**RESOLUTION NO. 20220929-AHPFC006**

**WHEREAS**, Council of the City of Austin (City) created and organized the Austin Housing Public Facility Corporation (Corporation) under the provisions of the Public Facility Corporation Act, Chapter 303 of the Texas Local Government Code, as amended, (Act), for the purpose of assisting the City in financing, refinancing, owning, or providing public facilities; and

**WHEREAS**, the Corporation, or an entity legally acting for and on behalf of the Corporation (either or both Issuer), or both, is or are authorized to provide for the acquisition and construction of multifamily housing developments, and to provide for the issuance of revenue bonds (Bonds) for this purpose; and

**WHEREAS**, AHFC Ryan Drive Non-Profit Corporation is a to-be-formed non-profit corporation organized under the laws of the State of Texas; and

**WHEREAS,** the term "Borrower" means AHFC Ryan Drive Non-Profit Corporation and/or one of its subsidiaries, affiliates, or related corporations or entities; and

**WHEREAS**, the Borrower has advised the Issuer that it is considering proceeding with the acquisition, construction, and/or improvement of a multi-family development described in Exhibit A (Development) within the City and within the jurisdiction of the Issuer; and

**WHEREAS**, the Borrower has advised the Issuer that a contributing factor which would further induce the Borrower to proceed with providing for the acquisition, construction, and/or improvement of the Development would be a commitment and agreement by the Issuer to consider issuing bonds; and

**WHEREAS**, the Borrower has proposed to the Issuer that the Borrower will be further induced to proceed with providing for the acquisition, construction, and/or improvement of the Development if the Issuer will make such commitment and agreement and adopt this Resolution; and

**WHEREAS**, all or a portion of the expenditures relating to the Development (Expenditures) have been paid within 60 days prior to the passage of this Resolution or will be paid on or after the passage of this Resolution; and

**WHEREAS**, the Issuer reasonably expects, based upon information supplied by the Borrower, upon which it is reasonable and prudent for the Issuer to rely, to reimburse the Borrower or persons acting on its behalf for the Expenditures with the proceeds of the Bonds; and

**WHEREAS**, the Issuer declares that this Resolution, in accordance with its provisions, constitutes the agreement of the Issuer to issue the Bonds in such aggregate principal amount, now estimated not to exceed $50,000,000, as is actually required to finance and pay for the acquisition, construction, and/or improvement of the Development; and

**WHEREAS**, the Issuer finds, considers, and declares that the issuance of the Bonds in the amount identified above and for the purpose identified above will be appropriate and consistent with the objectives of the Act, and that the adoption of this Resolution constitutes: (i) an inducement to the Borrower to proceed with providing for the acquisition, construction, and/or improvement of the Development, (ii) the taking of affirmative official action by the Issuer, acting by and through its Board of Directors, towards the issuance of the Bonds, and that such action is similar to the adoption of a bond resolution/within the meaning of Section 1.103-8(a)(5) of the Federal Treasury Regulations, and (iii) the declaration

of the intention of the Issuer, in accordance with the provisions of Section 1.150-2 of the Federal Treasury Regulations, to reimburse the Expenditures for the Development at such time as the Bonds are issued; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF AUSTIN HOUSING PUBLIC FACILITY CORPORATION THAT:**

Section 1. The Issuer agrees as follows:

(a) To consider adopting a bond resolution or bond resolutions prepared by its Bond Counsel, McCall, Parkhurst & Horton L.L.P., Dallas, Texas, when requested by the Borrower, authorizing the issuance of Bonds pursuant to the Act, and to issue the Bonds, subject to the requirements of the Act and the Corporation's bylaws, the execution of the appropriate agreements or contracts described in (b), below, and the sale of the Bonds under terms and conditions satisfactory to the Issuer and the Borrower, to finance and pay for the acquisition, construction, and/or improvement of the Development, including amounts sufficient to pay the fees, expenses, and costs in connection with such issuance, including an amount adequate to reimburse the Issuer for its administrative and overhead expenses and costs with respect to the Bonds and the Development, with the Bonds to be payable from payments by the Borrower to the Issuer and/or to a corporate trustee in such sums as are necessary to pay the principal of, interest on, and redemption premium, if any, together with the paying agents' and trustee's fees on, the Bonds, as and when the same becomes due and payable.

(b) Prior to the issuance of the Bonds, when requested by the Borrower, to enter into such loan agreement, installment sale agreement, lease, and/or any other appropriate contracts or agreements between the Issuer and the Borrower as are mutually acceptable in all respects to the Issuer and the Borrower, under which the Borrower will be obligated to make payments to the Issuer and/or to a corporate trustee in such sums as are necessary to pay the principal of, interest on, and redemption premium, if any, together with the paying agents' and trustee's fees on, the Bonds, as and when the same becomes due and payable, and with such payments also to be sufficient to defray the Issuer's administrative, overhead, and other expenses and costs with respect to the Bonds and the Development.

(c) To take, or cause to be taken, such other action, and to execute such additional contracts and agreements mutually agreeable to the parties in all respects, when requested by the Borrower as may be required in accordance with the Act and this Resolution to cause the issuance of the Bonds and to obtain an allocation of state volume cap for the Bonds.

Section 2. Subject to the provisions of Section 3 of this Resolution, by the acceptance of this Resolution and proceeding with the Development, the Borrower agrees that it will (i) fully indemnify and hold the Issuer harmless from any and all damages, losses, and reasonable expenses, including attorneys' fees, arising at any time from or with respect to the Bonds and the Development (except those resulting from gross negligence or willful misconduct of the Issuer), and (ii) pay or reimburse the Issuer for all reasonable and necessary out-of-pocket expenses, including attorneys' fees and expenses and the fees and expenses of other

consultants, which the Issuer may incur at the request of the Borrower arising from the performance or attempted performance by the Issuer of its obligations hereunder.

Section 3. Nothing contained in this Resolution may be interpreted as to bind the Issuer to issue any bonds. The Issuer has the authority, without cause, not to issue bonds.

Section 4. Subject to the provisions of Section 3 of this Resolution, the adoption of this Resolution constitutes the acceptance of the Borrower's proposal that it be further induced to proceed with providing for the acquisition, construction, and/or improvement of the Development, and this proposal and acceptance constitutes an agreement between the Issuer and the Borrower in accordance with the provisions of this Resolution.

Section 5. The Issuer reasonably expects, based upon information supplied by the Borrower, upon which it is reasonable and prudent for the Issuer to rely, to reimburse the Expenditures with the proceeds of the Bonds.

**ADOPTED:** September 29, 2022 **ATTEST:** _____

Myrna Rios
Secretary

## EXHIBIT A

## DESCRIPTION OF DEVELOPMENT

The development will be approximately 247 affordable housing units in newly constructed buildings located at or near 6909 Ryan Drive, Austin, Texas 78757.