



ISLAND CITY DEVELOPMENT AGENDA

AGENDA
DATE & TIME

REGULAR MEETING OF ISLAND CITY DEVELOPMENT
Monday, June 13, 2022 - 12:30 PM

LOCATION

Independence Plaza Conference Room, 703 Atlantic Ave, Alameda CA 94501

PUBLIC PARTICIPATION

IN PERSON OR ACCESSIBLE VIA ZOOM:

Join Zoom Meeting

<https://us06web.zoom.us/j/85968670136?pwd=dZsb0wydUdPdVUwK3gycWxNdWp6dz09>

Meeting ID: 859 6867 0136

Passcode: 753876

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Find your local number: <https://us06web.zoom.us/j/kvQ3LHZch>

1. CALL TO ORDER & ROLL CALL
2. PUBLIC COMMENT (Non-Agenda)
3. CONSENT CALENDAR (Action)
 - A. Approve the May 25 2022 ICD Meeting Minutes
4. NEW BUSINESS
 - A. Appoint Island City Development Directors for 2022



- B. Authorize the Executive Director to execute Management Agreements for 1628 Webster, NH PSH I, NH PSH II and NH Senior with John Stewart & Company
 - C. Accept an Option to Purchase Improvements at 1628 Webster Street from the Housing Authority of the City of Alameda
 - D. Discussion and Possible Adoption of Resolution 2022-10 of the Board of Directors of Island City Development Ratifying the Proclamation of a State of Emergency by the Governor of the State of California on March 4, 2021, and Making Findings Authorizing Continued Remote Teleconference Meetings of the Board of Directors Pursuant to Brown Act Provisions, as amended by Assembly Bill No. 361.
- 5. NON-AGENDA (Public Comment)
 - 6. WRITTEN COMMUNICATIONS
 - 7. ORAL COMMUNICATIONS – BOARD MEMBERS AND STAFF
 - 8. ADJOURNMENT

NOTES:

- If you need special assistance to participate in the meetings of the Island City Development Board of Directors, please contact Jocelyn Layte at (510) 747-4349 (TTY/TRS: 711) or jlayte@alamedahsg.org. Notification 48 hours prior to the meeting will enable the Island City Development Board of Directors to make reasonable arrangements to ensure accessibility.
- Documents related to this agenda are available for public inspection and copying at the Office of the Housing Authority, 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 Island City Development'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 Island City Development accommodate these individuals.

IF YOU WISH TO ADDRESS THE BOARD:

- Anyone wishing to address the Board on agenda items or business introduced by Board members may speak for a maximum of three (3) minutes per agenda item when the subject is before the Board. Please file a speaker's slip with the Board President. Upon recognition by the President, approach the rostrum and state your name.
- Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.





MINUTES – DRAFT UNTIL APPROVED

ISLAND CITY DEVELOPMENT
SPECIAL MEETING, MAY 25, 2022
IN PERSON AT INDEPENDENCE PLAZA COMMUNITY ROOM,
703 ATLANTIC AVE, ALAMEDA CA 94501

Due to error in proper posting of the May 18th 2022 ICD agenda, in compliance with the Brown Act, this meeting was held again on May 25th 2022 with the addition of Consent Item 3F.

1. CALL TO ORDER & ROLL CALL

President Cooper called the meeting to order at 2:30PM. The following Board members were present: Director Vanessa Cooper, Director Janet Basta; Director Grob, absent; quorum established. Staff in attendance: Sylvia Martinez, Tony Weng, Allyson Ujimori, Jocelyn Layte, Marlene Reye, Nicole Guzman, Joseph Nagel

2. PUBLIC COMMENT (Non-Agenda)

3. CONSENT CALENDAR (Action)

A. Approve April 20 2022 ICD Minutes

B. Approve Amended and Restated ICD Bylaws and Accept Names for Appointee to the ICD Board.

C. Approve the Sixth Amendment to the Consultant Services Agreement Dated 4/15/15 between Island City Development and the Housing Authority of the City of Alameda

D. Accept the LIHTC Portfolio Asset Management Fiscal Year to Date Financial Report through the Month of March 2022.

E. Accept the 2021 Audited Financial Statement of Low-Income Housing Tax Credit Partnership - Stargell Commons, L.P.

F. Authorize the President, or her Designee, to Negotiate a Contract Amendment with the Dahlin Group, Inc. for an Amount not to exceed \$10,000 for Additional Design Services at Rosefield Village and in addition, to Negotiate up to an Additional \$10,000 for Contingency.

Director Cooper noticed to staff, due to the meeting being in person, roll call was not needed. Director Basta motioned to accept consent items 3A – 3F, Director Cooper seconded. All in favor, the motion passed.



4. NEW BUSINESS

- A. Discussion and Possible Adoption of Resolution 2022-10 of the Board of Directors of Island City Development 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

Director Cooper noted that item 4A, per legal counsel, was no longer valid as it would have been passed outside the 30 day window rendering it null. Staff asked to pass it in case there was a need for it. Director Cooper and Director Basta agreed to pass this motion but legal guidance would be sought in order to verify the validity of this resolution. Director Basta motioned to pass item 4A pending approval of validity by legal counsel, Director Cooper Seconded. All in favor, the motion passed.

- B. Adopt Resolution 2022-11 to Accept AHA Loans and Options to Island City Development a) Up to \$8 million for an adaptive reuse acquisition and an Option to Ground Lease to Island City Development, b) Up to \$4.4 million for 2615 Eagle Avenue and an Option to Ground Lease to Island City Development, c) Up to \$3 million for North Housing PSH I, d) Up to \$1.5 million for North Housing PSH II, e) Up to \$4.538 million for North Housing Senior to Island City Development and authorize the Executive Director or her designee to sign options to ground lease and award letters and to submit to State of California funding applications

No comment or discussion. Director Basta Motioned, Director Cooper Seconded. All in favor, the motion passed.

- C. Authorize the Creation of Two Limited Partnerships and/or Two Limited Liability Company Entities for Tilden Commons and an Acquisition Adaptive Reuse Project

Director Cooper mentioned Staff will need a formal name for entities. Director Basta motioned, Director Cooper Seconded. All in favor, the motion passed.

5. NON-AGENDA (Public Comment) (none)
6. WRITTEN COMMUNICATIONS (none)
7. ORAL COMMUNICATIONS – BOARD MEMBERS AND STAFF
8. ADJOURNMENT

Director Cooper adjourned the meeting at 2:35 PM.





ISLAND CITY DEVELOPMENT

Fax (510) 522-7848 | TTY/TRS 711

ITEM 4.A

To: Board of Directors
Island City Development

From: Sylvia Martinez, Director of Housing Development

Date: June 13, 2022

Re: Appoint Island City Development Directors for 2022

BACKGROUND

Per the bylaws, the Directors are appointed once a year. Per discussion by the Board of Commissioners of the Housing Authority, names will be provided for the Island City Directors. The Board of Directors should take action to appoint the Directors for 2022.

DISCUSSION

FISCAL IMPACT

None

CEQA

Not Applicable

RECOMMENDATION

Appoint Island City Development Directors for 2022

ATTACHMENTS

None

Respectfully submitted,

Sylvia Martinez, Director of Housing Development





ISLAND CITY DEVELOPMENT

Fax (510) 522-7848 | TTY/TRS 711

ITEM 4.B

To: Board of Directors
Island City Development

From: Sylvia Martinez, Director of Housing Development

Date: June 13, 2022

Re: Authorize the Executive Director to execute Management Agreements for 1628 Webster, NH PSH I, NH PSH II and NH Senior with John Stewart & Company

BACKGROUND

The Housing Authority and Island City Development held a competitive procurement for property management services in 2019 and selected John Stewart and Company for services of existing and potential future projects for a period of up to five years (2019-2024). John Stewart and Company is an experienced property management firm in the affordable housing and permanent supportive housing industry. JSCo manages all but two of the existing Housing Authority and Island City Development affordable and tax credit properties.

DISCUSSION

Development projects at the applications stage must demonstrate that they intend to utilize a property management firm with sufficient experience. In addition, the projects must provide signed management agreements, draft management plans, draft tenant selection plans, and other materials that demonstrate the capacity to manage the properties. Four of the Island City Development pipeline projects intend to apply to the State of California SuperNOFA (Notice of Funding Availability) due June 28, 2022. As the total sum of these contracts exceeds \$250,000, staff requests that the Executive Director be authorized by the Board to sign these contracts. Staff notes that it is highly unlikely that all four of the projects will be successful in obtaining funding through the SuperNOFA, and also that three of the projects are new construction, and will not be ready for active property management until 2024.

A sample management agreement is attached. These 1-year property management agreements (from June 2022 to June 2023) will use the JSCo standard format, which will require additional negotiation before final versions are accepted by Island City Development and implemented with the pipeline projects later in 2022 and 2023. In addition, the Housing Authority and Island City Development intend to hold a procurement for these newer properties in the next 6-12 months to finalize the selection of a property manager.

FISCAL IMPACT

The costs of these contracts will be borne by the individual projects as part of project operations.



CEQA

Not applicable

RECOMMENDATION

Authorize the Executive Director to execute Management Agreements for 1628 Webster, NH PSH I, NH PSH II and NH Senior with John Stewart & Company

ATTACHMENTS

1. Att 1 Management Agreement Template (HUD and TC) 2022

Respectfully submitted,



Sylvia Martinez, Director of Housing Development

Attachment 1 Sample Management Agreement

**<Project Name>
SAMPLE MANAGEMENT AGREEMENT**

This Agreement is made this _____ day of _____ 20_____, between _____ ("Owner"), and John Stewart Company, a California corporation ("Agent"). This Agreement shall be effective when it is executed by all parties.

1. **Appointment and Acceptance.** The Owner appoints the Agent as exclusive agent for the management of the property described in Section 2 of this Agreement, and the Agent accepts the appointment, subject to the terms and conditions set forth in this Agreement. Agent hereby agrees to manage the Project in an efficient and satisfactory manner to the best of its ability.

2. **Description of Project.** The property (the "Project") to be managed by the Agent under this Agreement is a housing development consisting of the land, buildings, and other improvements as follows:

Owner Name: _____, **Tax ID Number:** _____,

Legal Owner of Project Named: <Project Name>

Project Location: _____

Project City: _____

Project State: _____

Project County: _____

Number of Dwelling Units (including any units for on-site employees): _____

Commercial Square Footage: _____

Other Identifying Numbers (As Applicable):

DUNS #: _____

HUD Project #: _____

CTCAC Number: _____

Section 8 Contract Number(s): _____

HCD Contract / Loan #: _____

CalHFA #: _____

Other: (HOME, local agency, etc) _____

3. **Definitions.**

a. FOR ALL PROPERTIES

(1) "Lenders" shall mean those agencies or individuals that have provided financing for the Project.

