

RESOLUTION NO. 20220303-018

WHEREAS, Chapter 303 of the Texas Local Government Code (the Act) authorizes and empowers the City to create a nonprofit public facility corporation to assist the City in financing, refinancing, and providing for the costs of public facilities, as defined in the Act, in accordance with Section 303.002 of the Act; and

WHEREAS, the Act authorizes nonprofit public facility corporations to issue bonds for the purpose of financing, refinancing, or providing for the costs of one or more public facilities; and

WHEREAS, the City Council has determined that it is in the public interest and to the benefit of the City's residents and the citizens of the State of Texas that a nonprofit public corporation be created to finance, refinance, or provide for the costs of public facilities in the City; and

WHEREAS, the Act defines public facility is real, personal, or mixed property, or an interest in property, devoted or intended to be devoted to a public use; and

WHEREAS, the Texas Legislature finds that residential ownership and development assists persons of low and moderate income to acquire and own decent, safe, sanitary, and affordable housing is a public purpose; and

WHEREAS, the City Council desires to authorize and approve the creation of the Austin Housing Public Facility Corporation (AHPFC), a nonprofit public facility corporation, for all of the purposes set forth in the Act; and

WHEREAS, City Council has been presented with and has examined the Certificate of Formation for AHPFC, and City Council finds that the form and substance of such Certificate of Formation are satisfactory; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

1. City Council hereby determines that it is in the public interest and to the benefit of the City's residents and the citizens of the State of Texas that AHPFC be created to finance, refinance, and provide for the costs of public facilities in the City.

2. City Council authorizes and approves the creation of AHPFC to act on behalf of the City to further the purposes set forth in the Act and the Certificate of Formation, and City Council approves AHPFC's Certificate of Formation in substantially the form attached as **Exhibit A** and authorizes the organizer to file such Certificate of Formation with the Secretary of State of the State of Texas in the manner provided by law.

3. City Council appoints the following persons as Directors of AHPFC who will serve as its initial Board of Directors:

Steve Adler

Alison Alter

Natasha Harper-Madison

Vanessa Fuentes

Sabino "Pio" Renteria

José "Chito" Vela

Ann Kitchen

Mackenzie Kelly

Leslie Pool

Paige Ellis

Kathie Tovo

4. This Resolution takes effect and is in full force and effect upon and after its adoption.

ADOPTED: March 3, 2022 **ATTEST:** *EBrody for*
Myrna Rios
City Clerk

Exhibit A

**Form 202
(Revised 12/21)**

Submit in duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
512 463-5555

Filing Fee: \$25



This space reserved for office use.

**Certificate of Formation
Nonprofit Corporation**

Article 1 – Entity Name and Type

The filing entity being formed is a nonprofit corporation. The name of the entity is:

AUSTIN HOUSING PUBLIC FACILITY CORPORATION

Article 2 – Registered Agent and Registered Office

(See instructions. Select and complete either A or B and complete C.)

A. The initial registered agent is an organization (cannot be entity named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Mandy		DeMayo	
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>

C. The business address of the registered agent and the registered office address is:

1000 East 11th Street, 2nd Floor	Austin	TX	78702
<i>Street Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>

Article 3 – Management

The management of the affairs of the corporation is vested in the board of directors. The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of members or until their successors are elected and qualified are as follows:

A minimum of three directors is required.

Director 1				
Steve		Adler		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
301 W. 2nd Street	Austin	TX	78701	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

Director 2				
Alison		Alter		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
301 W. 2nd Street	Austin	TX	78701	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

Director 3				
Natasha		Harper-Madison		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
301 W. 2nd Street	Austin	TX	78701	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

OR

The management of the affairs of the corporation is to be vested in the nonprofit corporation's members.

Article 4 – Membership

(See instructions. Do not select statement B if the corporation is to be managed by its members.)

- A. The nonprofit corporation shall have members.
- B. The nonprofit corporation will have no members.

Article 5 – Purpose

(See instructions. This form does not contain language needed to obtain a tax-exempt status on the state or federal level.)

The nonprofit corporation is organized for the following purpose or purposes:

The nonprofit corporation is a public nonprofit corporation organized for the purpose of assisting the City of Austin, Texas (City) in financing, refinancing, and providing for the costs of public facilities in accordance with Chapter 303 of the Texas Local Government Code (the Act).

The following text area may be used to include any additional language or provisions that may be needed to obtain tax-exempt status.

Initial Mailing Address

(Provide the mailing address to which state franchise tax correspondence should be sent.)

1000 East 11th Street, 2nd Floor	Austin	TX	78702	USA
<i>Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

Supplemental Provisions/Information

(See instructions.)

