

**SOUTH CONGRESS  
PFC**

**BOARD OF DIRECTORS  
Regular Meeting**

**Thursday, September 19, 2019  
12:00 PM**

**HACA Central Offices  
1124 S. IH 35  
Austin, TX**

**PUBLIC NOTICE OF A MEETING  
TAKE NOTICE OF A BOARD OF DIRECTORS  
REGULAR BOARD MEETING  
OF THE SOUTH CONGRESS PFC**

**TO BE HELD AT  
HACA Central Offices  
1124 S. IH 35  
Austin, TX  
(512.477.4488)**

**Thursday, September 19, 2019  
12:00 PM**

**CALL TO ORDER, ROLL CALL**

**CERTIFICATION OF QUORUM**

**Citizens Communication (Note: There will be a three-minute time limitation)**

**CONSENT ITEMS**

**ACTION ITEMS**

1. Presentation, Discussion, and Possible Action on Resolution No. 001 by the Board of Directors of South Congress Public Facility Corporation ("PFC") to take such actions necessary or convenient to ratify the formation of the PFC and organizational formalities
2. Presentation, Discussion, and Possible Action on Resolution No. 002 by the Board of Directors of South Congress Public Facility Corporation ("PFC") to execute any and all documents, or take any other action, that is necessary or desirable to: (i) purchase certain real property located in Austin, Texas (the "Land") on which a residential multifamily apartment development consisting of affordable housing units and market rate units and associated amenities is to be constructed and known as SOCO II (the "Project"); (ii) lease the Land to South Congress IVP II Apartments LP (the "Partnership") to facilitate the construction and operation of the Project by the Partnership, including the placement of affordable housing units and market rate units at the Project; and (iii) execute any such further documentation as necessary or desirable, including any financing documentation, to facilitate the development of the Project

**EXECUTIVE SESSION**

The Board may go into Executive Session (close its meeting to the public) Pursuant to:

- a. 551.071, Texas Gov't Code, consultations with Attorney regarding legal advice, pending or contemplated litigation; or a settlement offer;
- b. 551.072, Texas Gov't Code, discussion about the purchase, exchange, lease or value of real property;
- c. 551.074, Texas Gov't Code, discuss the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee.
- d. 551.087, Texas Gov't Code, discuss certain economic development negotiations.

**OPEN SESSION**

If there is an Executive Session, the Board will return to Open Session for discussion, consideration and possible action of matters discussed in Executive Session.

## **REPORTS**

The Board accepts the following reports:

- President's Report
- Other Staff Reports
- Commissioners' Reports/Questions to the Department Staff

## **ADJOURNMENT**

"Pursuant to 30.06, Penal Code, (trespass by holder of license with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not attend this meeting with a concealed handgun."

"Pursuant to 30.07, Penal Code (trespass by holder of license with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not attend this meeting with a handgun that is carried openly."

"En virtud del 30.06, Código Penal, (traspaso titular de licencia con una pistola), una persona bajo el subcapítulo H, capítulo 411, código de gobierno (Ley de licencia de arma o pistola), no se permiten en esta reunión con una arma o pistola.

"En virtud de 30.07, Código Penal (prevaricación por titular de la licencia con un arma o pistola abiertamente llevado), una persona bajo el subcapítulo H, capítulo 411, código de gobierno (Ley de licencia de arma o pistola), no se permiten en esta reunión con un arma o pistola que lleva abiertamente.

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\*The Housing Authority of the City of Austin (HACA) Board of Commissioners reserves the right to discuss and consider items out of order on the agenda on an as needed basis.

The Housing Authority of the City of Austin is committed to compliance with the Americans with Disability Act. Reasonable modifications and equal access to the communications will be provided upon request. Meeting locations are planned with wheelchair access. If requiring Sign Language Interpreters or alternative formats, please give notice at least 2 days (48 hours) before the meeting date. Please call or Nidia Hiroms at HACA at 512.477.4488, for additional information; TTY users route through Relay Texas at 711. For more information on HACA, please contact Nidia Hiroms at 512.477.4488 x2104.

# **SOUTH CONGRESS PFC**

## **BOARD ACTION REQUEST**

### **RESOLUTION NO. 001**

#### **ITEM NO. 1.**

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**MEETING DATE:** September 19, 2019

**STAFF CONTACT:** Ron Kowal, Vice President of Housing Development/Asset Mgmt

**ITEM TITLE:** Presentation, Discussion, and Possible Action on Resolution No. 001 by the Board of Directors of South Congress Public Facility Corporation (“PFC”) to take such actions necessary or convenient to ratify the formation of the PFC and organizational formalities

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

#### **ACTION**

Motion to approve Resolution No. 001 to take such actions necessary or convenient to ratify the formation of the PFC and organizational formalities.

#### **SUMMARY**

##### ***Background:***

The Austin Affordable Housing Corporation (AAHC), a nonprofit subsidiary of the Housing Authority of the City of Austin (HACA), was created to own, engage in or assist in the development or operation of affordable housing, including but not limited to income producing projects whose proceeds are used to further HACA’s mission of moving its stakeholders from poverty to self-sufficiency. One goal of AAHC is to acquire and/or develop affordable housing in high opportunity areas where housing choice for Section 8 voucher holders does not typically exist and to offer low and moderate income families housing in areas with better performing schools and services situated outside the City of Austin’s crescent of poverty.

AAHC has been presented an opportunity to partner with the NRP Group to develop a property on South Congress, which meets AAHC’s goals of providing housing in proximity to jobs, schools, grocers and transit. The financing structure requires that a new PFC entity be created to facilitate this development.

##### ***Process:***

The Board of Directors for HACA authorized the creation of South Congress Public Facility Corporation under Resolution No. 2568 on September 20, 2018. At this time, staff advised the Board that this item would return at a later date to ratify the formation of the PFC and organizational formalities.

##### ***Staff Recommendation:***

Resolution No. 001 authorizes the Board of Directors of South Congress Public Facility Corporation (PFC) to take such actions necessary or convenient to ratify the formation of the PFC and organizational formalities.

## **RESOLUTION NO. 001**

**Resolution authorizing South Congress Public Facility Corporation (the “Corporation”) to take such actions necessary or convenient to ratify the formation of the Corporation and organizational formalities**

On September 19, 2019 at approximately \_\_\_\_ p.m., a meeting was held on the call of the Incorporator named in the Certification of Formation of the South Congress Public Facility Corporation, a Texas non-profit and public facility corporation (the “Corporation”). The directors present were:

Carl S. Richie, Jr.	1124 S. IH 35, Austin, TX 78704
Charles C. Bailey	1124 S. IH 35, Austin, TX 78704
Dr. Tyra Duncan-Hall	1124 S. IH 35, Austin, TX 78704
Edwina Carrington	1124 S. IH 35, Austin, TX 78704
Mary Apostolou	1124 S. IH 35, Austin, TX 78704

Carl S. Richie, Jr. acted as chairman of the meeting and Michael Gerber acted as secretary of the meeting. The Chairman called the meeting to order and announced that a quorum was present.