(2) "Management Representative" shall mean a John Stewart Company employee, i.e., Regional Manager, Property Manager or maintenance personnel.

(3) A "Mortgage" is an instrument or agreement between the Owner, as Mortgagor, and the Mortgagee, creating a lien on the Project as security for the payment of debt, which mortgage may be insured by the United States Department of Housing and Urban Development.

(4) "Mortgagee" shall mean agencies or individuals to which the Project has been mortgaged.

(5) "Principal Parties" shall mean the Owner and the Agent.

- (6) "Regulatory Agreements" shall mean those regulatory agreements, use agreements or declarations of restrictive covenants by and between the Owner and Lenders or regulatory agencies which have been provided to the Agent.
- (7) "Secretary" shall mean the Secretary of the United States Department of Housing and Urban Development.
- (8) "Act of God" shall mean a natural catastrophe which no one can prevent such as but not limited to an earthquake, a tidal wave, a volcanic eruption, or a tornado.

b. FOR HUD PROPERTIES

- (1) "HUD" shall mean the United States Department of Housing and Urban Development.

c. FOR TAX CREDIT PROPERTIES

- (1) "Code" shall mean Section 42 of the Internal Revenue Code of 1986, as amended.
- (2) "Limited Partner" shall mean the tax credit investor limited partner of the Owner, as provided in the Owner's partnership agreement.

4. **Basic Information.** As soon as possible, the Owner will furnish the Agent with a complete set of plans and specifications, and copies of all guaranties, warranties, regulatory agreements and loan documents applicable to the property, operating instructions and/or handbooks pertinent to construction, fixtures, and equipment at the Project. With the aid of this information and through inspection by competent personnel, the Agent will thoroughly familiarize itself with the character, location, construction, layout, plan and operation of the Project, and especially the electrical, heating, plumbing, air-conditioning and ventilating systems, the elevators, and all other mechanical equipment and systems. The Owner will be required to confirm in writing any and all initial rents and utility charges/allowances prior to the start of the marketing/lease-up (as applicable) or prior to the commencement of the term of this Agreement, whichever comes first.

5. **Rentals.** The Agent will offer for rent and will rent the dwelling units, parking spaces and other residential rental facilities and concessions in the Project. Incident thereto, the following provisions will apply:

- a. **Showing Premises to Prospective Tenants.** The Agent or Owner's representative will show the premises to prospective applicants.
- b. **Processing Applicants.** The Agent will process, in compliance with the Tenant Selection Plan, applications for tenancy, and will notify applicants of their eligibility status and their right to appeal a determination of ineligibility or denial. If an application is rejected, the Agent will tell the applicant the reason for rejection, and advise rejected applicants of their right to appeal. Rejected applications, with reasons for rejection noted thereon, will be kept on file for three (3) years, or for such longer period as may be required by a Lender, if any. A current list of prospective tenants will be maintained.
- c. **Executing Leases.** In consultation with the Owner, the Agent will prepare all dwelling leases, parking permits, house rules and other relevant lease addenda for approval by the Owner, and will execute the same in its name, identified thereon as agent for the Owner. The terms of all leases will comply with the pertinent provisions of California landlord/tenant law, and the Regulatory Agreement(s) (if any). Dwelling leases will be in a form approved by the Owner, but individual dwelling leases and parking permits need not be submitted for the approval of the Owner.

- d. **Collecting and Disbursing Deposits.** The Agent will collect, deposit, and disburse security deposits, if required, in accordance with the terms of each household's lease. Security deposits will be deposited by the Agent in an interest-bearing trust account, separate from all other accounts and funds, with a bank or other financial institution whose deposits are insured by an agency of the United States Government and the interest thereon will be used as required by local ordinance or Owner direction; in the absence of such local ordinance or Owner direction, said interest will be transferred to the Project operating account on a regular basis. This account will be opened and administered in compliance with California Department of Real Estate (DRE) regulations in the Owner's name.
6. **Collection of Rent and Other Receipts.** The Agent will collect when due all rents, charges and other amounts receivable on the Owner's account in connection with the management and operation of the Project. Subject to the rights of mortgagees under any assignment of rents, such receipts will be deposited in a trust account, separate from all other accounts and funds, with a bank whose deposits are insured by the Federal Deposit Insurance Corporation. This account will be opened and administered in compliance with California Department of Real Estate (DRE) regulations in the Owner's name.
7. **Enforcement of Governing Documents.**
- a. **Securing Compliance.** The Agent will secure full compliance by each Tenant with the terms of his or her lease and/or other applicable documents. Voluntary compliance will be emphasized, and the Agent, utilizing the services of local social services agencies when available, will counsel tenants and make referrals to community agencies in cases of financial hardship or under the circumstances deemed appropriate by the Agent, to the end that involuntary termination of tenancies may be avoided to the maximum extent possible, consistent with sound management of the Project. Nevertheless, the Agent may lawfully terminate any tenancy when, in the Agent's judgment, sufficient cause (including but not limited to nonpayment of rent) for such termination occurs under the terms of the Tenant's Lease. For this purpose, Owner authorizes Agent to consult with legal counsel to file actions for eviction and assigns to Agent the right to both file unlawful detainer actions in Agent's own name to recover possession of units and to execute notices to vacate and judicial pleadings incident to such actions, provided that Agent keeps Owner informed of such actions and follows instructions that the Owner may provide for the conduct of such actions. Attorney fees and other necessary costs incurred in connection with such actions will be paid out of the Operating Account as Project expenses.
- b. **Abiding by Requirements of Governing Agencies.** Agent and Owner agree to abide by all regulatory, statutory and administrative requirements of governing agencies pertaining to the Project.
8. **Maintenance and Repair.** The Agent will maintain the Project in good repair and in a condition at all times acceptable to the Owner, including but not limited to cleaning, painting, decorating, plumbing, carpentry, grounds care, and such other maintenance and repair work as may be necessary, subject to any limitations imposed by the Owner (including financial limitations) in addition to those contained herein. Incident thereto, the following provisions will apply:
- a. **Preventive Maintenance.** Special attention will be given to preventive maintenance and, to the greatest extent feasible, the services of regular maintenance employees will be used. A preventive maintenance schedule shall be developed by Agent for approval by the Owner. This schedule shall be updated annually.
- b. **Independent Contractors.** Subject to the Owner's prior approval, the Agent will contract with qualified independent contractors for the maintenance and repair of air-conditioning systems and elevators, and for extraordinary repairs beyond the capability of regular maintenance employees.

- c. Service Requests. The Agent will systematically and promptly receive and investigate all service requests from tenants, take such action thereon as may be justified, and will keep records of the same. Emergency requests will be received and serviced on a twenty-four (24) hour basis. Complaints of a serious nature will be reported to the Owner after investigation.
 - d. Purchasing. The Agent is authorized to purchase all materials, equipment, tools, appliances, supplies and services necessary for the proper maintenance and repair of the Project.
 - e. Prior Approval of Owner of Expenditures Above Threshold. Notwithstanding any of the foregoing provisions, the prior approval of the Owner will be required for any expenditure which exceeds \$10,000 (ten thousand), in any one instance for labor, materials, or otherwise in connection with the maintenance and repair of the Project, except for recurring expenses within the limits of the operating budget or emergency repairs involving manifest danger to persons or property, or required to avoid suspension of any necessary service to the Project. In the latter event, the Agent will inform the Owner of the facts as promptly as possible.
 - f. Inspection of Units. Agent shall have the right to inspect all units in the Project at least annually and shall invite Owner to join in the inspection. Advance notice shall be given to residents as provided in the Lease Agreements and required by law. Agent will cooperate with Owner's Lenders when inspections are requested.
9. **Employees**. The Owner and Agent will determine the number, qualifications, and duties of the personnel to be regularly employed in the management of the Project. All such on-site personnel will be hired, paid, supervised, and discharged through the Agent, subject to the following conditions:
- a. Duties of the Property Manager. The Property Manager will have duties of the type usually associated with this position. He/she will be directly responsible to the Agent. The Property Manager will coordinate his/her activities in the interest of good overall management of the Project.
 - b. Employee Compensation and Benefits. In accordance with Agent's employment policies, the compensation (including fringe benefits) of the on-site employees will include but not necessarily be limited to those required by local, state and federal law; life, disability, and medical insurances; paid vacation and sick leave and other benefits as may be provided by Agent.
 - c. Project Responsibility for Compensation. The Project is responsible for compensation (including fringe benefits) payable to the on-site employees, for all local, state, and Federal taxes and assessments (including but not limited to Social Security taxes, unemployment insurance, workers' compensation insurance, etc.) and for any payroll processing fees and training expenses incident to the employment of such personnel. Such costs will be paid out of the Operating Account and will be treated as Project expenses.
 - d. Compensation as a Cost to the Project. Compensation payable to the on-site employees, including fringe benefits and assessments incident to the employment of such personnel, will be borne solely by the Project, and will not be paid out of the Agent's fee. The rental value of any dwelling unit furnished rent-free (partially or in full) to any on-site staff will be treated as a cost to the Project.
10. **Financial Accounts**. Agent shall establish the following separate interest-bearing deposit accounts for Project funds as may be required by the Owner and/or the Regulatory Agencies and/or the partnership agreement: the "General Operating Account," the "Replacement Reserve Account," the "Operating Reserve Account," and the "Security Deposit Account." Each of these accounts shall be fully insured by the Federal Deposit Insurance Corporation, administered in compliance with DRE

regulations, and in the Owner's name. These funds shall not be commingled with Agent's funds or Owner's other funds. In collecting, handling, and disbursing these funds, Agent shall comply with this Agreement and applicable law.

