; provided, however, Owner may increase the rental rate for such former Affordable Unit to market rate. After the former Eligible Household vacates the Affordable Unit, the Owner shall rent the Affordable Unit to an Eligible Household.

2.02 Marketing and Leasing Program.

Owner shall actively market rental of the Affordable Unit to Eligible Households. Prior to lease-up of the Affordable Unit, Owner shall provide City with a copy of its marketing program for the Affordable Unit ("**Affordable Units Marketing Program**"). City shall review the Affordable Unit Marketing Program and either approve or request modifications to the Affordable Unit Marketing Program within thirty (30) days after receipt. Owner shall provide monthly updates to the Affordable Unit Marketing Program commencing thirty (30) days after the date the Affordable Unit Marketing Program is initially approved by City.

Owner is responsible for implementing the Affordable Unit Marketing Program actively and in good faith. City may extend the required marketing period in its discretion if Owner delays implementation or otherwise fails to comply with the Affordable Unit Marketing Program as approved by City.

ARTICLE 3. REPORTING REQUIREMENTS FOR PROPERTY

3.01 Reporting Requirements. Owner shall submit an annual report and income certification to the City. The report, at a minimum, shall include:

- (a) The number of persons occupying the Affordable Unit;
- (b) Name of each Affordable Unit Tenant;
- (c) Initial occupancy date;
- (d) Rent paid per month; and
- (e) Gross income per year.

Such information shall be reported to the City substantially in the form of the Certification of Continuing Compliance attached hereto as Exhibit 3 or in such other format as may be reasonably requested by City.

Annual income recertifications shall also contain those documents used to certify eligibility. City, from time to time during the term of this Agreement, may request additional or different information, if such information is required in order for the City to comply with its reporting requirements, and Owner shall promptly supply such additional or different information in the reports required hereunder. Owner shall maintain all necessary books and records, including property, personal and financial records, in accordance with requirements prescribed by the City with respect to all matters covered by this Agreement. Owner, at such time and in such forms as City may require, shall furnish to City statements, records, reports, data and information pertaining to matters covered by this Agreement. Upon reasonable advance request for examination by City, Owner, at any time during normal business hours, shall make available all of its records with respect to all matters covered by this Agreement. Owner shall permit City to audit, examine and make excerpts or transcripts from these records at City's sole cost.

The first annual report and annual income certification ("**Initial Report**") shall be submitted to the City within thirty (30) days of the date of the initial rental of the Affordable Unit. Subsequent annual reports and annual income certifications or recertifications shall be submitted to the City on the anniversary date of submittal of the Initial Report.

3.02 City Approval of Lease Forms. City shall have the right to review and approve Owner's form of lease for the Affordable Unit, including disclosures of the affordability restrictions on the Affordable Unit, prior to Owner's use of such form.

3.03 Reserved.

ARTICLE 4. PROVISION OF SERVICES AND MAINTENANCE OF PROPERTY

4.01 Maintenance. During the term of this Agreement, Owner shall maintain, or cause to be maintained, the Property, including all improvements thereon, in a manner consistent with

the provisions set forth therefor in the Alameda Municipal Code, and shall keep the entire Property free from any accumulation of debris or waste materials prior to and after construction.

If, at any time, Owner fails to maintain the Property, and has either failed to commence to cure such condition or to diligently prosecute to completion the condition or the condition is not corrected after expiration of sixty (60) days from the date of written notice from the City to the Owner, City may perform the necessary corrective maintenance, and Owner shall pay such costs as are reasonably incurred for such maintenance. The City shall have the right to place a lien on the Property should Owner not reimburse City for such costs within sixty (60) days following City's written demand for reimbursement of such costs. Owner, on behalf of itself, its heirs, successors and assigns, hereby grants to City and its officers, employees and agents, an irrevocable license to enter upon the Property to perform such maintenance during normal business hours after receipt of written notice from City and Owner's failure to cure or remedy such failure within sixty (60) days of such notice. Any such entry shall be made only after reasonable notice to Owner and the tenant of the Affordable Unit, and City shall indemnify and hold Owner harmless from any claims or liabilities pertaining to any such entry by City. Failure by Owner to maintain the Property in the condition provided in this Article 4 may, in City's reasonable discretion, constitute a default under this Agreement.