### **Certification of Formation**

**WHEREAS**, the Certificate of Formation of the Corporation attached hereto as Exhibit “A” was filed with the Secretary of State of the State of Texas on August 19, 2019; now, therefore, be it:

**RESOLVED**, that the filed Certificate of Formation be inserted into the minute book of the Corporation.

### **Corporate Records**

**RESOLVED**, that the Corporation shall maintain, as part of its corporate records, a minute book that shall include, but that shall not be limited to, records of the Corporation’s Certificate of Formation and amendments thereto, its bylaws and amendments thereto, minutes of all meetings of its directors, the time and the place of each such meeting, whether the meeting was regular or special, the manner in which the meeting was authorized, the notice given, the names of those present or represented at the meeting and the proceedings of each meeting;

**RESOLVED FURTHER**, that the secretary of the Corporation is directed to procure such a minute book and such other books and records as may be required by the Corporation.

### Payment of Organization Fee

**RESOLVED**, that the treasurer's payment of all fees and expenses incident to and necessary for the organization of the Corporation is hereby authorized.

### Adoption of Bylaws

**RESOLVED**, that the form of bylaws presented to the directors and attached hereto as Exhibit "B" have been approved and adopted as the Bylaws of the Corporation;

**RESOLVED FURTHER**, that the secretary of the Corporation is directed to certify a copy of these Bylaws and insert it in the minute book of the Corporation, and is further ordered to certify a copy of these Bylaws and maintain it in the principal office of the Corporation, open for inspection by the officers and directors at all reasonable times during office hours.

### Election of Officers

**RESOLVED**, that the following named persons be, and they hereby are, elected to the offices set opposite their respective names, to serve until their successors are duly elected and qualified:

President	Carl S. Richie, Jr.
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Vice President	_____
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Secretary	Michael Gerber
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Treasurer	_____
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**RESOLVED FURTHER**, that these officers are empowered to carry out the day-to-day business of the Corporation, subject to the direction and control of the board of directors.

### Licenses, Tax Permits and Rulings

**RESOLVED**, that the officers of the Corporation be, and they hereby are, authorized and directed to obtain, in the name of the Corporation, such licenses, tax permits and rulings as may be required by any applicable federal, state, county or municipal governmental statute, ordinance or regulation for the conduct of the non-profit business of the Corporation within any jurisdiction in which the Corporation shall have qualified to do business.

### Banking Authority

**RESOLVED**, that the secretary of the Corporation be, and hereby is, authorized and directed to execute and deliver such form resolutions of any state or national banking institution that

the officers of the Corporation may select (the “Bank”), as may be required to establish whatever checking accounts and borrowing accounts the treasurer of the Corporation shall deem necessary and appropriate;

**RESOLVED FURTHER**, that the secretary of the Corporation be, and hereby is, authorized to certify to the Bank that these resolutions have been duly adopted and to verify to the Bank the names and specimen signatures of the officers authorized hereby to sign, and if and when any new officer is elected, to verify the fact of the change and the name and specimen signature of the new officer;

**RESOLVED FURTHER**, that this resolution and the form resolutions to which it is applicable shall continue in full force and effect until official written notice of the rescission thereof by the board of directors of the Corporation has been given to the Bank.

Ratification of Prior Acts; General Authority

**RESOLVED**, that all acts, transactions, or agreements undertaken prior hereto by any of the officers or representatives of the Corporation in connection with the foregoing matters and the incorporation of the Corporation are hereby ratified and confirmed as the valid actions of the Corporation, effective as of the date such actions were taken.

**RESOLVED**, that the officers and directors of the Corporation be, and they hereby are, authorized to do any and all acts and things and to execute any and all agreements, consents and documents as in their opinion, or in the opinion of counsel to the Corporation, may be necessary or appropriate in order to carry out the purposes and intent of any of the foregoing resolutions.

**PASSED, APPROVED AND ADOPTED** by the Board of Directors as of the 19th day of September, 2019.

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Michael Gerber, Secretary

# **EXHIBIT "A"**

## **CERTIFICATE OF FORMATION**





## Office of the Secretary of State

### CERTIFICATE OF FILING OF

South Congress Public Facility Corporation  
File Number: 803400100

The undersigned, as Deputy Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Deputy Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 08/19/2019

Effective: 08/19/2019



A handwritten signature in black ink, appearing to be "JE", followed by a long horizontal line extending to the right.

Jose A. Esparza  
Deputy Secretary of State

AUG 19 2019

**CERTIFICATE OF FORMATION  
OF  
SOUTH CONGRESS PUBLIC FACILITY CORPORATION**

**Corporations Section**

A PUBLIC FACILITY CORPORATION AND  
INSTRUMENTALITY OF  
THE HOUSING AUTHORITY OF THE CITY OF AUSTIN

Pursuant to the Texas Business Organizations Code, South Congress Public Facility Corporation (the "Corporation"), a nonprofit corporation incorporated under the laws of the State of Texas, and public nonprofit corporation under the Public Facility Corporation Act, as amended, Chapter 303, Texas Local Government Code (the "Act") with the approval of the Board of Commissioners of the Housing Authority of the City of Austin (the "Authority"), as evidenced by the resolution attached hereto as Exhibit "A" and made a part of this Certificate of Formation for all purposes, does hereby adopt the following Certificate of Formation for the Corporation:

**ARTICLE ONE  
NAME**

The name of the Corporation is the "South Congress Public Facility Corporation".

**ARTICLE TWO  
AUTHORIZATION**

The Corporation is a nonprofit public corporation.

**ARTICLE THREE  
DURATION**

Subject to the provisions of Article Thirteen hereof, the period of duration of the Corporation is perpetual.

**ARTICLE FOUR  
PURPOSE AND LIMITATIONS**

(a) The Corporation is organized exclusively for the purpose of assisting the Authority in financing, refinancing, owning or providing public facilities. The Corporation shall have and possess the broadest possible powers to finance obligations issued or incurred in accordance with existing law, to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing and placement in service of public facilities of the Authority under the terms of the Act. The corporation is authorized to issue "bonds" as defined and permitted by the Act on behalf of the Authority; provided, however, no bonds, notes, interim certificates, or other evidence of indebtedness may be issued by the Corporation unless such bonds are first approved by resolution of the Authority. The Corporation is a public corporation,

a constituted authority, and a public instrumentality within the meaning of the Act, the United States Treasury Department, the rulings of the Internal Revenue Service prescribed and promulgated pursuant to section 103 and 141 of the Internal Revenue Code of 1986, as amended, and the Corporation is authorized to act on behalf of the Authority as provided in this Certificate of Formation.