- a. General Operating Account. All revenue collected pursuant to Section 6 of this Agreement (other than security deposits) shall be credited to the General Operating Account.
- b. Replacement Reserve Account. Agent shall transfer from the General Operating Account to the Replacement Reserve Account one-twelfth of the annual required amount on or before the 20th day of each month. All interest or other income earned by the Replacement Reserve Account shall be applied solely to the purposes of the Account. Disbursement will be made in accordance with the applicable regulatory restrictions and Lender and Investor requirements.
- c. Operating Reserve Account. The Agent acknowledges that Owner will capitalize the Operating Reserve Account in an amount required by Lenders and Limited Partner at the time the construction loan is converted to a permanent loan. Thereafter the Agent will deposit an amount required by the Lenders and Limited Partner in the Operating Reserve Account each month. All interest or other income earned by the Operating Reserve Account shall be applied solely to the purposes of the Account. Disbursement will be made in accordance with the applicable regulatory restrictions.
- d. Security Deposit Account. Agent shall deposit all tenant security deposits in the Security Deposit Account. All interest or other income earned by the Security Deposit Account shall be applied solely to the purposes of the Account or as otherwise directed by Owner or local law if no regulatory requirements apply. In the absence of local ordinances, regulatory requirements, state law or instructions from the Owner, interest on the Security Deposit Account shall be transferred to the Operating Account on a regular basis. Disbursements will be made in accordance with applicable laws and regulatory restrictions.

11. Disbursements from Operating Account.

- a. Agent will Make Certain Disbursements. From the funds collected and deposited by the Agent in the Operating Account pursuant to Section 6 above, the Agent will make the following disbursements promptly when payable:
 - (1) Employee Compensation. Compensation, taxes and benefits payable to the employees specified in Section 9 above, and for the taxes and assessments payable to local, state, and federal agencies in connection with the employment of such personnel.
 - (2) Mortgage Payments. The single aggregate payment required to be made monthly by the Owner to the Mortgagee, including the amounts due under the mortgage for principal amortization, interest, mortgage insurance premium, ground rents, taxes and assessments, fire and other hazard insurance premiums, and the amount specified in the Regulatory Agreement for allocation to the Reserve for Replacements (if applicable).
 - (3) Agent Compensation. All sums otherwise due and payable by the Owner as expenses of the Project authorized to be incurred by the Agent under the terms of this Agreement, including compensation payable to the Agent, pursuant to Section 24 below, for its service hereunder.
- b. Other Disbursements Only as Directed by the Owner. Except for the disbursements mentioned in Subsection 11a above, in the event of an emergency, as provided in Section

8e, funds will be disbursed or transferred from the Operating Account only as the Owner may from time to time direct in writing.

- c. Operating Shortfalls. In the event the balance in the Operating Account is at any time insufficient to pay disbursements due and payable under Subsection 11a above, **in no event** will the Agent be required to use its own funds to pay such disbursements. Agent will advise Owner immediately of any such deficiency. Any such operating shortfalls that cannot be covered by the Owner will be considered a material breach of the Agreement and may result in the termination of the Agreement, as discussed in Section 24 below.
- d. Agent's Right to Recover Cost of Payments to Owner/Project Debts. If at any time the Agent has, due to the circumstances described above and at its sole and absolute discretion, paid out of its own funds any debts due and payable by the Project/Owner, including but not limited to management fees and payroll expenses of personnel providing on-site services, the Agent has the right to recover the total cost of any debts paid plus interest charges in the amount of 1.5% per month of the unpaid balance.

12. Annual Operating Budgets.

- a. General Overview. Annual operating budgets for the Project will be as approved by the Owner. Except as permitted under Subsection 8e above, annual disbursements for each type of operating expenses itemized in the budget will not exceed the amount authorized by the approved budget. The Agent will prepare a recommended operating budget for each subsequent fiscal year beginning during the term of this Agreement, and will submit the same to the Owner at least sixty (60) days before the beginning of the fiscal year. This recommended operating budget will include (i) repairs and maintenance; (ii) utilities; (iii) cleaning and janitorial services; (iv) expenditures, if any, for repairs, alterations, rebuilding, replacements, additions and/or improvements in and to the project; (v) security services; (vi) compensation and related fringe benefits and payroll expenses for personnel providing on-site services; and (vii) other costs and expenses to be incurred in operating the Project, including but not limited to customary and conventional site office expenses such as copying and postage, computer hardware and software, telephone and internet access, etc.
- b. Budget Submission and Approval Process. The Owner will accept or reject the proposed Annual Operating Budget and will inform the Agent of any changes in the budget within fifteen (15) days of Agent's submittal of the recommended operating budget. If Owner shall reject any proposed Annual Operating Budget submitted by Agent as provided above, Agent shall submit to Owner for Owner's approval a new proposed Annual Operating Budget satisfying Owner's rejection as aforesaid. Owner will provide an approved budget no later than thirty (30) days prior to the start of the new fiscal year. If the proposed Annual Operating Budget is not approved before the start of the new fiscal year, the Agent shall operate, to the extent possible, under the previous year's Annual Budget. In such cases, financial reports will not include a budget in the variance report. Once a budget is approved, Agent will have 30 days to incorporate the budget in future financial reports. Financial reports issued prior to the approved budget that did not include a budget in the variance report will not be re-issued. In the event that a Project Regulatory Agreement requires Lender approval of an Annual Operating Budget, Agent may submit the proposed budget to Owner in advance of the time period set forth herein, in order to allow for submission and approval of the budget by Lender prior to the start of a new fiscal year.
- c. Management Fees. Review and approval of the budget will include negotiation of any changes in management fees. Approval of the budget represents approval of all management fees included in the budget and, if needed, a Management Agreement Extension will be executed in conjunction with the approval of the budget.

- d. Agent Operating Withing Annual Operating Budget. During the fiscal year (or partial fiscal year) covered by each particular Annual Operating Budget, the Agent in the performance of its duties as provided in this Agreement, shall operate within that Annual Budget as approved by Owner, and the Agent will keep the Owner informed of any anticipated deviation from the receipts or disbursements stated in the approved budget.

13. Records and Reports. In addition to any requirements specified in the Management Plan or in other provisions of this Agreement, the Agent will have the following responsibilities with respect to records and reports:

- a. Records. The Agent will establish and maintain a comprehensive system of records, books, and accounts in a manner satisfactory to the Owner and in accordance with GAAP guidelines. All records, books, and accounts will be subject to examination at reasonable hours by any authorized representative of the Owner.
- b. Reports. Agent will furnish to the Owner by the **twentieth (20th)** day of each month (or such other date as agreed upon in writing by Owner and Agent) the following:
- (1) Statement of Income and Expenses. A statement of income and expenses for the previous month, with a schedule of accounts receivable and payable, balance sheet, and reconciled bank statements for the Operating Account and Security Deposit Account as of the end of the prior month.
 - (2) List of Delinquent Accounts. An itemized list of all delinquent accounts, including rental accounts, as of the last day of the prior month.
 - (3) Variance Report. A report comparing actual and budgeted figures for income and expenses for the prior month and year-to-date.
- c. Additional Reports.
- (1) Reports as Occasionally Requested by Owner. The Agent will furnish such information (including occupancy reports) as may be requested by the Owner from time to time with respect to the financial, physical, or operational condition of the Project.
 - (2) Property Tax Exemption Filing. Owner will advise Agent if the Project is eligible for a property tax exemption from the California Board of Equalization. Owner shall provide required information to seek exemption by completing a Filing Claim for Property Tax Exemption. Agent will then assist the Owner with completing a filing claim for property tax exemption.

14. Fidelity Bond. The Agent will furnish a fidelity bond in an amount that is at least twice the monthly gross potential income of the Project and is conditioned to protect the Owner against misappropriation of Project funds by the Agent and on-site and corporate employees. The pro rata cost of this bond for on-site employees shall be paid from the Project Operating Account and the pro rata cost of this bond for Agent's corporate employees shall be borne by Agent. The other terms and conditions of the bond, and the surety thereon, will be subject to the approval of the Owner.

15. Audits. Owner must execute an engagement letter and provide a copy to the Agent before Agent will release documents and information to the Auditor. All financial work completed by the Agent will be maintained in detailed, well-organized folders for review and audit purposes. At the end of each fiscal year, the Agent will provide the auditors a year-end trial balance together with a complete report for the last month of the year and a year-to-date general ledger. The Agent will include in the report copies of insurance and property tax bills. The Agent will not provide schedules, lists, account analysis, mortgage or bank confirmations. The Agent will coordinate with auditors an acceptable time and office space for auditor's fieldwork at the Agent's office. The Agent will make corporate staff available to answer questions. The Agent shall submit Federal and State Income Tax Returns

received from the auditor and signed by Owner, and make all payments as directed by the auditor. The Agent will release books and records to site or storage upon receipt of a complete and final audit or review and adjusting journal entries, if any. To the extent that additional work is requested by the Owner or auditor that exceeds the scope of work detailed above, the Agent may charge an additional fee of \$_____ per hour for such work.

- 16. Utilities and Service Contracts.** In accordance with the operating budget for the Project, the Agent will make arrangements for water, electricity, gas, fuel oil, sewage and trash disposal, vermin extermination, decorating, laundry facilities, computer software and services and/or licensing, internet access, fax and telephone services. The Agent will negotiate concession agreements, maintenance and service contracts, and will execute the same, identified thereon as Agent for the Owner, subject to the Owner's prior approval of all terms and conditions, including, but not limited to length of term and fees for such services. All said contracts shall be in the name of the Project or Owner and shall be the obligation of the Project/Owner and not the Agent. All contracted equipment and services will survive the term of this Agreement and will remain an obligation of the Project/Owner and are not transferable to the Agent.
- 17. Bids and Purchase Discounts, Rebates or Commissions.**
- a. General Overview. The Owner and Agent agree to obtain contract materials, supplies and services at the lowest possible cost and on the terms most advantageous to the Project and to secure and credit to the Project all discounts, rebates or commissions obtainable with respect to purchases, service contracts and other transactions on behalf of the Project.
 - b. Soliciting Estimates. The Agent shall solicit written cost estimates (i.e., bids) from at least three qualified contractors or suppliers for any work item which the Owner estimates will cost \$10,000 (ten thousand dollars) or more and for any contract or ongoing supply or service arrangement which is estimated to exceed \$10,000 (ten thousand dollars) per year. The Agent agrees to accept the bid which represents the lowest responsible price taking into account the bidder's reputation for quality of workmanship or materials and timely performance, and the timeframe within which the services or goods are needed. At start-up, the Agent will bid out the various major contracts, i.e., the exterminator service, landscape, property insurance, annual audit and major vendors. All initial bids will be reviewed by the Owner prior to execution of the contracts. All renewals of contracts will be first reviewed by the Owner. No contract shall exceed one (1) year in length, without prior approval from Owner, and contracts over one (1) year shall be terminable without penalty on thirty (30) days notice. For any contract or ongoing supply or service arrangement obtainable from more than one source and estimated to cost less than \$10,000 (ten thousand dollars), the Agent shall solicit verbal or written cost estimates, as necessary, to assure that the Project is obtaining services, supplies and purchases at the lowest possible estimate obtained. Copies of all required bids and documentation of all other written or verbal cost comparisons made by the Agent shall be made part of the Project's records and shall be retained for three (3) years from the date the work was completed. This documentation shall be subject to inspection by the Owner or his/her designee and the Agent agrees to submit such documentation upon request.
- 18. Social Services Program.** Unless otherwise agreed by the Agent, Owner will be responsible for carrying out any on-site social services program. The provider(s) of any on-site social services and/or Owner will coordinate such program activities with the management staff.
- 19. On-Site Management Facilities.** Subject to the further agreement of the Owner and Agent as to more specific terms and pursuant to California law, the Agent will maintain a management office within the Project and at least one on-site employee will reside in one of the dwelling units in the Project. The employee may or may not pay rent pursuant to California laws and/or Regulatory Agreements.