ARTICLE 5. NO TRANSFER

5.01 Prohibition. Except with respect to Permitted Transferees (as defined below), Owner shall not make any total or partial sale, transfer, conveyance, encumbrance to secure financing, assignment or lease of the whole or any part of the Property or this Agreement without the prior written approval of the City, which approval shall not be unreasonably withheld, conditioned or delayed.

5.02 Permitted Transfers. Notwithstanding any other provision of this Agreement to the contrary, City approval of an assignment or transfer of this Agreement or conveyance of the Property, or any part thereof, shall not be required in connection with any of the following (the "Permitted Transfers"):

- (a) The lease of the Affordable Unit to an Eligible Household.
- (b) Assignments for financing purposes, and any subsequent transfer to the lender providing such financing by foreclosure or deed in lieu of foreclosure thereunder, subject to such financing being considered and approved by the City.
- (c) Transfer of the Property to an affiliate entity which controls, is controlled by or under common control with Owner.
- (d) In the event of an assignment by Owner pursuant to subparagraph (c) not requiring the City's prior approval, Owner nevertheless agrees that at least thirty (30) days prior to such assignment or transfer it shall give written notice to the City of such assignment or transfer and that such transferee shall be required to assume Owner's obligations under this Agreement pursuant to a written assignment and assumption agreement in a form reasonably acceptable to the City Attorney.

5.03 City Consideration of Requested Transfer. The City agrees that it will not unreasonably withhold approval of a request made pursuant to this Article 5 provided (a) the Owner delivers written notice to the City requesting such approval, and (b) the proposed assignee or transferee possesses comparable operational experience and capability, and comparable net worth and resources, as Owner, and (c) the assignee or transferee assumes the obligations of the Owner under this Agreement pursuant to a written assignment and assumption agreement in a form reasonably acceptable to Owner and the City Attorney. Such notice shall be accompanied by evidence regarding the proposed assignees or purchaser's qualifications and experience and its financial commitments and resources sufficient to enable the City to evaluate the proposed assignee or purchaser pursuant to the criteria set forth herein and other criteria as reasonably determined by the City. The City shall approve or disapprove the request within forty-five (45) days of its receipt of the Owner's notice and all information and materials required herein.

ARTICLE 6. NO DISCRIMINATION

Owner covenants, by and for itself and any successors in interest, that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Owner, itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, subleases or vendees in the Property.

ARTICLE 7. NO IMPAIRMENT OF LIEN

No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument; provided, however, that any successor of Owner to the Property shall be bound by such covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

ARTICLE 8. DURATION

The covenants contained in Articles 2, 3, 4 and 5 of this Agreement shall be deemed to run with the Property until the date which is fifty-nine (59) years following the Effective Date. The covenants against discrimination contained in Article 6 of this Agreement shall run with the Property in perpetuity.

ARTICLE 9. SUCCESSORS AND ASSIGNS

The covenants contained in the Agreement shall be binding upon Owner and its heirs, successors and assigns, and such covenants shall run in favor of the City and its successors and

assigns for the entire period during which such covenants shall be in force and effect, without regard as to whether the City is or remains an owner of any land or interest therein to which such covenants relate. In the event of any breach of any such covenants, or breach of any of Owner's obligations under this Agreement, City and its successors and assigns shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach. The covenants contained in the Agreement, without regard to technical classification and designation, shall be for the benefit of and shall be enforceable only by the City, and its successors and assigns.