(b) In the fulfillment of its corporate purpose, the Corporation shall have and may exercise the powers described in paragraph (a) of this Article, together with all of the other powers granted to corporations that are incorporated under the Act, and to the extent not in conflict with the Act, the Corporation shall additionally have and may exercise all of the rights, powers, privileges, authorities, and functions given by the general laws of the State to nonprofit corporations under the Texas Non-Profit Corporation Act, as amended, Texas Revised Civil Statutes Annotated Article 1396-101, et seq., or any other applicable laws of the State.

(c) The Corporation shall have the purposes and powers permitted by the Act, but the Corporation does not have, and shall not exercise the powers of sovereignty of the Authority, including the power to tax, eminent domain, or police power. However, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practice and Remedies Code), the Corporation is a governmental unit and its actions are governmental functions.

(d) No bonds or other obligations, contracts, or agreements of the Corporation are or shall ever be deemed to be or constitute the contracts, agreements, bonds, other debt instruments, or other obligations or the lending of credit, or a grant of the public money or things of value, of, belonging to, or by the State, the Authority, or any other political corporation, subdivision or agency of the State, or a pledge of the faith and credit of any of them. Any and all of such contracts, agreements, bonds or other debt instruments, and other obligations, contracts and agreements shall be payable solely and exclusively from the revenues and funds received by the Corporation from the sources authorized by the Act and from such other sources as may be otherwise lawfully available and belonging to the Corporation from time to time.

(e) The Authority, in its sole discretion, may alter the Corporation's structure, name, organization, programs, or activities; consistent with the Act and subject to limitations provided by law relating to the impairment of contracts entered into by the Corporation.

## ARTICLE FIVE FINANCING

(a) Before the consummation of the sale and delivery of any bonds, the Corporation shall obtain approval by the Authority, evidenced by the adoption of a written resolution.

(b) In the exercise of the powers of the Corporation, the Corporation may enter into a loan, lease, trust, or other agreements as authorized by the Act that are necessary and appropriate to the fulfillment of the public purpose of the Corporation, all of which agreements (and the specific uses, and the method of withdrawals and expenditure of the proceeds of the bonds) must be included as a part of the approval process of the Authority required by paragraph (a) above.

## ARTICLE SIX MEMBERS

The Corporation has no members and is a non-stock corporation.

## ARTICLE SEVEN AMENDMENTS

This Certificate of Formation may be amended at any time as provided in the Act, to make any changes and add any provisions that might have been included in the Certificate of Formation in the first instance. Any amendment may be accomplished in either of the following manners:

(a) The members of the board of directors of the Corporation shall file with the Authority a written application requesting approval of the amendments to the Certificate of Formation, specifying in such application the amendments proposed to be made. The Authority shall consider such application and, if it shall, by appropriate resolution, duly find and determine that it is advisable that the proposed amendments be made, it shall approve the form of the proposed amendments. The board of directors of the Corporation may then amend the Certificate of Formation by adopting such amendment at a meeting of the board of directors. The Corporation's president or vice president and the secretary of the Authority shall execute the amendment on behalf of the Corporation. The amendment and a certified copy of the resolution of the Authority shall be delivered to the Secretary of State as required by the Act; or

(b) The Authority may, at its sole discretion, and at any time, amend this Certificate of Formation and alter or change the structure, name, organization, programs or activities of the Corporation, or terminate or dissolve the Corporation (subject to the provisions of the Act) by resolution as otherwise provided in the Act.

## ARTICLE EIGHT ADDRESS

The street address of the initial registered office of the Corporation is 1124 South IH 35, Austin, Texas 78704, and the name of its initial registered agent at that address is Michael Gerber.

## ARTICLE NINE BOARD OF DIRECTORS

(a) The affairs of the Corporation shall be managed by a board of directors, which shall be composed of the Commissioners of the Authority. The board of directors shall automatically change each time the Commissioners of the Authority change. Any director shall cease to be a director at the time he or she ceases to be a Commissioner of the Authority. A majority of the entire membership of the board of directors, including any vacancies, is a quorum.

(b) The initial board of directors shall be composed of five (5) directors. The names and street addresses of the persons who are to serve as the initial directors are as follows:

NAMES	ADDRESSES
Carl S. Richie Jr.	1124 South IH 35, Austin, Texas 78704
Charles C. Bailey	1124 South IH 35, Austin, Texas 78704
Dr. Tyra Duncan-Hall	1124 South IH 35, Austin, Texas 78704
Edwina Carrington	1124 South IH 35, Austin, Texas 78704
Mary Apostolou	1124 South IH 35, Austin, Texas 78704

Each director shall serve an initial six year term, as subject to the terms of the Act.

(c) The directors shall serve without compensation, but they shall be reimbursed for their actual expenses incurred in the performance of their duties as directors.

(d) The board of directors shall elect a president, vice president, secretary, treasurer and any other officers that the Corporation considers necessary, to serve as executive officers of the Corporation, as more specifically provided in the Corporation's bylaws. The Authority's President and CEO shall serve as the Secretary of the Corporation to provide administrative support services for the Corporation.

(e) Meetings of the board of directors are subject to the Texas Open Meetings Act, Texas Government Code, Chapter 551, and the Corporation is subject to the Texas Public Information Act, Texas Government Code, Chapter 552.

#### ARTICLE TEN BYLAWS

The initial bylaws of the Corporation shall be adopted by the Corporation's board of directors and shall, together with these Certificate of Formation, govern the initial affairs of the Corporation until and unless amended in accordance with the provisions of the Act and these Certificate of Formation. The bylaws and each amendment and repeal of the bylaws must be approved by the Authority of the Authority by resolution.

ARTICLE ELEVEN  
INCORPORATOR

The name and street address of each incorporator is:

<u>Name</u>	<u>Address</u>
William Walter, Jr.	9 Greenway Plaza, Suite 1000 Houston, TX 77046

ARTICLE TWELVE  
AUTHORITY APPROVAL

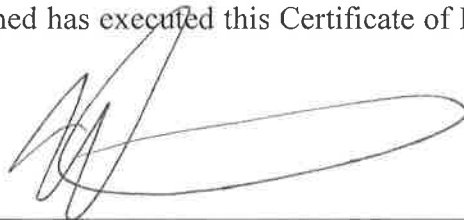
(a) The Authority has specifically authorized the Corporation by resolution to act on its behalf to further the public purposes stated in this Certificate of Formation, and the Authority has by resolution approved this Certificate of Formation. A copy of this resolution is on file among the permanent public records of the Authority and the Corporation.

(b) The Authority is the Corporation's "Sponsor" (as defined by the Act) and has caused this Corporation to be created. The address of the Authority is 1124 South IH 35, Austin, Texas 78704.