20. Insurance.

- a. Owner Will Inform Agent. The Owner will inform the Agent of insurance to be carried with respect to the Project and its operations (including any non-residential space), and the Agent will cause such insurance to be placed and kept in effect at all times. The Owner will be required to complete and submit to the Agent Attachment 1, "Owner Certification of Project Insurance Requirements" prior to commencement of management of the Project or in any event no later than sixty (60 days) prior to occupancy of the Project.
- b. Owner Determination Who Will Place Insurance.
 1. Insurance Placement. Insurance placement will be done by Owner OR Agent.
 Owner initials:_____
- c. Owner Advising the Agent. The Owner must advise the Agent during the term and during any subsequent renewals or extensions of this Agreement the amount of insurance coverage required by Owner and/or any mortgagee, loss payee, additional insured, partnership agreement or Regulatory Agreement;
- d. If Owner Does not Place or Advise Insurance. If the Owner does not place insurance or advise insurance requirements, the Agent will purchase, at project expense, insurance coverage for General Liability and Property insurance with minimum limits as follows (insurers will have Best's Ratings greater than A -, VII):
- (1) General Liability: Commercial or Comprehensive General Liability covering bodily injury and property damage utilizing an occurrence policy form, in amounts of no less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate, and \$5,000,000 umbrella (for properties up to ten stories - \$10,000,000 umbrella is required for properties over 10 stories). Said insurance shall include, but not be limited to, premises and operations liability and personal injury liability, and shall not exclude habitability, crime or assault and battery. All policies shall include the Agent as a named insured or additional named insured.
- (2) Property: Building coverage limits shall be sufficient to replace the property in the event of a total loss (based on an inspection ordered by the Agent), and include contents as necessary, and coverage for Loss of Rents (income) for no less than one year's income. Other coverages such as Boiler and Machinery and Building Ordinance shall be included when applicable.
- e. General Considerations. The Agent shall be designated an insured party on all insurance policies related to the Project. The Agent will pay premiums for Project insurance out of the Operating Account, and such premiums will be treated as operating expenses of the Project. All insurance will be placed with such companies, on such conditions, in such amounts, and with such beneficial interests appearing thereon as shall be acceptable to the Owner, and shall be otherwise in conformity with the requirements of the Lenders and the Mortgagee; provided that the same will include public liability coverage, with the Agent designated as one of the insured, in amounts acceptable to the Agent as well as the Owner. The Agent will investigate and furnish the Owner with full reports as to all accidents, claims, and potential claims for damage relating to the Project, and will cooperate with the Owner's insurers in connection therewith. The Owner is required to provide a full copy of all policies to the Agent. Any policy exclusions must be disclosed prior to the execution of this Agreement. Under no circumstances will the Agent be required to provide liability coverage for the Project/Owner from the Agent's corporate liability policy. Any policy exclusions must be disclosed prior to the execution of this Agreement. All Project insurance shall be primary to and non-contributory with any other insurance maintained by the Agent and/or Owner.
- f. Commercial Tenants. If the property has commercial tenants or other vendors or service providers on site that are not under a contractual agreement directly by Agent,, said

tenants and other vendors or service providers will be required to name Agent as additional insured on their liability policies and provide evidence thereof.

- 21. Compliance with Governmental Orders.** The Agent will take such actions as may be necessary to comply promptly with any and all governmental orders or other requirements affecting the Project, whether imposed by Federal, state, county or municipal authority, subject, however, to the limitation stated in Subsection 8e with respect to repairs.

Notification to Owner. Nevertheless, the Agent shall take no such action so long as the Owner is contesting, or has affirmed its intention to contest, any such order or requirement. The Agent will notify the Owner in writing of all notices of such orders or other requirements, within seventy-two (72) hours from the time of their receipt.

- 22. Nondiscrimination.** In the performance of its obligations under this Agreement, the Agent will comply with the provisions of any federal, state or local law prohibiting discrimination in housing on the grounds of race, color, creed, ancestry, national origin, religion, sex, sexual orientation, marital status, familial status, source of income, age, disability, AIDS or AIDS related condition including Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), all requirements imposed by or pursuant to the Regulations of the Secretary (24 CFR, Subtitle A, Part 1) issued pursuant to that Title; regulations issued pursuant to Executive Order 11063, and Title VIII of the 1968 Civil Rights Act.

- 23. Agent's Compensation.** The Agent will be compensated for its services under this Agreement by monthly fees, to be paid out of the Operating Account and treated as Project expenses. Such fees will be payable by the tenth (10th) day of each month during the term of this Agreement.

a. Management Fees. Each such monthly fee will be

- (1) \$ _____ (XXXX dollars) per unit per month, for management services; or
- (2) _____% of gross collections per month, for management services.

Bookkeeping Fees. There will be a fee of \$ _____ per unit per month for bookkeeping services.

b. Monthly Compliance Fee There will be a fee of \$ _____ per unit per month for compliance services.

c. Compliance Setup Fee - Owner agrees that three months prior to the start of marketing activities, currently scheduled to begin on _____ a Rent Schedule/Affordability Matrix ("Matrix") will be created by Agent. To support the creation of the Matrix, Owner agrees to provide a preliminary matrix that includes unit numbers, unit size, accessibility features (mobility-impaired, sensory-impaired or adaptable features) and the designation of units by program. Owner will also provide supporting documentation for any and all funding sources, land-use restrictions, programs, subsidies and regulatory requirements that are applicable to the project. This information will be used to create the Matrix; set up operating and compliance systems; develop a lease-up plan and marketing materials; and confirm Owner commitments.

- 1. \$ _____ for each initial household qualification file, and also at the first annual certification.

Marketing Fees. If applicable, there will be an initial one-time lease-up fee of \$ _____ (XXXX dollars) per unit, see Marketing Addendum.

d. Fee Increases Prior to Certificate of Occupancy

- (1) Management fees and bookkeeping Fees quoted above are good for one year. They will increase by _____% annually from the one year anniversary of this

executed agreement until the date of Certificate of Occupancy, prorated accordingly.

(2) Lease-up Fees will increase ____% annually from the one year anniversary of this executed agreement until the agreed upon date leasing and marketing efforts begin, prorated accordingly.

- e. Pre-development/occupancy fees. Attachment 2 includes a Summary of Property and a list of Pre-development/occupancy Tasks that will be provided as a part of this agreement at no additional cost. As soon as possible the Owner will complete the Summary of Property for Agent. If additional versions of documents are needed or attendance is required at additional meetings, additional fees may be charged. Agent will provide Owner a quote and obtain Owner approval for for any additional fees prior to providing the additional service.
- f. Initial Digital Setup Fee. A one-time fee of \$_____ will be paid to agent to cover staff time to set up the property in JSCo management software and systems such as accounting, compliance, etc. software. Any third party set up costs will be paid by the Owner.
- g. Breakage Fee. If Agent is identified as management agent for the Project at any point during its predevelopment or construction process, but Agent does not subsequently act as the Project's initial management agent, then Owner shall pay Agent the sum of two thousand five hundred dollars (\$2,500) for services rendered. If Agent is further identified as management agent of record in an application for low income housing tax credits for the Project, but Agent not subsequently act as the Project's initial management agent, then Owner shall pay Agent an additional two thousand five hundred dollars (\$2,500), for a total payment of five thousand dollars (\$5,000), for services rendered.
- h. Other Fees As Applicable. If applicable, other consulting, compliance, early termination or marketing fees will apply, including upon any sale, refinancing or renovation of the Property. A separate Marketing Agreement has been (or will be) executed as indicated in Section 29(d) of this Agreement.

24. Term of Agreement. This Agreement shall be in effect for a period of two (2) years, beginning on the ___ day of _____, and ending on the ___ day of _____ 20___. If by the final day of said term, this Agreement is not extended or superseded by an extension agreement or a newly executed agreement, the term of the Agreement is then assumed to be month-to month, with a 5% increase to the Agent's fees as described in Section 23 above and an additional 5% increase to Agent's fees upon each subsequent anniversary of the contract, subject to any required approval of Lenders. Any such increase in fees will be conditional to thirty (30) days advance notice from the Agent to the Owner. The term of this Agreement is subject, however, to the following conditions:

- a. Voluntary Termination: This Agreement may be terminated voluntarily by either party subject to the mutual consent by both parties.
- b. Involuntary Termination by the Owner: This Agreement may be terminated by the Owner for cause in the event of material non-performance and/or breach of contract by Agent subject, however, to the proviso that Agent shall be given notice of such failure and a reasonable opportunity to remedy the stated cause if such breach or nonperformance is capable of being remedied. Unless otherwise provided by Owner, a reasonable cure period shall be defined as thirty (30) days. In the event that Agent has not demonstrated that it can remedy the failure within a reasonable time period, the Contract shall be terminated for cause with thirty (30) days written notice.
- c. Involuntary Termination by Agent.