ARTICLE 10. SUBORDINATION AGREEMENT

Except as otherwise expressly provided below, this Agreement shall have priority over the liens of all mortgages, deeds of trust and other liens (other than the lien for current, unpaid property taxes) and Owner shall cause all such mortgagees, deed of trust beneficiaries and other lien holders to execute and deliver to City for recordation in the Official Records of Alameda County, a subordination agreement, in a form reasonably acceptable to City, subordinating such mortgages, deeds of trust and other liens to this Agreement thereby ensuring the priority of this Agreement over all such mortgages, deeds of trust and other liens. Notwithstanding the subordination provisions set forth herein, the City may, in its sole discretion, subordinate this Agreement.

ARTICLE 11. DEFAULT

Any failure by Owner to perform any term or provision of this Agreement shall constitute a "Default" (1) if Owner does not cure such failure within sixty (60) days following written notice of default from City, or (2) if such failure is not of a nature which can be cured within such sixty (60) day period, Owner does not commence substantial efforts to cure the failure within sixty (60) days and thereafter prosecute to completion with diligence and continuity the curing of such failure. Any notice of default given under this Agreement shall identify the nature of the failure in performance which City claims constitutes the Default and the manner in which such Default may be satisfactorily cured. Any failure or delay by City in asserting any of its rights or remedies, including specific performance, as to any Default shall not operate as a waiver of any Default or of any such rights or remedies or deprive City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

ARTICLE 12. NOTICES, DEMANDS AND COMMUNICATIONS

Any approval, disapproval, demand, document or other notice to be provided under this Agreement shall be given in writing and shall be sent: (a) for personal delivery by a delivery service that provides a record of the date of delivery, the individual to whom delivery was made, and the address where delivery was made; (b) by first-class certified United States mail, postage prepaid, return receipt requested; or (c) by a nationally recognized overnight courier service and marked for next day business delivery. All notices shall be addressed to the party to whom such notice is to be given at the property address stated herein or to such other address as a party may designate by written notice to the other. Any written notice, demand or communication shall be deemed received: (a) immediately if delivered by personal delivery as provided hereinabove;

(b) on the third (3rd) day from the date it is postmarked if delivered by first-class mail, postage prepaid, return receipt requested; and (c) on the next business day if sent via nationally recognized overnight courier and marked for next day business delivery. Notices sent by a party's attorney on behalf of such party shall be deemed delivered by such party.

To City: City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501
Attention: Community Development Director

With a copy to: City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501
Attention: City Attorney

To Owner: Alameda Affordable Housing Corporation
701 Atlantic Avenue
Alameda, CA 94501
Attention: Executive Director

ARTICLE 13. ATTORNEYS' FEES

In any action or proceeding which either party brings against the other to enforce its rights hereunder, the unsuccessful party shall pay all costs incurred by the prevailing party, including reasonable attorneys' fees, which amounts shall be a part of the judgment in any action or proceeding.

ARTICLE 14. RECORDATION OF AGREEMENT

Immediately following the Effective Date, this Agreement and the Notice of Affordability Restrictions on Transfer of Property in the form attached hereto as Exhibit 4, shall be recorded against the Property in the Official Records of Alameda County.

ARTICLE 15. COMPLIANCE MONITORING FEE

Owner acknowledges and agrees that the City is obligated to monitor compliance with this Agreement on an annual basis and, therefore, agrees to pay City for a portion of its administrative costs for such monitoring by paying to City an annual monitoring fee in the amount of Twenty-five Dollars \$25.00 per unit per year, payable on the initial date of occupancy and each year on the anniversary date of the initial date of occupancy.