ARTICLE THIRTEEN  
TERMINATION

The Authority, by written resolution, may authorize and direct the termination of the Corporation. However, the Corporation shall not be terminated, and its business shall not be terminated, by act of the Authority or otherwise, so long as the Corporation shall be obligated to pay any bonds.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of August 15, 2019.



\_\_\_\_\_  
William Walter, Jr.  
Incorporator

# EXHIBIT "A"

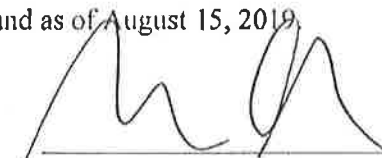
## CERTIFICATE AS TO RESOLUTIONS

I certify that I am the duly qualified and acting president of the Housing Authority of the City of Austin, a Texas municipal public housing authority ("HACA"), and as follows:

1. Attached hereto as Exhibit A is a true, correct and complete copy of a resolution adopted by the Board of Commissioners of HACA on September 20, 2018 pertaining to the formation and sponsorship by HACA of South Congress Public Facility Corporation, a Texas public facility corporation.

IN WITNESS WHEREOF, I have hereunto set my hand as of August 15, 2019.

By:

  
Michael Gerber, President

RESOLUTION NO. 2568

**Authorizing the President and CEO of the Housing Authority of the City of Austin to create South Congress Public Facility Corporation and any other actions necessary or convenient to carry out this resolution**

**WHEREAS**, the Housing Authority of the City of Austin, a body politic formed under the laws of Texas ("HACA"), has provision of quality affordable housing as part of its mission; and

**WHEREAS**, HACA, pursuant to the provisions of the Public Facility Corporation Act, Chapter 303, Texas Local Government Code (the "Act") is authorized to create a public facility corporation for the purposes set forth in the Act; and

**WHEREAS**, HACA desires to sponsor and create the South Congress Public Facility Corporation, a Texas public facility corporation (the "Corporation");

**WHEREAS**, HACA has prepared (a) for filing with the Secretary of State of the State of Texas the Certificate of Formation for the Corporation, and (b) the Bylaws for the Corporation;

**NOW THEREFORE IT BE RESOLVED**, that the Board of Commissioners of HACA hereby authorizes its President and CEO to cause to be created a public facility corporation using the name "South Congress Public Facility Corporation" or using a similar name if so required by the Secretary of State of the State of Texas;

**FURTHER RESOLVED**, that the Certificate of Formation of the Corporation, attached hereto as Exhibit "A", has been prepared for filing with the Secretary of State of the State of Texas and shall be filed with the Secretary of the State of Texas in substantially the form attached;

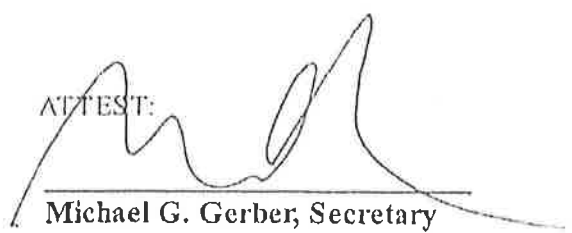
**FURTHER RESOLVED**, that the form of Bylaws attached hereto as Exhibit "B", in substantially the form attached, be, and it hereby is, approved to be adopted as the Bylaws of the Corporation; and

**FURTHER RESOLVED**, that the President and CEO is hereby authorized and directed to take such further action in the consummation of the transactions herein contemplated and to do any and all other acts and things necessary or proper in furtherance thereof, as the President and CEO shall deem to be necessary or desirable, and all acts heretofore taken by the President and CEO to such end are hereby expressly ratified and confirmed as the acts and deeds of HACA.

These Resolutions shall be in full force and effect from and upon their adoption.

**PASSED, APPROVED AND ADOPTED** this 20th day of September, 2018.

ATTEST:

  
Michael G. Gerber, Secretary

  
Carl S. Richie, Jr., Chairperson



# **EXHIBIT "A"**

## **CERTIFICATE OF FORMATION OF SOUTH CONGRESS PUBLIC FACILITY CORPORATION**

**A PUBLIC FACILITY CORPORATION AND  
INSTRUMENTALITY OF  
THE HOUSING AUTHORITY OF THE CITY OF AUSTIN**

Pursuant to the Texas Business Organizations Code, South Congress Public Facility Corporation (the "Corporation"), a nonprofit corporation incorporated under the laws of the State of Texas, and public nonprofit corporation under the Public Facility Corporation Act, as amended, Chapter 303, Texas Local Government Code (the "Act") with the approval of the Board of Commissioners of the Housing Authority of the City of Austin (the "Authority"), as evidenced by the resolution attached hereto as Exhibit "A" and made a part of this Certificate of Formation for all purposes, does hereby adopt the following Certificate of Formation for the Corporation:

### **ARTICLE ONE NAME**

The name of the Corporation is the "South Congress Public Facility Corporation".

### **ARTICLE TWO AUTHORIZATION**

The Corporation is a nonprofit public corporation.

### **ARTICLE THREE DURATION**

Subject to the provisions of Article Thirteen hereof, the period of duration of the Corporation is perpetual.

### **ARTICLE FOUR PURPOSE AND LIMITATIONS**

(a) The Corporation is organized exclusively for the purpose of assisting the Authority in financing, refinancing, owning or providing public facilities. The Corporation shall have and possess the broadest possible powers to finance obligations issued or incurred in accordance with existing law, to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing and placement in service of public facilities of the Authority under the terms of the Act. The corporation is authorized to issue "bonds" as defined and permitted by the Act on behalf of the Authority; provided, however, no bonds, notes, interim certificates, or other evidence of indebtedness may be issued by the Corporation unless such bonds are first approved by resolution of the Authority. The Corporation is a public corporation,

a constituted authority, and a public instrumentality within the meaning of the Act, the United States Treasury Department, the rulings of the Internal Revenue Service prescribed and promulgated pursuant to section 103 and 141 of the Internal Revenue Code of 1986, as amended, and the Corporation is authorized to act on behalf of the Authority as provided in this Certificate of Formation.

(b) In the fulfillment of its corporate purpose, the Corporation shall have and may exercise the powers described in paragraph (a) of this Article, together with all of the other powers granted to corporations that are incorporated under the Act, and to the extent not in conflict with the Act, the Corporation shall additionally have and may exercise all of the rights, powers, privileges, authorities, and functions given by the general laws of the State to nonprofit corporations under the Texas Non-Profit Corporation Act, as amended, Texas Revised Civil Statutes Annotated Article 1396-101, et seq., or any other applicable laws of the State.

(c) The Corporation shall have the purposes and powers permitted by the Act, but the Corporation does not have, and shall not exercise the powers of sovereignty of the Authority, including the power to tax, eminent domain, or police power. However, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practice and Remedies Code), the Corporation is a governmental unit and its actions are governmental functions.