- (1) Immediate Termination. This Agreement may be immediately terminated by the Agent in the event that:
- (a) Operating Shortfalls. Operating shortfalls are not covered by the Owner. In no event will the Agent be required to cover such shortfalls, and such shortfalls shall be deemed to constitute a material breach of the Agreement.
 - (b) Bankruptcy. A petition is filed by or against the Project and/or the Owner, or the Project and/or the Owner seeks relief under any of the chapters of the Federal Bankruptcy Acts, or in the event that the Property and/or the Owner makes an assignment for the benefit of creditors (whether by common law assignment or pursuant to specific provisions of State or Federal law) or states in writing that it cannot pay its debts when due, or takes advantage of any insolvency act.
- (2) Termination Within Thirty Days. This Agreement may also be terminated by the Agent with thirty (30) days written notice to The Owner upon the following:
- (a) Owner's violation or willful disregard of any material provisions of any health and safety codes, applicable Federal, State and local laws, Regulatory Agreement or other binding documents affecting the Project.
 - (b) The Owner pursues any unlawful activity that materially affects the Project or disrupts or interferes with Agent's ability to provide management services to the Project under the terms of this Agreement.
- d. Force Majeure. Neither party will be responsible for any failure to perform its obligations under this Agreement due to reasons beyond its reasonable control, such as an "act of God", war, riot, embargoes, or acts of civil or military authorities. If a party's performance will be delayed by a force majeure event, it will notify the other in writing with an estimate of the date by which its performance will be resumed, and will diligently attempt to resume its performance. If the delay in performance extends for more than 30 days, the other party may by written notice terminate this Agreement.
- e. Upon Termination. Upon termination, the Agent will submit to the Owner any financial statement required within 60 (sixty) days and close all accounts held by Agent for Owner. If the Owner requests or causes the Agent to provide accounting services beyond 60 (sixty) days, Owner will compensate Agent for the additional service on an hourly basis determined by Owner and Agent at termination. After the Principal Parties have accounted to each other with respect to all matters outstanding as of the date of termination, the Owner will furnish the Agent security, in form and principal amount reasonably satisfactory to the Agent, against any undisputed obligations or liabilities the Agent may properly have incurred on behalf of the Owner hereunder during the term of this Agreement prior to the date of termination.

25. Interpretative Provisions.

- a. Rights Subordinate to the Secretary. At all times, this Agreement will be subject and subordinate to all rights of the Secretary (as applicable), and will inure to the benefit of and constitute a binding obligation upon the Principal Parties and their respective successors and assigns.
- b. The Entire Agreement. This Agreement constitutes the entire agreement between the Owner and the Agent with respect to the management and operation of the Project, and no change will be valid, unless made by supplemental written agreement, executed and approved by the Principal Parties.

- c. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without production of any of the counterparts.

26. Indemnification.

- a. **Owner to Agent:** Owner shall indemnify and defend Agent against and hold Agent harmless from any and all claims, actions, losses, costs, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees, arising directly or indirectly out of any matter related to the Project, the conduct of the business of Owner, any and all pre-existing conditions at the Project (including but not limited to mold and mildew) as of the starting date of this Agreement, or any action taken by Agent within the scope of its duties or authority under this Agreement, excluding only such of the foregoing as result from (i) any material default by Agent, (ii) any gross negligence or willful misconduct of Agent or any of its officers, partners, directors, agents, or employees in connection with this Agreement or Agent's services or work hereunder, whether within or beyond the scope of its duties or authority hereunder, or (iii) any claims for personal injuries to employees incurred during the course of their employ if such claims are covered by the workers' compensation insurance required herein. Agent shall be designated as an additional named insured on all applicable insurance coverage related to the Project.
- b. **Agent to Owner:** Agent shall indemnify and defend Owner against and hold Owner harmless from any and all claims, actions, losses, costs, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees, arising directly or indirectly out of (i) any material default by Agent under the provisions of this Agreement, (ii) any gross negligence or willful misconduct of Agent, or any of its officers, partners, directors, agents, or employees in connection with this Agreement or Agent's services or work hereunder, whether within or beyond the scope of its duties or authority hereunder, or (iii) any claims for personal injuries to employees incurred during the course of their employ if such claims are covered by the workers' compensation insurance required herein.
- c. The provisions of this Section shall survive the termination of this Agreement.

27. Adjudication and Attorney's Fees. The provisions of this Agreement shall be construed in accordance with and governed by the laws of the State of California. In the event that either party incurs legal costs in the enforcement of the Agreement, the non-prevailing party in such controversy shall pay the legal costs (including, but not limited to reasonable attorney's fees) of the prevailing party.

28. Business License. At its own expense, Agent shall qualify to do business and obtain and maintain such licenses as may be required for the performance by Agent of its services under this Agreement.

29. Program and/ or Property Specific Addenda

- a. **YES.** **NO.** This Agreement requires the "HUD Addendum".
- b. **YES.** **NO.** This Agreement requires the form HUD-9839-B ("Project Owner's/Management Agent's Certification").
- c. **YES.** **NO.** This Agreement requires the "Tax Credit Addendum".
- d. **YES.** **NO.** This Agreement requires the "HCD Management Agreement Addendum".

e. **YES.** **NO.** This Agreement requires a "Marketing Addendum".

30. Notice. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and addressed to the address set forth below and shall be given by any of the following means: (a) personal service; (b) electronic communication, by facsimile (if confirmed in writing sent by registered or certified, first class mail, return receipt requested); or (c) registered or certified, first class mail, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner, as provided above. Any notice, demand or request sent pursuant to either subsection (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means, and, if sent pursuant to subsection (c) shall be deemed received on the date of delivery or the date that delivery is refused by the addressee, as shown on the return receipt.

If to Owner:

<Owner Entity Name>
<Street Address >
<City, State, Zip Code>

with a copy to the Limited Partner at the following address:

<Limited Partner Entity Name>
<Street Address >
<City, State, Zip Code>

and, if intended for Agent, shall be addressed to:

John Stewart Company
<Street Address >
<City, State, Zip Code>
Fax #: <Fax #>

IN WITNESS WHEREOF, the Principal Parties (by their duly authorized officers), have executed this Agreement on the date first above written.

OWNER: _____

SIGNATURE: _____

BY: _____

TITLE: _____

WITNESS:

AGENT: JOHN STEWART COMPANY

SIGNATURE: _____

BY: _____

TITLE: _____

WITNESS:

ATTACHMENT 1: OWNER CERTIFICATION OF PROJECT INSURANCE REQUIREMENTS

PROPERTY NAME: <Project Name>

LOCATION: <Location>

1. The Owner must advise the Agent during the term and during any subsequent renewals or extensions of this Agreement the amount of insurance coverage required by Owner and/or any mortgagee, loss payee, additional insured, partnership agreement or Regulatory Agreement;
2. If the Owner does not advise requirements, the Agent will purchase, at project expense, insurance coverage for General Liability and Property insurance with minimum limits as follows (insurer will have a Best's Rating greater than A -, VII):

GENERAL LIABILITY: Commercial or Comprehensive General Liability covering bodily injury and property damage utilizing an occurrence policy form, in amounts of no less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate, and \$5,000,000 umbrella (for properties up to ten stories - \$10,000,000 umbrella is required for properties over 10 stories). Said insurance shall include, but not be limited to, premises and operations liability and personal injury liability, and shall not exclude habitability, crime or assault and battery. All policies shall include the Agent as a named insured or additional named insured.

PROPERTY: Building coverage limits shall be sufficient to replace the property in the event of a total loss (based on an inspection ordered by the Agent), and include contents as necessary, and coverage for Loss of Rents (income) for no less than one year's income. Other coverages such as Boiler and Machinery and Building Ordinance shall be included when applicable.

3. Coverages Required and/or Advised by the Owner:

Insurance Type	Required		Amount Required	Responsible to Obtain (Owner to Initial Below for Each)		Where Required (Regulatory Agreement, Loan Agreement, Partnership Agreement, Etc...)
				Mgmt.	Owner	
Property	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				
General Liability	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				
Business Income	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				
Separate Auto Liability	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				
Umbrella/Excess Liability	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				
Boiler & Machinery	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				
Directors & Officers	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				
Earthquake	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				
Flood	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				
Fidelity/Crime	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>				

OWNER: <NAME OF LEGAL OWNER ENTITY>

OWNER SIGNATURE: _____

TITLE: <TITLE OF OWNER>

DATE: <MONTH, DAY, YEAR>

ATTACHMENT 2: Summary of Property

1. Owner to provide any written summaries of the Property
2. Projected Development Schedule:
 - a. Construction start:
 - b. Certificate of Occupancy for management office:
 - c. Certificate of Occupancy for units (note phases if applicable):
 - d. Credit delivery to investor:
3. Anticipated funding sources:

Funding Source	Description	Units Included in Funding	Anticipated Application Date
TCAC 9%			
TCAC 4%			
HOME			
City			
County			

Pre-Development/Occupancy Tasks

Task	Versions/hours provided free of charge
<i>Operating/Documents</i>	
Management Agreement	2 versions
Management Plan	2 versions
Create Resident Selection Criteria	2 versions
Create application package	2 versions
Create property lease and House Rules	2 versions
Create Detailed Operating Budget/Staffing Plan	2 versions
<i>Pre-Development</i>	
Attend community, City Council, Planning meetings pre-development	2 meetings, 6 hours
Respond to investor data collection requirements for managing agent	3 hours
Attend pre-development/development planning meetings with Clients, architects, developers, etc.	3 meetings, 9 hours
<i>Marketing</i>	
Marketing Timeline	2 versions
Marketing/Start-up Budget	2 versions
Attend marketing meetings with Clients, and partner agencies where needed.	6 hours total
Identify, negotiate lease, and secure temporary leasing office space if needed.	6 hours total
Attend Property Grand Opening	2 hours total
Attend Resident welcome meetings	2 hours total
<i>Accounting</i>	
Bank account set up (Operating & SD)	2 bank accounts
<i>Regulatory Compliance</i>	
Review all regulatory agreements and create unit matrix for Client approval	2 versions
<i>Other Service</i>	
Other services not listed above	

Total estimated work/time at no charge

Approximately 83 hours

<Project Name>
HUD MANAGEMENT AGREEMENT ADDENDUM

This document (the "HUD Addendum") supplements provisions of the "Management Agreement" dated the _____ day of _____ 20_____, between _____ ("Owner"), and John Stewart Company, a California corporation ("Agent"), (the "Original Agreement"). This HUD Addendum shall be effective when it is executed by all parties.

