

**RESOLUTION NO. 20240118-036**

**WHEREAS**, Council previously approved Resolution No. 000302-30 creating Austin Convention Enterprises, Inc. ("ACE"), a nonprofit public facilities corporation under the Public Facility Corporation Act, Texas Local Government Code Chapter 303 (the "PFCA"), for the purpose of constructing, financing, and operating a convention hotel facility and related assets adjacent to the Austin Convention Center; and,

**WHEREAS**, in Resolution No. 000302-30, Council also approved ACE's Articles of Incorporation (the "Articles") and Bylaws as required by the PFCA; and,

**WHEREAS**, Sections 303.027 and 303.029 of the PFCA authorizes Council to amend the Articles; and,


**WHEREAS**, Council finds it is advisable to amend the Articles in accordance with attached Exhibit A; **NOW, THEREFORE**,

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

Resolution No. 000302-30 is hereby amended as follows:

1. The Council adopts and approves the Amended and Restated Articles of Incorporation Austin Convention Center Enterprises, Inc. attached to this Resolution as Exhibit A.
2. In accordance with the Amended and Restated Articles of Incorporation, the number of directors responsible for managing ACE's affairs (the "Board of Directors") is increased from five to seven.
3. The names and addresses of the directors constituting the Board of Directors shall be:

- Seat 1 – Phillip Schmandt, 1111 W. 6th St., Bldg. B, Ste. 400, Austin, TX 78703
- Seat 2 - Jolsna Thomas, 1033 Meister Lane, Suite 100, Pflugerville, TX 78660
- Seat 3 - Kimberly Olivares, 301 W. 2nd Street, Austin, TX 78701
- Seat 4 - Lee Crawford, 301 W. 2nd Street, Austin, TX 78701
- Seat 5 - Troy Madres, 2208 South 2nd Street, Austin, TX 78704
- Seat 6 – Susana Carbajal, 301 W. 2nd Street, Austin, TX 78701
- Seat 7 – Vacant subject to Council appointment

ADOPTED: January 18, 2024 ATTEST:   
Myrna Rios  
City Clerk

**January 18, 2024, Meeting**

**AMENDED AND RESTATED ARTICLES OF  
INCORPORATION AUSTIN CONVENTION  
ENTERPRISES, INC.**

**I.**

These Amended and Restated Articles of Incorporation Austin Convention Enterprises, Inc. accurately copies the articles of incorporation and all previous amendments in effect on the date of filing, as further amended by the Restated Articles, and does not contain any other change except that the number and name of the directors currently constituting the board of directors have been inserted in place of similar information concerning the initial board of directors and the name and address of the incorporator has been omitted.

**II.**

The name of this Corporation is Austin Convention Enterprises, Inc

**III.**

1. This Corporation is a nonprofit public facility corporation and is not organized for the private gain of any person. The Corporation has no members and is a nonstock corporation. It is organized under Local Government Code Chapter 303, as amended (the "Act") to assist the City of Austin in financing, refinancing, or providing public facilities. The sponsor of the Corporation is the City of Austin, Texas, 301 W. 2nd Street, Austin, Texas 78701 (the "Sponsor"). The City of Austin, Texas, has specifically authorized the Corporation to act on its behalf to further the public purpose set forth in these Amended and Restated Articles of Incorporation, and the City Council of the City of Austin, Texas, has duly approved these Amended and Restated Articles of Incorporation.

2. The specific and sole public purpose of this Corporation, subject to the provisions of Article V of these Amended and Restated Articles of Incorporation, is to purchase, own, acquire, construct, equip, encumber, lease and sell, and provide for the operation of, a hotel, parking garage, and related facilities to be located across from the Austin Convention Center (the "Project") and to do all things necessary or convenient to the provision of such Project, their economic and beneficial financing, use and maintenance in the State of Texas (the "State") in order to promote the health, safety and general welfare of the residents of the State, to increase their commerce and industry, to promote their economic development and to advance the efficiency of the citizens of the State and surrounding areas. Specific objectives of the Corporation include the financing of the Project through the sale of revenue indebtedness of the Corporation ("Project Debt") which Project Debt shall not constitute an indebtedness of nor a charge against the full faith, credit or taxing powers of the State or any of its agencies or political subdivisions (including, without limitation, the City of Austin, Texas, or any successor public entity or assignee public entity which succeeds to the functions of the City of Austin, Texas {the "Political Subdivision"}). Upon the retirement or defeasance of any Project Debt issued by the Corporation, all property provided by such Project Debt, and any additions thereto, will be conveyed by the Corporation to the Political Subdivision for a public purpose or upon the direction of the Political



Subdivision, to another agency or political subdivision of the State for a public purpose. Notwithstanding anything contained herein to the contrary, this Corporation shall not engage in any business, and it shall have no purpose, unrelated to the Project, and shall not acquire any real property or own assets other than those related to the Project and/or otherwise in furtherance of the purposes of this Corporation.