(d) No bonds or other obligations, contracts, or agreements of the Corporation are or shall ever be deemed to be or constitute the contracts, agreements, bonds, other debt instruments, or other obligations or the lending of credit, or a grant of the public money or things of value, of, belonging to, or by the State, the Authority, or any other political corporation, subdivision or agency of the State, or a pledge of the faith and credit of any of them. Any and all of such contracts, agreements, bonds or other debt instruments, and other obligations, contracts and agreements shall be payable solely and exclusively from the revenues and funds received by the Corporation from the sources authorized by the Act and from such other sources as may be otherwise lawfully available and belonging to the Corporation from time to time.

(e) The Authority, in its sole discretion, may alter the Corporation's structure, name, organization, programs, or activities; consistent with the Act and subject to limitations provided by law relating to the impairment of contracts entered into by the Corporation.

## ARTICLE FIVE FINANCING

(a) Before the consummation of the sale and delivery of any bonds, the Corporation shall obtain approval by the Authority, evidenced by the adoption of a written resolution.

(b) In the exercise of the powers of the Corporation, the Corporation may enter into a loan, lease, trust, or other agreements as authorized by the Act that are necessary and appropriate to the fulfillment of the public purpose of the Corporation, all of which agreements (and the specific uses, and the method of withdrawals and expenditure of the proceeds of the bonds) must be included as a part of the approval process of the Authority required by paragraph (a) above.

## ARTICLE SIX MEMBERS

The Corporation has no members and is a non-stock corporation.

## ARTICLE SEVEN AMENDMENTS

This Certificate of Formation may be amended at any time as provided in the Act, to make any changes and add any provisions that might have been included in the Certificate of Formation in the first instance. Any amendment may be accomplished in either of the following manners:

(a) The members of the board of directors of the Corporation shall file with the Authority a written application requesting approval of the amendments to the Certificate of Formation, specifying in such application the amendments proposed to be made. The Authority shall consider such application and, if it shall, by appropriate resolution, duly find and determine that it is advisable that the proposed amendments be made, it shall approve the form of the proposed amendments. The board of directors of the Corporation may then amend the Certificate of Formation by adopting such amendment at a meeting of the board of directors. The Corporation's president or vice president and the secretary of the Authority shall execute the amendment on behalf of the Corporation. The amendment and a certified copy of the resolution of the Authority shall be delivered to the Secretary of State as required by the Act; or

(b) The Authority may, at its sole discretion, and at any time, amend this Certificate of Formation and alter or change the structure, name, organization, programs or activities of the Corporation, or terminate or dissolve the Corporation (subject to the provisions of the Act) by resolution as otherwise provided in the Act.

## ARTICLE EIGHT ADDRESS

The street address of the initial registered office of the Corporation is 1124 South IH 35, Austin, Texas 78704, and the name of its initial registered agent at that address is Michael Gerber.

## ARTICLE NINE BOARD OF DIRECTORS

(a) The affairs of the Corporation shall be managed by a board of directors, which shall be composed of the Commissioners of the Authority. The board of directors shall automatically change each time the Commissioners of the Authority change. Any director shall cease to be a director at the time he or she ceases to be a Commissioner of the Authority. A majority of the entire membership of the board of directors, including any vacancies, is a quorum.

(b) The initial board of directors shall be composed of five (5) directors. The names and street addresses of the persons who are to serve as the initial directors are as follows:

NAMES	ADDRESSES
Carl S. Richie Jr.	1124 South IH 35, Austin, Texas 78704
Charles C. Bailey	1124 South IH 35, Austin, Texas 78704
Dr. Tyra Duncan-Hall	1124 South IH 35, Austin, Texas 78704
Edwina Carrington	1124 South IH 35, Austin, Texas 78704
Mary Apostolou	1124 South IH 35, Austin, Texas 78704

Each director shall serve an initial six year term, as subject to the terms of the Act.

(c) The directors shall serve without compensation, but they shall be reimbursed for their actual expenses incurred in the performance of their duties as directors.

(d) The board of directors shall elect a president, vice president, secretary, treasurer and any other officers that the Corporation considers necessary, to serve as executive officers of the Corporation, as more specifically provided in the Corporation's bylaws. The Authority's President and CEO shall serve as the Secretary of the Corporation to provide administrative support services for the Corporation.

(e) Meetings of the board of directors are subject to the Texas Open Meetings Act, Texas Government Code, Chapter 551, and the Corporation is subject to the Texas Public Information Act, Texas Government Code, Chapter 552.

## ARTICLE TEN BYLAWS

The initial bylaws of the Corporation shall be adopted by the Corporation's board of directors and shall, together with these Certificate of Formation, govern the initial affairs of the Corporation until and unless amended in accordance with the provisions of the Act and these Certificate of Formation. The bylaws and each amendment and repeal of the bylaws must be approved by the Authority of the Authority by resolution.

ARTICLE ELEVEN  
INCORPORATOR

The name and street address of each incorporator is:

<u>Name</u>	<u>Address</u>
William Walter, Jr.	9 Greenway Plaza, Suite 1000 Houston, TX 77046

ARTICLE TWELVE  
AUTHORITY APPROVAL

(a) The Authority has specifically authorized the Corporation by resolution to act on its behalf to further the public purposes stated in this Certificate of Formation, and the Authority has by resolution approved this Certificate of Formation. A copy of this resolution is on file among the permanent public records of the Authority and the Corporation.

(b) The Authority is the Corporation's "Sponsor" (as defined by the Act) and has caused this Corporation to be created. The address of the Authority is 1124 South IH 35, Austin, Texas 78704.

ARTICLE THIRTEEN  
TERMINATION

The Authority, by written resolution, may authorize and direct the termination of the Corporation. However, the Corporation shall not be terminated, and its business shall not be terminated, by act of the Authority or otherwise, so long as the Corporation shall be obligated to pay any bonds.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
William Walter, Jr.  
Incorporator

# **EXHIBIT "B"**

## **BYLAWS**

**BYLAWS OF  
SOUTH CONGRESS PUBLIC FACILITY CORPORATION,  
A PUBLIC FACILITY CORPORATION**

**ARTICLE I  
PURPOSE AND POWERS**

Section 1.1 Purpose. South Congress Public Facility Corporation (the “Corporation”) is incorporated for the purposes set forth in its Certificate of Formation, the same to be accomplished on behalf of the Housing Authority of the City of Austin (the “Authority”) as its duly constituted authority and instrumentality in accordance with the Public Facility Corporation Act, as amended, Chapter 303, Texas Government Code (the “Act”), and other applicable laws.

Section 1.2 Powers. In the fulfillment of its corporate purpose, the Corporation shall be governed by the Act, and shall have all the powers set forth and conferred in its Certificate of Formation, in the Act, and in other applicable law, subject to the limitations prescribed therein and herein and to the provisions thereof and hereof.