To the extent the terms of this HUD Addendum in any way conflict with the terms of the Original Agreement, or with any other agreements, whether oral or written, between the parties hereto pertaining to the Project, the terms of this HUD Addendum and HUD regulations shall control. All terms and conditions of the Original Agreement, amendments and supplements not affected by this Addendum shall remain in full force and effect. For the purposes of this HUD Addendum, the Original Agreement and HUD Addendum shall be referred to collectively as the "Management Agreement"

1. **Regulatory and/or Agency Requirements.** In the event of a conflict between HUD's rights and requirements and any provision of the Management Agreement, HUD's rights and requirements will prevail.
2. **Computation of Management Fees.** Management fees shall be computed and paid according to HUD requirements.
3. **Term of the Agreement.**
 - a. HUD has the right to terminate the Management Agreement for failure to comply with the provisions of the signed and executed form HUD-9839-B ("Project Owner's / Management Agent's Certification"), or other good cause, thirty (30) days after HUD has provided the Owner a written notice of its desire to terminate the Management Agreement.
 - b. In the event of a default under the Mortgage, Note or Regulatory Agreement, HUD has the right to terminate the Management Agreement immediately.
 - c. HUD may require the Owner to terminate the Management Agreement when HUD takes over as Mortgagee-In-Possession ("MIP").
 - d. If HUD exercises this right of termination, the Owner agrees to promptly make arrangements for providing management that is satisfactory to HUD.
 - e. If the Management Agreement is terminated, the Agent will give to the Owner all of the project's cash, trust accounts investments and records immediately, but in no event more than thirty (30) days of the date the Management Agreement is terminated.
 - f. For Section 202/811 projects, the Management Agreement is subject to termination, without penalty and with or without consent, sixty (60) days following receipt by Owner and Agent of a written request from HUD that the Management Agreement be terminated.
4. **Income Certification Update Fee.** If there is a delay in obtaining initial certificate of occupancy or placed-in-service date which requires Agent to update applicants' income certification(s), there will be an additional lease-up fee of \$75.00 per unit.

IN WITNESS WHEREOF, the Principal Parties (by their duly authorized officers) have executed this Agreement on the _____ day of _____, _____.

OWNER:

BY: _____

TITLE: _____

WITNESS: _____

AGENT:

John Stewart Company

BY: <REGIONAL VP> _____

TITLE: Vice President _____

WITNESS: _____

<Project Name>
TAX CREDIT MANAGEMENT AGREEMENT ADDENDUM

This document (the "Tax Credit Addendum") supplements provisions of the "Management Agreement" dated the _____ day of _____, 20_____, between _____ ("Owner"), and John Stewart Company, a California corporation ("Agent"), (the "Original Agreement"). This Tax Credit Addendum shall be effective when it is executed by all parties.

To the extent the terms of this Tax Credit Addendum in any way conflict with the terms of the Original Agreement, or with any other agreements, whether oral or written, between the parties hereto pertaining to the Project, the terms of this Tax Credit Addendum shall control. All terms and conditions of the Original Agreement, amendments and supplements not affected by this Addendum shall remain in full force and effect.

1. Rentals.

- a. Compliance. Agent will rent all units in a manner which is in compliance with the requirements of the California Tax Credit Allocation Committee ("CTCAC") and any applicable Regulatory Agreement.
- b. Rent and Income Schedules. The Owner will furnish the Agent with rent and income schedules as appropriate for dwelling units and other charges for facilities and services. Rents shall be increased at the request of Owner and shall not be increased without the prior approval of Owner. In no event shall rent payable by the residents exceed the maximum amount allowed to be charged residents under Section 42 of the Code, and the Regulatory Agreements. Wherever multiple agreements conflict, the Agreement with more restrictive compliance shall be the controlling document. The Owner will be required to confirm in writing any and all initial rents and utility charges/allowances prior to the start of the marketing/lease-up (as applicable) or prior to the commencement of the term of this Agreement, whichever comes first.
- c. IRS and TCAC Documents. Owner will furnish Agent with any and all Internal Revenue Service and CTCAC documents relevant to the operations of the property, including but not necessarily limited to
 - (1) The CTCAC tax credit application and CTCAC staff report;
 - (2) One (1) IRS Form 8609 for each building;
 - (3) Any IRS Forms 8823;
 - (4) The most recent Project Status Report (PSR).

2. Records and Reports. In addition to any requirements specified in the Management Plan or in other provisions of this Agreement, the Agent will have the following responsibilities with respect to records and reports:

- a. Records. Agent shall maintain and preserve all written records of tenant family income and size, and any other information reasonably requested by Owner in writing in connection with the tenants throughout the term of the tenant's occupancy and retain such records for three (3) years following termination of the tenant's occupancy. If these records are retained off of the property they will be returned to Owner at termination of this Agreement. In addition, Agent shall establish tenant files containing leases, certification forms, notices, and other documentation required by any lender or regulatory authority.

b. Annual Reports.

- (1) The Agent shall provide the Owner, within thirty (30) days after the end of each calendar year, with a Certification regarding the occupancy of the Project indicating the income of each current resident as of the date of the last income certification, the current rent charged each resident, and the amount of utilities and whether utilities are included in the rent; and
- (2) Agent shall certify annually residents' income pursuant to the requirements of the Tax Credit Regulatory Agreement and Section 42 of the Code, and Agent shall prepare an annual report of residents' income eligibility in a form approved by owner.

c. Additional Reports. Agent shall prepare and file all reports required under Section 42 of the Code and the Tax Credit Regulatory Agreement.

3. **Income Certification Update Fee.** If there is a delay in obtaining initial certificate of occupancy or placed-in-service date which requires Agent to update applicants' income certification(s), there will be an additional lease-up fee of \$75.00 per unit.

IN WITNESS WHEREOF, the Principal Parties (by their duly authorized officers) have executed this Agreement on the _____ day of _____, _____.

OWNER:

BY: _____

TITLE: _____

WITNESS: _____

AGENT:

John Stewart Company

BY: <REGIONAL VP> _____

TITLE: Vice President _____

WITNESS: _____

<Project Name>
HCD MANAGEMENT AGREEMENT ADDENDUM

This addendum (the "HCD Addendum") supplements provisions of the "Management Agreement" dated the <DAY> day of <MONTH, YEAR>, between <OWNER NAME> ("Owner"), and John Stewart Company, a California corporation ("Agent"), (the "Original Agreement"). This HCD Addendum shall be effective when it is executed by all parties.

To the extent the terms of this HCD Addendum in any way conflict with the terms of the Original Agreement, or with any other agreements, whether oral or written, between the parties hereto pertaining to the Project, the terms of this HCD Addendum and HCD regulations shall control. All terms and conditions of the Original Agreement, amendments and supplements not affected by this Addendum shall remain in full force and effect. For the purposes of this HCD Addendum, the Original Agreement and HCD Addendum shall be referred to collectively as the "Management Agreement."

This HCD Agreement shall become effective when it is approved and executed by the California Department of Housing and Community Development ("HCD"), which approval shall be noted on the last page of this contract.

Development Name: _____
Project Address: _____
City: _____ State: _____ Zip: _____
HCD Contract/Loan#: _____ # of Units: _____

1. **Definitions.** "Sponsor" shall mean _____, a legal entity that has entered into a Regulatory Agreement with HCD governing the operations, management and maintenance of the Development
2. **Term.** It is expressly understood and agreed by and between the principal parties that the Owner/Sponsor shall terminate this contract as directed by the California Department of Housing and Community Development ("HCD") upon a determination by HCD that (Fill In) (the "Agent") has not or is not complying with MHP program requirements. Said termination of this contract shall be effective at the end of any calendar month on a 30 days' advance written notice from Owner to Agent, except that in the event of a default by Owner under the promissory note, deed of trust, rehabilitation loan agreement, or regulatory agreement, HCD may terminate this contract immediately upon the issuance of a notice of cancellation to each of the principal parties.
3. **Transfer of Records and Accounts.** Upon termination of the contract for any reason, the following procedures shall apply:
 - a. The accounting records of the Development, even if maintained and housed at the office of the Agent, shall be deemed to be the official records and property of the Sponsor. All such records shall be turned over to the Sponsor immediately upon termination of the contract or whenever a change in agent occurs. The records include, but are not limited to, resident and project files, the general ledger, all original books of entry, invoices, canceled checks, payroll records, and contracts.
 - b. The Agent shall retain for 3 years copies of trust records and other pertinent documents (as required by Business and Professions Code Section 10148).
 - c. All cash, bank accounts, and trust accounts must be accounted for in writing and turned over to the Sponsor or its representative and approved by HCD within five working days after the termination of this contract.
 - d. Sponsor is required by HCD to have all accounts verified for their accuracy by a certified public accountant after receipt of the records. Verification shall take place within a time period to be specified by HCD at the time of the approval of the new Agent. The Agent agrees to cooperate with the Sponsor and HCD to satisfy this requirement.

4. **Resident Selection/Affirmative Marketing Plan**. Agent and Sponsor agree to cooperate in the implementation of the resident selection and affirmative marketing provisions of the management plan. In carrying out these provisions, Agent shall:
 - a. Lease units in compliance with the unit mix including provision for any special needs such as elderly or adapted units, as prescribed in Exhibit B and C of the Regulatory Agreement.
 - b. Assure that occupancy shall be open to all, regardless of race, color, ancestry, religion, national origin, sex, marital status, children, disability, or other arbitrary factors.
 - c. Assure that all advertising, including letterheads, brochures, and media advertising, shall include a reference to "Equal Housing Opportunity."
 - d. Where a significant number of persons in the community have limited fluency in the English language, provide publications, information brochures, and leases in the native language of such persons.
 - e. Notify applicants of their eligibility status, and advise rejected or ineligible applicants of the right to appeal by providing them with a copy of the Grievance and Appeal Procedure that is a part of the management plan.
 - f. Assure that resident selection is carried out without favoritism or partiality and that the public interest is served at all times.
 - g. Give each resident selected, at the time of acceptance, a written copy of the approved MHP Grievance and Appeal Procedure as an attachment to the lease.
5. **Compliance with Project Contracts and Procedures**. Sponsor has entered into a Regulatory Agreement with HCD governing the operations, management and maintenance of the Development. These documents are incorporated herein by this reference, and the Agent agrees to comply with them.
6. **Disbursements**.
 - a. **General Operating Account**: Disbursements may be made from this account in accordance with the budget, and shall be disbursed, applied, or reserved and set aside for payment when due, in the following priority, to the extent available:
 - (1) Salaries, wages, and any other compensation due and payable to the employees or agents of the Sponsor employed on site in connection with the maintenance, administration or operation of the Development, along with all withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments required in connection with such employees;
 - (2) All charges incurred in the operation of the Development in connection with utilities, real estate taxes and assessments, and liability, fire and other hazard insurance;
 - (3) Payments of required interest, principal, ground lease, rent payments as required by the lease and approved by HCD, and impounds, fees, and charges, if any to lien holders on the property approved by HCD including the HCD loan;
 - (4) All other expenses incurred to cover operating costs, including the fee of the Agent and any extraordinary expenses, in accordance with the approved annual operating budget of the Development or as otherwise approved in advance by HCD;
 - (5) Deposits to the required reserve accounts;
 - (6) Distributions in accordance with the Regulatory Agreement;
 - (7) HCD loan principal prepayments and incentive payments to the Sponsor, in accordance with the promissory note evidencing the HCD loan; and
 - (8) Residual receipts payment pursuant to the Regulatory Agreement. The Sponsor may depart from the foregoing priorities of payment only upon the express written approval of HCD.