ARTICLE 16. MISCELLANEOUS

Each party agrees to cooperate with the other in the implementation and administration of this Agreement and, in that regard, shall execute any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. The words "include" and "including" shall be construed as if followed by the words "without limitation." All exhibits and attachments hereto are incorporated by reference as though fully restated herein. This Agreement shall be interpreted as though prepared jointly by both parties, and shall be construed in accordance with and be governed by the laws of the State of California. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby. A waiver by either party of a breach of any of the covenants, conditions or agreements hereunder to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof. No waiver by City of any of the conditions hereof shall be effective unless in writing expressly identifying the scope of the waiver and signed on behalf of an authorized official of City. Any alteration, change or modification of or to the Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party hereto.

[SIGNATURES ON FOLLOWING PAGE]


IN WITNESS WHEREOF, the City and Owner have caused this Agreement to be executed on their behalf by their respective officers thereunto duly authorized, on the Effective Date first above written.

RECOMMENDED FOR APPROVAL:



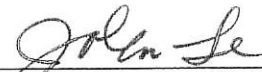
Lisa Nelson Maxwell
Community Development Director

CITY:
CITY OF ALAMEDA, a municipal corporation



Eric J. Levitt
City Manager
[Signature must be notarized]

APPROVED AS TO FORM:




John D. Lê
Assistant City Attorney

- and -

OWNER::

Alameda Affordable Housing Corporation,
a California nonprofit public benefit corporation

By: 

Vanessa M. Cooper
Secretary
[Signature must be notarized]

NOTARY ACKNOWLEDGMENTS

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

) ss:

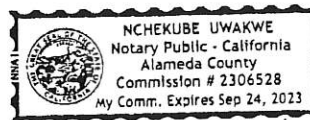
COUNTY OF ALAMEDA)

Nchekube Uwakwe, notary public

On 12-3, 21, before me, _____,
Notary Public personally appeared Vanessa M Cooper
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]

NOTARY ACKNOWLEDGMENTS

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

) ss:

COUNTY OF ALAMEDA)

On 12/9/21, before me, Rina Mae Winston
Notary Public personally appeared Eric J. Levitt
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/hers/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[Handwritten Signature]

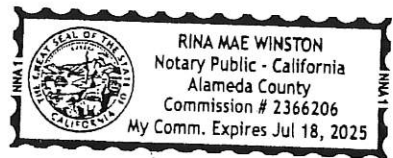


EXHIBIT 1
LEGAL DESCRIPTION

Real property in the City of Alameda , County of Alameda, State of California, described as follows:

PARCEL ONE (Unit):

Unit 4 ("Unit") as shown on the Condominium Plan - Lpt 1 Tract 8524 Bay 37, recorded on June 28, 2021, as Document No. 2021230482, together with any amendments or modifications, thereto ("Condominium Plan") and described and defined in the Declaration of Covenants, Conditions and Restrictions of Bay 37 recorded on June 25, 2021, as Instrument No. 2021229174, of Official Records together with any amendments, modifications, or annexations thereto, as may occur from time to time ("Declaration"), being a portion of Lot 1 as shown on the map entitled Tract Bay 37, filed on November 4, 2020, in Book 363 of Maps, at page 67, Alameda County Records ("Map").

PARCEL TWO (Undivided Interest in Building Common Area):

An undivided one-sixth (1/6th) interest as tenant in common in and to Lot 1, as shown on the Map.

Excepting therefrom Units 1 to 6, inclusive, as shown on the Condominium Plan.

ALSO EXCEPTING THEREFROM all easements as provided for in the Declaration, together with the right to subsequently grant and convey such easements.

ALSO EXCEPTING THEREFROM easements for the exclusive use, possession, and enjoyment of those areas shown on the Condominium Plan as a Balcony, Garage and Porch, together with the right to subsequently grant and convey such easements.

ALSO EXCEPTING THEREFROM , as reserved in the Quitclaim Deed from Union Pacific Railroad Company to Catellus Alameda Development, LLC recorded March 14, 2013 as Instrument Number 2013-096672 of Official Records the following:

"All minerals and all mineral rights of every kind and character now known to exist or hereinafter discovered at a depth of 500 feet or more below the surface of the property, including, without limitation, oil and gas and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of said minerals by any means or methods suitable to grantor, its successors and assigns, but without any right to enter upon or use the surface of the property, provided that such exploration, removal and disposal of said minerals does not damage the surface of the property, any improvements thereon or thereunder, or to interfere with the use of the property by grantee, its successors or assigns."