Section 1.3 Nonprofit Corporation. The Corporation shall be a public, nonprofit corporation and no part of its set earnings remaining after payment of its bonds and expenses shall inure to the benefit of any person other than the Authority.

**ARTICLE II  
BOARD OF DIRECTORS**

Section 2.1 Powers, Number and Term of Office.

(a) The property and affairs of the Corporation shall be managed and controlled by a board of directors (the “Board”) subject to the restrictions imposed by law, the Act, the Certificate of Formation, and these Bylaws, the Board shall exercise all of the powers of the Corporation.

(b) The Board shall consist of the members of the Board of Commissioners of the Authority. The number of directors may be changed by amendment to these Bylaws, but such number must be at least three (3).

(c) The directors constituting the initial Board shall be those directors named in the Certificate of Formation. Successor directors shall have the qualifications and shall be appointed to the terms set forth in the Certificate of Formation.

(d) Any director may be removed from office by the Authority under the same terms, conditions and procedures as Commissioners of the Authority.

Section 2.2 Additional Powers. In addition to the powers and authorities by these Bylaws expressly conferred upon them, the Board may exercise all such powers of the Corporation and do all lawful acts and things as are not by statute, other law, or by these Bylaws prohibited. Without prejudice to such general powers and other powers conferred by statute, other law, and by these Bylaws, it is hereby expressly declared that the Board shall have the powers set forth in Section 303.041 of the Act, as amended.

Section 2.3 Meetings of Directors.

(a) The directors may hold their meetings at such place or places as the Board may from time to time determine; provided, however, in the absence of any such determination by the Board, the meetings shall be held at the principal office of the Corporation as specified in Section 5.1(a) of these Bylaws. The Corporation shall also conduct at least one annual regular meeting of the Corporation. In addition, regular meetings of the Board shall be held without the necessity of notice to directors at such times and places as shall be designated from time to time by the Board. Special meetings of the Board shall be held whenever called by the president, by the secretary, by a majority of the directors, or by the Authority.

(b) Subject to Section 2.4 hereof, the secretary shall give notice to each director of each special meeting in person or by mail, telephone or telegraph, at least two (2) hours before the meeting. Unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special meeting. At any meeting at which every director shall be present, even though without any notice, any matter pertaining to the purpose of the Corporation may be considered and acted upon consistent with applicable law.

(c) Subject to Section 2.4 hereof, whenever any notice is required to be given to the Board, said notice shall be deemed to be sufficient if given by depositing the same in the United States mail in a sealed postpaid envelope addressed to the person entitled thereto at his or her mailing address as it appears on the books of the Corporation, and such notice shall be deemed to have been given on the day of such mailing. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except attendance of a director at a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the Board need be specified in the notice to directors or waiver of notice of such meeting, unless required by the Board. A waiver of notice in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Section 2.4 Open Meetings Act. All meetings and deliberations of the Board shall be called, convened, held, and conducted, and notice shall be given to the public, in accordance with the Texas Open Meetings Act, as amended, Chapter 551, Texas Government Code.



Section 2.5 Quorum. A majority of the entire membership of the Board shall constitute a quorum to conduct official business of the Corporation. The act of a majority of the Board present at a meeting at which a quorum is in attendance shall constitute the act of the Board and of the Corporation, unless law requires the act of a greater number.

Section 2.6 Conduct of Business.

(a) At the meetings of the Board, matters pertaining to the business of the Corporation shall be considered in accordance with rules of procedure as from time to time prescribed by the Board.

(b) At all meetings of the Board, the president shall preside. In the absence of the president, the vice president shall preside. In the absence of both the president and vice president, a member of the Board selected by the members present shall preside.

(c) The secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the secretary, the presiding officer may appoint any person to act as secretary of the meeting. The president, treasurer, secretary and any assistant secretary may, at the option of the Board, be employees of the Authority and each member of the Board with the exception of the president, vice president or secretary, may be appointed as assistant secretaries.

Section 2.7 Committees of the Board. The Board may designate two (2) or more directors to constitute an official committee of the Board to exercise such authority, as approved by resolution of the Board. It is provided, however, that only the Board may exercise all final, official actions of the Corporation. Each committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation and any such meetings must be conducted in accordance with the provisions of the Texas Open Meetings Act, as amended, Chapter 551, Texas Government Code, if applicable.

Section 2.8 Compensation of Directors. Directors shall not receive any salary of compensation for their services as directors. However, they shall be reimbursed for their actual expenses incurred in the performance of their official duties as directors.

### ARTICLE III OFFICERS

Section 3.1 Titles and Terms of Office.

(a) The officers of the Corporation shall be a president, a vice president, a secretary and a treasurer and such other officers as the Board may from time to time elect to fill a vacancy. One person may hold more than one office, except that the president shall not hold the office of secretary. Officers shall serve for two-year terms or until his or her successor is elected or appointed. Notwithstanding the foregoing, all officers of the Corporation, except the secretary

and treasurer, shall be members of the Board. Upon the expiration of the terms, each officer shall have the right to be re-appointed or re-elected.

(b) All officers shall be subject to removal from office at any time by a vote of a majority of the Board.

(c) A vacancy in the office of any director shall be filled by a vote of a majority of the Board.

Section 3.2 Powers and Duties of the President. The president shall be the chief operating executive officer of the Corporation, and subject to the authority of the Board, the president shall be in general charge of the properties and affairs of the Corporation. The President shall preside over the meetings of the Corporation.

Section 3.3 Vice President. The vice president shall have such powers and duties as may be prescribed by the Board and shall exercise the powers of the president during that officer's absence or inability to act, in their respective order. Any action taken by the vice president in the performance of the duties of the president shall be conclusive evidence of the absence or inability to act of the president at the time such action was taken.

Section 3.4 Treasurer. The treasurer shall be the chief fiscal officer of the Corporation, and shall have the responsibility to see to the handling, custody, and security of all funds and securities of the Corporation in accordance with these Bylaws. When necessary or proper, the treasurer may endorse and sign, on behalf of the Corporation, for collection or issuance, checks, notes, and other obligations in or drawn upon such bank, banks or depositories as shall be designated by the Board consistent with these Bylaws. The treasurer shall see to the entry in the books of the Corporation full and accurate accounts of all money received and paid out on account of the Corporation. All check writing authority will follow all applicable Authority policies concerning authorizations, signatures and disbursements.

Section 3.5 Secretary. The secretary shall keep the minutes of all meetings of the Board and books provided for that purpose, shall give and serve all notices, may sign with the president in the name of the Corporation, and/or attest the signature thereto, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation, shall have charge of the corporate books, records, documents and instruments, except the books of account and financial records and securities, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to public inspection upon application at the office of the Corporation during business hours, and shall in general perform all duties incident to the office of secretary subject to the control of the Board.