- b. **Operating Reserve Account**: Funds may be transferred from this account only to alleviate cash shortages resulting from unanticipated and unusually high maintenance expenses, seasonal fluctuations in utility costs, abnormally high vacancies and other expenses that vary seasonally or from month to month. Agent shall not withdraw or transfer funds from this account for any other purpose without prior written approval of the Department.
 - c. **Replacement Reserve Account**: Agent may make disbursements from this account only with the prior written approval of HCD.
 - d. **Security Deposit Account**: Disbursements may be made from this account to:
 - (1) Pay the cost of any unpaid rent, damage, or unreasonable wear and tear caused by the resident, after the resident vacates the unit, or to reimburse the General Operating Account for payment of these costs; or
 - (2) Return to the resident upon termination of the tenancy the portion of the deposit not used in accordance with (1) above.
7. **Records and Reports**. In addition to requirements specified elsewhere in this Agreement, Agent shall have the following responsibilities with respect to records and reports: Agent shall prepare and submit an annual report on a form designated by HCD, and if required by HCD, shall cause the financial records of the Development to be audited annually by an independent certified public accountant licensed in California and approved by the Sponsor and HCD.
 8. **Annual Budget**. Agent shall submit to the Sponsor and HCD for approval, a proposed operating budget for the Development. The proposed budget shall be on a form approved by HCD, and shall be submitted not less than 60 days prior to the beginning of each fiscal year. The proposed budget shall set forth the anticipated gross income of the Development and a detailed estimate of all expenses of the Development. The budget shall cover generally those expenses listed in paragraph "Disbursements" of this HCD Addendum. Upon approval by the Sponsor and HCD, this proposed budget shall be the operating budget for the next fiscal year of the Development.
 9. **Rent Adjustments**. Agent will adjust the rents for the HCD assisted units no more than once each year in accordance with HCD approved state median income "SMI" and Area Median Income "AMI" limits. Gross rents shall be adjusted to no more than 30% of such AMI and SMI limits. Gross rent includes the rent before adjustment for utility allowance. For Units receiving HUD Section 8 or other similar rental assistance, the rules of the rental assistance program pertaining to rent increases will prevail for as long as the rental assistance remains in place.
 10. **Orientation/Training**. Agent and appropriate personnel shall attend orientation or training sessions as may be required by the Sponsor and HCD.
 11. **Resident Counseling**. Agent shall, consistent with sound management of the Development, counsel residents and make referrals to available community social service agencies in cases of financial hardship or under similar circumstances that could lead to termination of a tenancy or eviction.
 12. **Termination of Tenancies or Evictions**. Agent may take action to terminate or evict any tenants where in Agent's judgment, sufficient cause for such termination or eviction exists under the terms of the residential lease. Agent is authorized to retain legal counsel to bring action necessary to carry out the decision to terminate or evict. Agent shall keep Sponsor informed of the progress of such actions.
 13. **Compliance with Government Orders**. Agent shall take such action as may be necessary to comply promptly with all HCD and other governmental orders or requirements affecting the Development, whether imposed by federal, state, county, or municipal authority, subject however, to the limitations stated in paragraph 11 of this contract. Agent shall take no action to comply with such orders or requirements if Sponsor is contesting, or has informed Agent of its intention to contest, any such orders or requirements within 72 hours of the time of their receipt by Agent.

14. **Nondiscrimination**. In the performance of its obligations under this contract, Agent shall comply with the provisions of all federal, state, or local laws prohibiting discrimination in housing on the basis of race, color, ancestry, religion, national origin, sex, marital status, children, or disability, including Title VI of the Civil Rights Act of 1964 (Public Law 88-352) and the regulations issued pursuant thereto (24 CFR Part I); Executive Order 11063 and the regulations issued pursuant thereto (25 CFR 570.601); and Title VIII of the 1968 Civil Rights Act (Public Law 90-384).

15. **Inspection of Units**. HCD shall have the right to inspect any part of the Development upon advance notice to residents as provided in the residential lease and subject to law.

16. **Interpretative Provisions**.

- a. At all times, this contract shall be subject and subordinate to all rights of HCD. It shall be enforceable by and constitute a binding obligation upon the principal parties and their respective successors and assigns. To the extent that this contract confers rights upon HCD, it is deemed to be enforceable by HCD in the same manner and with the same effect as though HCD were a principal party to the contract, except that it shall not create liabilities or confer obligations upon HCD.
- b. This contract constitutes the entire agreement between the Sponsor and the Agent with respect to the management and operations of the Development and no change will be valid unless made by supplemental written contract, approved and executed by the principal parties and HCD.
- c. This contract has been executed in several counterparts, each of which shall constitute a complete original contract, which may be introduced in evidence or used for any other purpose without production of any of the other counterparts.

IN WITNESS WHEREOF, the principal parties, by their duly authorized officers, have executed this HCD Addendum on <MONTH, DAY, YEAR>.

OWNER: <OWNER NAME>

AGENT: JOHN STEWART COMPANY

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

The Management Agreement and this supplementary HCD Agreement have been reviewed and approved by HCD.

CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

By: _____
Name: _____
Title: _____
Date: _____

<Project Name>
MARKETING ADDENDUM

This document (the "Marketing Addendum") supplements provisions of the "Management Agreement" dated the _____ day of _____, 20_____, between _____ ("Owner"), and John Stewart Company, a California corporation ("Agent"), (the "Original Agreement"). All applicable terms and conditions of the management agreement are herein incorporated by reference and are fully applicable during the marketing lease-up phase. This Marketing Addendum shall be effective when it is executed by all parties.

1. **Appointment and Acceptance.** The Agent is hereby hired to provide pre-lease-up, rent-up and marketing services for the Project.

2. **Marketing Fees and Services.** For a marketing fee of _____ (\$_____) per unit, or \$_____ total, exclusive of any direct costs (within the marketing budget established and approved by Owner) for advertising, brochures, furniture, equipment, supplies, salaries and related payroll expenses, The Agent will perform the following services:
 - a. Develop the marketing approach, marketing plan and all materials/advertisements/ brochures;
 - b. Conduct outreach for prospective residents; meet with the appropriate local agencies;
 - c. Maintain all documentation as to advertising/outreach and results; including a weekly report;
 - d. Set up all systems for operations (marketing office, maintenance equipment/ supplies);
 - e. Open separate marketing office (if needed), hire and train staff at least four (4) months prior to the anticipated Certificate of Occupancy. Staff hired to market the property will be considered site specific staff and treated as a direct cost to be paid by Owner;
 - f. Hire other staff as and when appropriate (within budget requirements/ restrictions);
 - g. Interview, screen, and select residents in accordance with the Owner's Tenant Selection Plan/Criteria and regulatory requirements (if any). Staff required to directly process applications will be considered a direct cost to be paid by Owner.
 - h. Initial file review to approve/reject applicant for housing.

3. **Payment of Marketing Fees.** Marketing fees will be paid as follows:
 - (1) 25% at initiation of rent-up activities;
 - (2) 25% at Certificate of Occupancy (CoO);
 - (3) 25% at 50% occupancy;
 - (4) 25% at 95% occupancy.
 - b. Property set up in Boston Post – Property will pay directly to Boston Post
 - c. Additional file reviews to refresh files due to non-Agent delays in executing leases with applicants. Each additional file review will be an additional charge of \$_____.

4. **Commencement of Marketing Activities.** The Agent will commence marketing activities after Agent and Owner have approved a marketing plan, marketing budget, marketing office-start up budget and lease-up time-line. Agent will establish a Marketing Operating Account. Owner will

provide three (3) months of the marketing budget funds six (6) months prior to the projected Certificate of Occupancy to fund marketing expenses. Agent will provide a monthly report including disbursements, payables, bank statement and variance to the marketing budget. In conjunction with the monthly report, Agent will provide Owner a request for funding for future months to maintain a two (2) month balance in the Marketing Operating Account until Agent projects funds are sufficient through the completion of the marketing.

- 5. **Leasing.** The Agent will market and lease units to ensure compliance with any lender or regulatory agency requirements. Agent shall use all reasonable efforts to procure tenants for the Project and negotiate and execute on behalf of Owner all leases for units in the Project. Agent is authorized to enter lease agreements with tenants without the prior approval of Owner, provided Agent shall lease all units in accordance with the terms and conditions of the Management Agreement, this Marketing Addendum and on terms and conditions set forth in a standard lease form to be provided by Owner from time to time (without modification thereto unless the prior written approval of owner is given to such modifications).
- 6. **Marketing.** Agent agrees to promote leasing by full use of available advertising media, such as newspapers, the display of signs on the Project and such other forms of advertising as shall be reasonably approved by Owner. All charges for advertising or marketing shall be borne by Owner in accordance with the approved marketing budget unless otherwise approved in advance by owner for additional necessary advertising expenses needed to ensure successful lease up of property.
- 7. **Records and Reports.** Agent agrees to keep accurate and complete books and records of its marketing and promotional activities, including, without limitation, records of all leases entered into and all expenditures incurred in connection therewith. Owner may, at any time, during Agent's normal business hours and either in person or through a representative, inspect all records and supporting and related documentation kept by Agent related to the marketing of the Project. Owner may, at Owner's expense, have an audit made of all books and records connected with the marketing of the Project. On not less than a monthly basis, Agent shall provide a written marketing and financial report to Owner summarizing Agent's marketing efforts and results.

IN WITNESS WHEREOF, the Principal Parties (by their duly authorized officers) have executed this Agreement on the _____ day of _____, _____.