PARCEL THREE (Non-Exclusive Easements)

Non-exclusive easements for use, enjoyment, ingress, egress and support in and to the portion of the Common Area, as defined in the Declaration, for the benefit of Parcel One above.

PARCEL FOUR (Exclusive Use Common Area):

An exclusive easement for the use, possession, and enjoyment of the Balcony, as shown on the Condominium Plan, which bears the number that corresponds to that of the Owner Unit described in Parcel One, above.

An exclusive easement for the use, possession, and enjoyment of the Garage, as shown on the Condominium Plan, which bears the number that corresponds to that of the Owner Unit described in Parcel One, above. An exclusive easement for the use, possession, and enjoyment of the Porch, as shown on the Condominium Plan, which bears the number that corresponds to that of the Owner Unit described in Parcel One, above.

The exclusive easements are appurtenant to the real property conveyed in Parcel One, above.

441 Mitchell Avenue, Alameda, CA

APN: 074-1380-009 (Affects this and other property)

EXHIBIT 2

Tenant Income Certification

Project Name and Address: _____ Date: _____

- Affordable Units: 50% of Median Income
 80% of Median Income
 120% of Median Income

Address/Unit Number: _____ Rent: _____

Tenant/Household Name: _____ Date of Lease: _____

Size of Household: _____ Expiration: _____

Total Household Income: _____ per year

The following list includes each member of the household and their income. Attached are federal or state income tax returns for the most recent tax year, current stubs from paychecks or other evidence of the income of each income-producing member of the household.

Name of Household Member	Relationship	Age	Social Security Number	Annual Income	Source of Income/ Name of Employer
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

I/We the undersigned have read and answered fully, frankly and personally each of the above questions under penalty of perjury and do hereby swear they are true.

Head of Household

Date

Owner/ Agent

Date

EXHIBIT 3

CERTIFICATION OF CONTINUING COMPLIANCE

Project Name and Address: _____ Date: _____

Total Affordable Housing Units in Project:

Very Low Income Units (not to
exceed 50% of Median Income): _____

Low Income Units (not to
exceed 80% of Median Income): _____

Moderate Income Units (not to
exceed 120% of Median Income): _____

The Owner, in accordance with the Regulatory Agreement and Declaration of Restrictive Covenants dated _____, does hereby certify to the City of Alameda that during the preceding year, the units identified on the following pages were occupied in accordance with the Regulatory Agreement and Declaration of Restrictive Covenants and does hereby further certify that the representations set forth herein are true and correct to the best of the undersigned's knowledge.

Signed: _____ Date: _____

Owner/ Agent

[See Attached]

ANNUAL COMPLIANCE REPORT

Project Name and Address: _____

Date: _____

Very Low Income Units (Not to Exceed 50% of Median Income)

Unit No./Address	Type	Tenant Name	Annual Household Income	Number in Household	Monthly Rent
_____	_____	_____	_____	_____	_____

Signed: _____

Date: _____

Owner / Agent

EXHIBIT 4

RECORDING REQUESTED
BY
AND WHEN RECORDED
MAIL TO:
City of Alameda
Community Development
Department
950 W. Mall Square, Suite 205
Alameda, CA 94501
Attention: Director

*Exempt from recording fees
pursuant to Cal. Gov't Code
Section 27383*

*Space Above This Line For Recorder's Use
Only*

**NOTICE OF AFFORDABILITY RESTRICTIONS
ON TRANSFER OF PROPERTY**

(Note: Above Title and text below must remain in 14-point type or larger)

Important notice to owners, purchasers, tenants, lenders, brokers, escrow and title companies, and other persons, regarding affordable housing restrictions on the real property described in this Notice: Restrictions have been recorded with respect to the property described below (referred to in this Notice as the "Property") which restrict the price and terms at which the Property may be sold or rented. These restrictions may limit the sales price or rents of the Property to an amount which is less than the fair market value of the Property. These restrictions also limit the income of persons and households who are permitted to purchase and rent the Property.