3. The Corporation shall have no power to, and shall not, issue any Project Debt unless the City Council of the City of Austin (the "Governing Board") first enacts a resolution authorizing such issuance. The Corporation shall have no power to, and shall not, create or incur any indebtedness of, or a charge against the full faith, credit or taxing powers of, the Political Subdivision.

4. The affairs of the Corporation shall be managed by a Board of Directors consisting of not less than three nor more than 21 members, or such greater or lesser number (if then permitted by statutory authority). The Board of Directors shall be composed in its entirety of persons who are appointed by resolution of the Governing Board. If a Director is an employee of the Political Subdivision, the Director's resignation from employment with the Political Subdivision shall be deemed to be a resignation of that person from the Board of Directors. The names and addresses of the Board of Directors as of the filing of these Amended and Restated Articles of Incorporation are:

Seat 1 – Phillip Schmandt, 1111 W. 6<sup>th</sup> St., Bldg. B, Ste. 400, Austin, TX 78703  
Seat 2 - Jolsna Thomas, 1033 Meister Lane, Suite 100, Pflugerville, TX 78660  
Seat 3 - Kimberly Olivares, 301 W. 2nd Street, Austin, TX 78701  
Seat 4 - Lee Crawford, 301 W. 2nd Street, Austin, TX 78701  
Seat 5 - Troy Madres, 2208 South 2nd Street, Austin, TX 78704  
Seat 6 – Susana Carbajal, 301 W. 2nd Street, Austin, TX 78701  
Seat 7 – Vacant subject to appointment by Governing Board

The Governing Board has the power to fill all vacancies on the Board of Directors, to remove any Director for cause or without cause, and to appoint a successor. A Director shall hold office for the term to which the Director is appointed and until a successor is appointed and has qualified pursuant to Section 303.035(c) of the Act.

5. The Corporation shall have, and shall be entitled to exercise, all the powers *or* every kind lawfully available to a nonprofit public benefit corporation organized under the laws of the State of Texas; provided, however, that the Corporation shall not have the power to, and shall not, do any act or conduct any activity, plan, scheme, design or course of conduct which in any way conflicts with Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant to such sections as they now exist or as they may hereafter be amended (collectively, the "Code").

#### IV.

The name and address of the Corporation's registered office and agent for service of process is:

Registered Agent: Capital Corporate Services, Inc.

Registered Office: 1501 South MoPac Expressway Suite 220  
Austin, TX 78746

V.

The Corporation is not a Corporation organized for profit. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its directors, officers, employees, agents or other private persons except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make reasonable payments in furtherance of its charitable purposes. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distributing of statements). any political campaign on behalf of (or in opposition to) any candidate for public office. Notwithstanding any other provision of these Amended and Restated Articles of Incorporation, the Corporation shall not carry on any activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding section of any future federal tax code or (ii) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 or the corresponding section of any future federal tax code. Upon the dissolution of the Corporation, all of the Corporation's assets shall be distributed (1) to the Political Subdivision or its successor for a public purpose or (2) at the direction of the Political Subdivision, to another agency or political subdivision of the State for a public purpose or (3) at the direction of the Political Subdivision for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code or the corresponding section of any future federal tax code. The provisions of this Article V shall supersede any contrary provisions of these Amended and Restated Articles of Incorporation.

VI.

The property of this Corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this Corporation shall ever inure to the benefit of any director, officer, employee or member thereof or to the benefit of any private person or entity.

VII.

The duration of the Corporation shall be perpetual.

VIII.

The Governing Board shall have the right to approve by resolution the annual budget of this Corporation, and shall approve by resolution in advance any borrowing transaction including, but not limited to, approval of repayment schedules and procedures.

IX.

These Amended and Restated Articles of Incorporation may be amended at any time by the Governing Board at its sole discretion by resolution adopting an amendment to the Amended and Restated Articles of Incorporation of the Corporation, or by the Board of Directors of the Corporation with the approval of the Governing Board in an appropriate resolution.

X.

Each amendment contained in these Amended and Restated Articles of Incorporation have been made in conformity with the Act, and the governing body of the Sponsor approved and adopted these Amended and Restated Articles of Incorporation by appropriate resolution on January 18, 2024.