OWNER:

AGENT:

John Stewart Company

BY: _____

BY: <REGIONAL VP> _____

TITLE: _____

TITLE: Vice President _____

WITNESS: _____

WITNESS: _____



ISLAND CITY DEVELOPMENT

Fax (510) 522-7848 | TTY/TRS 711

To: Board of Directors
Island City Development

From: Sylvia Martinez, Director of Housing Development

Date: June 13, 2022

Re: Accept an Option to Purchase Improvements at 1628 Webster Street
from the Housing Authority of the City of Alameda

BACKGROUND

The Housing Authority has sought to acquire a contingent purchase and sale agreement with the owner of the property at 1628 Webster Street, to create additional affordable housing. If successful in this endeavor, the Housing Authority will partner with Island City Development to develop, own and operate the new affordable development. The Housing Authority has already approved an option to ground lease the land to Island City Development. In addition, Island City Development will need an option to purchase the improvements.

DISCUSSION

The purchase of the improvements will occur concurrently with the purchase of the property (expected in June 2023, likely in a double escrow). The Purchase and Sale Agreement between the owner and the Housing Authority has been negotiated with this concept in mind. The cost will be the negotiated purchase price of the improvements so that the Housing Authority is only paying for the land, which it will retain as owner.

Island City Development will submit applications to the State of California and other sources to complete the needed acquisition and construction financing.

FISCAL IMPACT

It is intended that there will not be any additional impact of the sale of the improvements to the Housing Authority, since the cost of the purchase will be taken on by Island City Development. The Housing Authority has already provided the option to ground lease at a subsidized payment and approved other soft loans to make the development feasible. The option to purchase includes a clause that the Housing Authority soft loan can be structured as a seller carryback loan for the improvements, if that structure would be beneficial. If the gap financing from the State of California is not forthcoming, or a discovery is made such that the project is infeasible, Island City Development does not need to go through with the purchase.

CEQA

Not Applicable



RECOMMENDATION

Accept an Option to Purchase Improvements at 1628 Webster Street from the Housing Authority of the City of Alameda

ATTACHMENTS

1. Att 1 Draft Form of 1628 Webster Option Agreement

Respectfully submitted,



Sylvia Martinez, Director of Housing Development

Attach 1 Draft Form of 1628 Eagle Option Agreement

OPTION AGREEMENT

THIS OPTION AGREEMENT (this “**Agreement**”) is effective as of [], 2022, by and between Housing Authority of the City of Alameda (“**Seller**”) and Island City Development, a California nonprofit public benefit corporation, or its assigns (“**Purchaser**”).

RECITALS

A. Seller is in contract for the purchase of the land located in the City of Alameda, CA 94501, and described as 1628 Webster further described in Exhibit A attached hereto and incorporated herein by reference (the “**Land**”). The site currently includes commercial building improvements (the “**Improvements**”) situated on the Land.

B. Purchaser desires to procure, and Seller desires to grant, an option to enter into a purchase with respect to the Improvements upon the terms and provisions as hereinafter set forth. The fee interest in any Improvements to be developed on the Land are referred to collectively herein as the “**Property**”.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties hereto agree as follows:

AGREEMENT

1. Grant of Option. For One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Seller does hereby grant to Purchaser the exclusive right and option to acquire the Property (the “**Option**”).

2. Exercise of Option. Purchaser may exercise its Option at any time during the period commencing on the date hereof and expiring on March 30, 2024 (the “**Option Term**”), by giving written notice thereof to Seller. In the event the Purchaser does not exercise its Option during the Option Term, this Agreement shall become null and void and neither party hereto shall have any other liability, obligation or duty hereunder.

3. Contract For Purchase of the Improvements. In the event that the Purchaser exercises the Option, unless otherwise mutually agreed, both parties agree to execute a contract in accordance with the following terms and conditions:

(a) Price. The purchase contract shall have the following terms: (a) have base price equal to the Housing Authority’s negotiated purchase price of the Improvements, and (b) such other terms and conditions agreed upon by Seller and Purchaser.

(b) Financing. Seller may agree to provide seller takeback financing for a portion of the purchase price; bearing interest at the applicable federal rate; with a term of 55 years (or a lesser term if elected by Purchaser); secured by a mortgage against the Property; subordinate to a senior construction to permanent bank loan and any other loans from governmental agencies;

repaid from residual receipts (after payment of developer fee, general partner management fee of \$25,000 per year with an annual increase of 3%, and an investor asset management fee of \$5,000 per year with an annual increase of 3%); and subject to commercially reasonable terms, including those in favor of an investor, for low income housing tax credit projects.

(c) Closing Date. The closing date shall be on any date during the Option Term as may be selected by Purchaser, provided that Purchaser shall make good faith efforts to provide 30 days prior notice of the closing date.

(d) Closing Costs. The Purchaser and Seller shall each pay their respective costs of closing the purchase in accordance with custom in the city in which the Property is located.

(e) As Is. Except as specifically provided in writing by Seller, Purchaser shall acquire the Property in an “as-is” condition with an ALTA owner’s title policy with such endorsements as Purchaser shall reasonably require, subject only to those monetary encumbrances recorded against the Property as agreed to in writing by Purchaser.

(f) Subdivision. Seller and Purchaser shall cooperate in causing the Land to be a separate legal parcel under applicable law, which shall be a condition precedent to closing under this Agreement. At the election of Purchaser, Purchaser may cause the Land to be further subdivided into 2 separate legal parcels or converted to a condominium with 2 condo units, in which case (1) Seller shall reasonably cooperate with such subdivision or conversion efforts, and (2) this Agreement shall be replaced with 2 separate option agreements for the 2 parcels or units, each with the same terms and conditions as in this Agreement.

(g) Representations, Warranties and Covenants. Seller hereby represents, warrants and covenants as follows:

(i) Except as otherwise permitted by Purchaser in writing in its sole discretion, Seller shall (A) maintain and operate the Property in its current condition and operation; (B) not enter into any lease, agreement or contract or a modification thereof (including existing loans or liens on the Property) affecting the Property unless such lease, agreement or contract shall terminate upon transfer of the Property or is approved by Purchaser in its sole discretion; (C) comply with all material contracts, agreements and obligations with respect to the Property; (D) maintain current amounts of fire, extended coverage, hazard and other insurance for the Property; and (E) not sell, assign, dispose of or further encumber the Property.

(ii) Seller shall not commit or permit any act that would diminish or devalue the Property or Purchaser’s rights under this Agreement.

(iii) Seller shall within 20 days of the date hereof provide to Purchaser all documents, contracts, agreements and other information regarding the Property that is within the possession or control of Seller.

(iv) During the Option Term, Purchaser and its agents shall have the right, upon reasonable notice and during reasonable times and without unreasonably interfering with the normal operation of the Property, to enter upon the Property to conduct inspections and testing (including surveying and environmental assessments), and to inspect and copy Seller’s

books and records with respect to the Property. Seller shall reasonably cooperate with Purchaser in inspecting and evaluating the Property, applying for or obtaining financing for the Property and obtaining entitlements or permits with respect to the Property.

4. General Provisions.

(a) Entire Agreement. This Agreement contains the entire agreement between the parties, and supersedes all prior negotiations, drafts, and other understandings which the parties may have had concerning the subject matter hereof.

(b) Time. Time is of the essence of this Agreement.

(c) Successors. The provisions of this Agreement shall inure to the benefit of, and shall be binding upon, the heirs, successors, executors, administrators and assigns of the parties hereto. Seller agrees that Purchaser shall have the right to assign this Agreement or to nominate another person (including, without limitation, a limited partnership controlled by Purchaser) to take title to the Property without Seller's consent.

(d) Amendments. This Agreement may not be amended or modified except by written documents signed by all parties hereto.

(e) Severability. Whenever possible, each provision of this Agreement shall be interpreted so as to be effective and valid under applicable law. If any provision of this Agreement is held to be prohibited by, or invalid under, applicable law, the remainder of this Agreement and any other application of such provision shall not be affected thereby.

(f) Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument. All such counterparts together shall constitute one and the same Agreement.

(g) Notice. Any notice, demand, request, consent or other communication which either party desires or is required to give to any other party shall be in writing and shall be deemed to have been given when either: (a) delivered in person or by facsimile transfer, or (b) sent by overnight courier or first-class registered or certified mail, postage pre-paid, return receipt requested, addressed to such party at the address set forth following each party's signature to this Agreement. Either party may designate another address for itself at any time upon written notice to the other party.

(h) Headings. The titles and headings of the various sections of this Agreement have been inserted only for convenience of reference. They are not part of this Agreement and may not be used to construe or interpret any of the terms hereof.

(i) Governing Law. This Agreement shall be governed by, and construed in accordance with, the law of the State of California.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

SELLER:

Housing Authority of the City of Alameda,
a public body corporate and politic

By: _____
Vanessa Cooper
Executive Director

Address:

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

PURCHASER:

Island City Development,
a California nonprofit public benefit corporation

By: _____
Vanessa Cooper
President

Address:

Island City Development
c/o Housing Authority of the City of Alameda
701 Atlantic Avenue
Alameda, CA 94501
Attn: Executive Director

EXHIBIT A
Legal Description



ISLAND CITY DEVELOPMENT

Fax (510) 522-7848 | TTY/TRS 711

ITEM 4.D

To: Board of Directors
Island City Development

From: Sylvia Martinez, Director of Housing Development

Date: June 13, 2022

Re: Discussion and Possible Adoption of Resolution 2022-10 of the Board of Directors of Island City Development 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.

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

This resolution to meet virtually is in response to the indoor mask policy reinstated by Alameda County Health Care Services Agencies mandate which went into effect 12:01 a.m. June 3, 2022.

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.” Island City Development 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 Island City Development 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. AB 361.pdf 2021
2. Resolution No 2022-10 (AB361 May)_Final

Respectfully submitted,



Sylvia Martinez, Director of Housing Development

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.

O

ISLAND CITY DEVELOPMENT

Resolution No. 2022-10

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ISLAND CITY DEVELOPMENT 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 Island City Development ("ICD") is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of the ICD'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 ICD'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 ICD 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 ICD that are likely to be beyond the control of services, personnel, equipment, and facilities of the ICD, 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 ICD 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 ICD 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 ISLAND CITY DEVELOPMENT 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 ICD'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 ICD may continue to teleconference without compliance with Government Code section 54953(b)(3).

PASSED AND ADOPTED by the Board of Directors of the Island City Development this _____ day of _____, 20____, by the following vote:

AYES: _____ NOES: _____ ABSTENTIONS: _____ ABSENT: _____

ATTEST:

Vanessa M. Cooper
President

Janet Basta
Secretary

Adopted:

Date