

## **RESOLUTION NO.**

**WHEREAS**, the Austin Housing Finance Corporation (AHFC) was created by the City of Austin in accordance with Chapter 394, Local Government Code for the public purpose and function, among others, of providing a means to finance the cost of residential developments that will provide decent, safe, and sanitary housing at affordable prices for residents of the City of Austin; and

**WHEREAS**, Chapter 22, Texas Business Organization Code (Code), authorizes the creation and organization of non-profit corporations which may act as a duly constituted affiliate of a Texas housing finance corporation to aid and assist the housing finance corporation in the performance of one or more of its functions; and

**WHEREAS**, AHFC desires to further its public purposes and functions by creating a related, affiliate, non-profit corporation and instrumentality named AHFC Nightingale Non-Profit Corporation (Related Corporation), appointing and maintaining its board of directors, and otherwise exercising control over the Related Corporation, its dissolution and its assets; and

**WHEREAS**, by creating the Related Corporation, AHFC intends to serve as managing member of a to-be-formed Limited Liability Company, which will acquire the property and construct and operate approximately 174 units of mixed-income rental housing located in the Goodnight Ranch Planned Unit Development (PUD), more particularly, located at 5900 Charles Merle Drive, to be known as The Nightingale Apartments; and

**WHEREAS,** AHFC desires that the Related Corporation have and exercise all of the powers prescribed by the Code; and

**WHEREAS,** AHFC desires that the Related Corporation's certificate of formation, articles of incorporation and by-laws shall be in the form and be executed, approved and filed in the manner prescribed by this Resolution; and

**WHEREAS,** the Board of Directors desires to authorize and approve the certificate of formation, articles of incorporation and by-laws of the Related Corporation, appoint the board of directors of the Related Corporation, and take other action with respect to the Related Corporation; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE  
AUSTIN HOUSING FINANCE CORPORATION:**

**Section 1.** The Board of Directors finds, determines, recites, and declares that it is wise, expedient, necessary, and advisable that the Related Corporation be formed. The Board of Directors therefore approves the creation and organization of the Related Corporation under the provisions of the Code as a duly constituted affiliate, non-profit corporation and instrumentality of AHFC. The Board of Directors authorizes the Related Corporation to aid, assist, and act on its behalf and for the benefit of AHFC in the performance of its functions to develop, construct, and acquire, affordable housing in Austin; to participate in a to-be-formed limited liability company, which will own the development currently proposed to be called The Nightingale Apartments; to promote, develop, encourage and maintain The Nightingale

Apartments as decent, safe, and sanitary housing at affordable rental rates for a period of 99 years; and to ensure to the maximum extent possible and to the extent of the Related Corporation's percentage of ownership, that The Nightingale Apartments helps to achieve the public purpose and functions of AHFC; and to perform the other purposes described in the Related Corporation's Articles of Incorporation.

**Section 2.** The Board of Directors approves the Certificate of Formation of the Related Corporation in substantially the form attached as **Exhibit "A"** and authorizes the incorporator of the Related Corporation to file such Certificate of Formation with the Secretary of State of the State of Texas in the manner provided by law.

**Section 3.** The Board of Directors approves the Articles of Incorporation of the Related Corporation in substantially the form attached as **Exhibit "B"** and authorizes the incorporator of the Related Corporation to execute and file such Articles of Incorporation as necessary and maintain them in the corporate records in the appropriate manner as provided by law.

**Section 4.** The Board of Directors appoints the initial board of directors of the Related Corporation, with their terms of office to expire at the time indicated.

| <b>Name</b>    | <b>Term Expires</b> |
|----------------|---------------------|
| Joe Pantalione | December 31, 2020   |
| Rosie Truelove | December 31, 2020   |
| Rebecca Giello | December 31, 2020   |

Joe Pantalione is designated as the President of the Related Corporation. Other officers shall be designated as provided in the By-laws.

**Section 5.** The Board of Directors approves the By-laws of the Related Corporation in substantially the form attached as **Exhibit “C”** and authorizes the president of the corporation to execute and file them in the corporate records in the manner provided by law.

**Section 6.** The Board of Directors finds, determines, recites, and declares that any notes, bonds, loans, debts or other obligations of the Related Corporation shall not be deemed an indebtedness, liability, general or moral obligation or pledge of the faith or credit of the State of Texas, the City of Austin, AHFC, or any other political subdivision or governmental unit, nor shall any such notes, bonds, loans, debts or other obligations constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction or an agreement, obligation, or indebtedness of AHFC, the City of Austin, the State of Texas within the meaning of AHFC's Articles of Incorporation, the City Charter or of any constitutional or statutory provision whatsoever.

**Section 7.** The Board of Directors finds, determines, recites, and declares that it is the purpose, intent, and desire of AHFC in approving the creation of the Related Corporation and its Certificate of Formation, Articles of Incorporation and By-laws, that such actions [are what?] and the Related Corporation is authorized comply with the requirements of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations and Internal Revenue Service rulings promulgated thereunder and the rulings issued pursuant thereto, such that the Related Corporation shall be determined to be a constituted nonprofit corporation acting as an

asset of AHFC pursuant to the provisions of the Code and Chapter 394, Texas Local Government Code.

**Section 8.** This Resolution shall take effect immediately upon its passage and approval by the Board of Directors.

**ADOPTED:** \_\_\_\_\_, 2017    **ATTEST:** \_\_\_\_\_  
Jannette S. Goodall  
Secretary