Section 3.6 Compensation. Officers who are members of the Board shall not receive any salary or compensation for their services, except that they shall be reimbursed for the actual expenses incurred in the performance of their official duties as officers.

## ARTICLE IV FUNCTIONAL CORPORATE DUTIES AND REQUIREMENTS

### Section 4.1    Books, Records, and Audits.

(a)    The Corporation shall keep and properly maintain in accordance with generally accepted accounting principles, complete books, records, accounts, and financial statements pertaining to its corporate funds, activities, and affairs.

(b)    At the direction of the Authority, the accountants, staff and personnel of the Authority may maintain the books, records, accounts, and financial statements of the Corporation for the Corporation.

(c)    The Corporation, or the Authority if the option of subsection (b) is selected, shall cause its books, records, accounts, and financial statements to be studied at least once each fiscal year by an outside, independent auditing and accounting firm selected by the Authority and approved by the Board. Such an audit shall be at the expense of the Corporation and shall be delivered to the Authority within 150 days of the end of the fiscal year of the Corporation.

(d)    All books and records of the Corporation may be inspected by any director or his or her agent or attorney for any purpose at any reasonable time and at all times the Authority shall have access to the books, records, and financial statements of the Corporation.

### Section 4.2    Deposit and Investment of Corporation Funds.

(a)    All proceeds from loans or from the issuance of bonds, notes, or other debt instruments (“Obligations”) issued by the Corporation in accordance with the provisions of the Act shall be deposited and invested as provided in the resolution, order, indenture, or other documents authorizing or relating to their execution or issuance.

(b)    Subject to the requirements of contracts, loan agreements, indentures or other agreements securing Obligations, all other money of the Corporation, if any, shall be deposited, secured, and/or invested in the manner provided for the deposit, security and/or investment of the public funds of the Authority. The Board shall designate the accounts and depositories to be created and designated for such purposes, and the methods of withdrawal of funds therefrom for use by and for the purposes of the Corporation upon the signature of its treasurer and such other persons as the Board designates. The Chief Financial Officer of the Authority or designee of the Chief Financial Officer shall perform the accounts, reconciliation, and investment of such funds and accounts.

Section 4.3    Expenditure of Corporate Money. The proceeds from the investment of funds of the Corporation, the proceeds from the sale of property, revenues generated by and payable to the Corporation pursuant to the Act or any other source of revenues that are payable

to the Corporation and the proceeds derived from the sale of Obligations, may be expended by the Corporation for any of the purposes authorized by the Act, except expenditures that may be made from a fund created with the proceeds of Obligations, and expenditures of money derived from sources other than the proceeds of Obligations may be used for the purpose of financing or otherwise providing for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing and placement in service of public facilities of the Authority under the terms of the Act.

Section 4.4 Issuance of Obligations. No Obligations, including refunding obligations, shall be authorized or sold and delivered by the Corporation unless the Authority approves such Obligations by action taken prior to the date of initial delivery of the Obligations to the initial purchasers thereof.

## ARTICLE V MISCELLANEOUS PROVISIONS

### Section 5.1 Principal Office.

(a) The principal office and the registered office of the Corporation shall be the registered office of the Corporation located at 1124 South IH 35, Austin, Texas 78704 as specified in the Certificate of Formation.

(b) The Corporation shall have and shall continually designate a registered agent at its office, as required by the Act.

Section 5.2 Fiscal Year. The fiscal year of the Corporation shall be the same as the fiscal year of the Authority.

Section 5.3 Seal. No seal of the Corporation shall be required.

Section 5.4 Resignations. Any director or officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time is specified, at the time of its receipt by the president or secretary. The acceptance of resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5.5 Approval or Advice and Consent of the Authority. To the extent that these Bylaws refer to any approval by the Authority or refer to advice and consent by the Authority, a certified copy of a resolution, order or motion duly adopted by the Authority shall evidence such advice and consent.

Section 5.6 Services of Authority Staff and Officers. To the extent possible, the Corporation shall utilize the services and the staff employees of the Authority. All requests for staff time or inquiries of staff will be requested through the secretary. The Corporation shall pay

reasonable compensation to the Authority for such services, and the performance of such services shall not materially interfere with the other duties of such personnel of the Authority.

Section 5.7     Indemnification of Directors, Officers and Employees.

(a)     The Corporation is, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practices and Remedies Code), a governmental unit and its actions are governmental functions.

(b)     As provided in Section 303.037 of the Act, the Corporation shall indemnify each and every member of the Board, its officers and its employees and each member of the Board and each employee of the Authority, to the fullest extent permitted by law, against any and all liability or expense, including attorneys' fees, incurred by any of such persons by reason of any actions or omissions that may arise out of the sanctions and activities of the Corporation; provided, however, that the Corporation may not provide indemnity in any manner if the director, officer, employee, or agent is guilty of negligence or misconduct in relation to the matter. The legal counsel for the Corporation is authorized to provide a defense for members of the Board, officers, and employees of the Corporation.

ARTICLE VI  
EFFECTIVE DATE, AMENDMENTS; MISCELLANEOUS

Section 6.1     Effective Date. These Bylaws shall become effective upon the occurrence of the following events:

- (1)     the approval of these Bylaws by the Authority, which approval may be granted prior to the creation of the Corporation; and
- (2)     the adoption of the Bylaws by the Board.

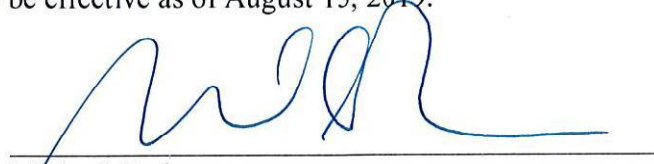
Section 6.2     Amendments to Certificate of Formation and Bylaws. The Certificate of Formation of the Corporation and these Bylaws may be amended only in the manner provided in the Certificate of Formation and the Act.

Section 6.3     Interpretation of Bylaws. These Bylaws shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section or other part of these Bylaws, or the application thereof to any person or circumstances, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these Bylaws and the application of such word, phrase, clause, sentence, paragraph, section or other part of these Bylaws to any other person or circumstance shall not be affected thereby.

Section 6.4     Termination. Upon the termination of the Corporation after payment of all obligations of the Corporation, all remaining assets of the Corporation shall be transferred to the Authority.

## CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting secretary of South Congress Public Facility Corporation and that these Bylaws constitute the Corporation's Bylaws. These Bylaws were duly adopted by the Board of Directors to be effective as of August 15, 2019.

A handwritten signature in blue ink, appearing to read 'Michael Gerber', is written over a horizontal line.