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

The attached addendum includes additional articles (Articles 6 through 15) and is incorporated herein by reference.

Organizer

The name and address of the organizer:

Rosie Truelove

Name

1000 East 11th Street, 2nd Floor	Austin	TX	78702
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>

Effectiveness of Filing (Select either A, B, or C.)

- A. This document becomes effective when the document is filed by the secretary of state.
- B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: _____
- C. This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90th day after the date of signing is: _____

The following event or fact will cause the document to take effect in the manner described below:

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned also affirms that, to the best knowledge of the undersigned, the name provided as the name of the filing entity does not falsely imply an affiliation with a governmental entity. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: _____

Signature of organizer

Rosie Truelove

Printed or typed name of organizer

Addendum

**Article 6
Nonstock Nonprofit Corporation**

The nonprofit corporation is a nonstock, nonprofit corporation.

**Article 7
Duration**

The period of the nonprofit corporation's duration is perpetual.

**Article 8
Sponsor**

The nonprofit corporation's sponsor is:

The City of Austin, Texas
301 W. Second Street
Austin, Texas 78701

**Article 9
Bonds**

The nonprofit corporation may (1) issue bonds under the Act, including bonds to purchase City obligations; (2) finance public facilities on behalf of the City; (3) loan the proceeds of the obligations to other entities to accomplish the City's purposes; (4) acquire, construct, rehabilitate, renovate, repair, equip, furnish, and place in service public facilities; and (5) issue bonds on the City's behalf to finance the costs of public facilities.

**Article 10
Powers**

The activities of the nonprofit corporation are limited to the purposes stated herein, but the nonprofit corporation expressly: (i) has and may exercise all of the rights, powers, privileges, authority, and functions given by the Act, the laws of the State of Texas given to nonprofit corporations incorporated under the Act and otherwise given under the laws of the State of Texas; and (ii) has all other powers of a like or different nature not prohibited by law which are available to nonprofit corporations in the State of Texas and which are necessary or useful to enable the nonprofit corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created.

The nonprofit corporation may perform any and all lawful activities which may be reasonably necessary, useful or desirable for the furtherance, accomplishment, fostering, or attaining any of its purposes, either directly or indirectly, and either alone or in conjunction or cooperation with others, such as corporations, subsidiaries, firms, associations, trusts, institutions, foundations, and governmental bureaus, departments, and agencies.

The nonprofit corporation may not: (a) engage directly or indirectly, in any business or activity other than the financing, refinancing, or provision of public facilities under the Act or (b) violate or fail to maintain the nonprofit corporation's identity as an entity separate from any other person or entity.

Article 11
Board of Directors

All powers of the nonprofit corporation are vested in the initial board of directors consisting of 11 persons. The initial directors of the nonprofit corporation are the 3 persons named in Article 3 and the following Directors:

Director 4	Vanessa Fuentes 301 W. 2nd Street, Austin, Texas 78701, USA
Director 5	Sabino "Pio" Renteria 301 W. 2nd Street, Austin, Texas 78701, USA
Director 6	José "Chito" Vela 301 W. 2nd Street, Austin, Texas 78701, USA
Director 7	Ann Kitchen 301 W. 2nd Street, Austin, Texas 78701, USA
Director 8	Mackenzie Kelly 301 W. 2nd Street, Austin, Texas 78701, USA
Director 9	Leslie Pool 301 W. 2nd Street, Austin, Texas 78701, USA
Director 10	Paige Ellis 301 W. 2nd Street, Austin, Texas 78701, USA
Director 11	Kathie Tovo 301 W. 2nd Street, Austin, Texas 78701, USA

Each director serves for a term of 6 years or until their successor director is duly elected and qualified. Any vacancy is filled in accordance with the City's City Charter.

Article 12
Officers

The board of directors will elect or appoint the officers of the nonprofit corporation in the manner and for the terms provided in the bylaws. Officer terms are 3 years.

Article 13
City of Austin Authorization

On _____, 2022 the City of Austin City Council duly adopted Resolution No. 2022 _____ specifically authorized the nonprofit corporation to act on its behalf to further the public purpose set forth in this Certificate of Formation and approve this Certificate of Formation.

Article 14
Construction

All references in this Certificate of Formation to statutes, regulations, or other sources of legal authority refer to the authorities cited, or their successors, as they may be amended from time to time.

Article 15
Organizer

The name and street address of the organizer, who resides within the state and is an employee of the City, is:

Name:
Rosie Truelove

Address:
City of Austin
Housing & Planning Department
Attn: Housing Development Assistance
1000 East 11th Street, 2nd Floor
Austin, Texas 78702