Title of Document Containing Affordable Housing Restrictions:

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE

COVENANTS (441 Mitchell Avenue, Alameda, CA – Very Low) (referred to in

this Notice as the "Affordable Housing Restrictions").

Parties to Affordable Housing Restrictions:

City of Alameda ("City") and

the Alameda Affordable Housing Corporation ("Owner").

The Affordable Housing Restrictions are recorded: (check one)

as Document No. _____, official records of _____ County, on _____; or

concurrently with this Notice, official records of _____ County.

Legal Description of Property:

See Exhibit A (Attached hereto)

Street Address of Property: _____, Alameda, California.

Assessor's Parcel Number of Property: _____

Summary of Affordable Housing Restrictions (check as applicable):

The Regulatory Agreement and Declaration of Restrictive Covenants restricts the amount of rent which may be charged for the rental housing unit or units on the Property, as follows:
30% of maximum annual income for households whose gross income does not exceed the applicable income level.

The Regulatory Agreement and Declaration of Restrictive Covenants restricts the sales price which may be charged for the sale of the ownership housing unit or units on the Property, as follows:
_____.

The Regulatory Agreement and Declaration of Restrictive Covenants restricts the income level of the tenant or buyer of the Property, as

follows:

50% of area median income

Term of Restrictions: 59 years, commencing on December 15, 2021 and terminating on December 15, 2080

This Notice does not contain a full description of the details of all of the terms and conditions of the Affordable Housing Restrictions. You will need to obtain and read the Regulatory Agreement and Declaration of Restrictive Covenants to fully understand the restrictions and requirements which apply to the Property. In the event of any conflict between the terms of this Notice and the terms of the Regulatory Agreement and Declaration of Restrictive Covenants, the terms of the Regulatory Agreement and Declaration of Restrictive Covenants shall control.

This Notice is being recorded and shall be indexed against the City and the current Owner of the Property.

CITY:
CITY OF ALAMEDA,
a municipal corporation

Dated: _____, 2021 By: _____

Eric J. Levitt
City Manager

[Signature must be notarized]

Approved as to form:

By: _____

John D. Lê
Assistant City Attorney

OWNER:

Alameda Affordable Housing Corporation,
a California nonprofit public benefit
corporation.

Dated: 12/3, 2021

By: *Vanessa Cooper*
Vanessa M. Cooper
Secretary
[Signature must be notarized]

ACKNOWLEDGMENTS

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

) ss:

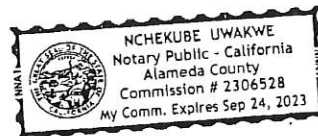
COUNTY OF Alameda

On 12.3, 21, before me, Nchekube Uwakwe, notary public,
Notary Public personally appeared Vanessa M Cooper
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 





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

701 Atlantic Avenue • Alameda, California 94501-2161

To: Board of Directors

From: Vanessa Cooper, Executive Director

Prepared By: Vanessa Cooper, Executive Director

Date: January 19, 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.
6.B.

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. 2022-002 - AB 361
2. AB 361.pdf 2021

Respectfully submitted,



Vanessa Cooper, Executive Director

ALAMEDA AFFORDABLE HOUSING CORPORATION

Resolution No. 2022-002

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 19th day of January, 2022, by the following vote:

AYES:

NOES:

ABSETENTIONS:

ABSENT:

ATTEST:

Vanessa M. Cooper, Secretary
Board of Directors

Carly Grob, President
Board of Directors

Adopted: January 19, 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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