Michael Gerber  
Secretary of South Congress Public Facility Corporation

**SOUTH CONGRESS PFC**  
**BOARD ACTION REQUEST**  
**RESOLUTION NO. 002**  
**ITEM NO. 2.**

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**MEETING DATE:** September 19, 2019

**STAFF CONTACT:** Ron Kowal, Vice President of Housing Development/Asset Mgmt

**ITEM TITLE:** Presentation, Discussion, and Possible Action on Resolution No. 002 by the Board of Directors of South Congress Public Facility Corporation (“PFC”) to execute any and all documents, or take any other action, that is necessary or desirable to: (i) purchase certain real property located in Austin, Texas (the “Land”) on which a residential multifamily apartment development consisting of affordable housing units and market rate units and associated amenities is to be constructed and known as SOCO II (the “Project”); (ii) lease the Land to South Congress IVP II Apartments LP (the “Partnership”) to facilitate the construction and operation of the Project by the Partnership, including the placement of affordable housing units and market rate units at the Project; and (iii) execute any such further documentation as necessary or desirable, including any financing documentation, to facilitate the development of the Project

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

**ACTION**

Motion to approve Resolution No. 002 to execute any and all documents, or take any other action, that is necessary or desirable to: (i) purchase certain real property located in Austin, Texas (the “Land”) on which a residential multifamily apartment development consisting of affordable housing units and market rate units and associated amenities is to be constructed and known as SOCO II (the “Project”); (ii) lease the Land to South Congress IVP II Apartments LP (the “Partnership”) to facilitate the construction and operation of the Project by the Partnership, including the placement of affordable housing units and market rate units at the Project; and (iii) execute any such further documentation as necessary or desirable, including any financing documentation, to facilitate the development of the Project.

**SUMMARY**

***Background:***

AAHC has been presented an opportunity to partner with the NRP Group to develop a property on South Congress called SOCO II. AAHC and NRP have previously partnered to develop a property called Harris Ridge in Northeast Austin and wish to further their partnership with the development of the SOCO II apartments. Once built, 50% of this property’s units will target individuals and families making 80% median family income and below. Located in a high opportunity area, this property meets AAHC’s goals of providing housing in proximity to jobs, schools, grocers and transit.

SOCO II will provide 270 units: 26 studios (558 sq. ft.), 141-one bedroom/one bath (633-917 sq. ft.), 97-two bedroom/two bath (1093-1273 sq. ft.), and 6-three bedroom/two bath (1363 sq. ft.). Located at 8104 South Congress Avenue, Austin, Texas 78745 (South Congress between William Cannon and Slaughter Lane). Community amenities will include a swimming pool with a gazebo and outdoor kitchen, a large clubhouse with full kitchen and business center, a 24-hour fitness center, three 24-hour laundry facilities and covered parking. The property is close to many major employers in and around the area. The property will accept Housing Choice Vouchers upon completion. The closest apartment in the AAHC portfolio currently is Urban Oaks Apartments located at 6725 Circle S Road, Austin, Texas 78745, which is 1.4 miles north.

***Process:***

The PFC financing structure will facilitate a lease of both the land and the improvements to a newly formed partnership. South Congress PFC will be the landlord and lease both the land and the improvements to the partnership for 75 years. At the end of 75 years both the land and improvements will revert back to the South Congress PFC.

The property will be developed using a combination of equity from NRP and Prudential and conventional debt through Regions Bank. The anticipated close and construction start is October/November of 2019.

***Staff Recommendation:***

Approval of Resolution No. 002 to execute any and all documents, or take any other action, that is necessary or desirable to purchase the land, lease the land to the partnership to facilitate the construction and operation of the project by the partnership, including the placement of affordable housing units and market rate units at the project, and execute any such further documentation as necessary or desirable, including any financing documentation, to facilitate the development of the project.

**ATTACHMENTS:**

Description

- ▣ **SOCO II Map**



**RESOLUTION NO. 002**

**EXHIBIT A**

**Resolution of the Board of Directors of South Congress Public Facility Corporation (“PFC”) authorizing PFC to execute any and all documents, or take any other action, that is necessary or desirable to:**

- 1. Purchase certain real property located in Austin, Texas (the “Land”) on which a residential multifamily apartment development consisting of affordable housing units and market rate units and associated amenities is to be constructed and known as SOCO II (the “Project”);**
- 2. Lease the Land to South Congress IVP II Apartments LP (the “Partnership”) to facilitate the construction and operation of the Project by the Partnership, including the placement of affordable housing units and market rate units at the Project; and**
- 3. Execute any such further documentation as necessary or desirable, including any financing documentation, to facilitate the development of the Project.**

**WHEREAS**, the PFC serves as a member of South Congress IVP Apt II LP LLC, a Delaware limited liability company which serves as the limited partner of the Partnership (the “Limited Partner”) and as the sole member of NRP South Congress IVP II GP LLC which is the general partner of the Partnership;

**WHEREAS**, the PFC desires to purchase the Land pursuant to an earnest money contract, certain assignments, and a special warranty deed from the owner of the Land, and any other documentation required to consummate the acquisition of the Land (the “Acquisition Documents”);

**WHEREAS**, the PFC desires to enter into a long-term lease with the Partnership, conveying interests in the Land and the to-be-constructed Project, pursuant to the terms of such lease (the “Lease”);

**WHEREAS**, the Partnership plans to construct the Project and operate it as a mixed-income development with at least 50% of the units intended for rental to persons of low and moderate income (collectively, the “Restrictions”);

**WHEREAS**, the PFC desires to enter into a Regulatory Agreement and Declaration of Restrictive Covenants with the Partnership (“Regulatory Agreement”), which Regulatory Agreement shall memorialize the Restrictions placed upon the Land and the Project and the

Partnership's obligations with respect to such Restrictions;

**WHEREAS**, in connection with the financing of the Project, the Partnership will borrow a loan in the approximate amount of \$34,600,000 (the "Construction Loan") from Regions Bank, an Alabama banking corporation ("Lender"), pursuant to a loan agreement and evidenced by a promissory note and secured by a fee and leasehold deed of trust recorded against the Land (collectively with all other documents contemplated thereby and necessary to evidence the Construction Loan, the "Mortgage Loan Documents");

**WHEREAS**, the PFC desires to enter into certain construction contracts and documents as the general contractor for the construction of the Project, including but not limited to a Construction Contract and a Prime Subcontract and such other documents, all upon such terms and conditions as PFC deems reasonable (the "Construction Documents");

**WHEREAS**, the PFC desires to enter into an operating agreement of the Limited Partner (the "Operating Agreement");

**RESOLVED**, that the PFC is hereby authorized to execute and deliver all such documents, instruments and other writings of every nature whatsoever as the PFC, in its reasonable judgment, deems necessary to purchase the Land, lease the Land to the Partnership, and otherwise assist and facilitate the construction, development and operation of the Project by the Partnership, including, without limitation, (i) the Acquisition Documents; (ii) the Lease and any assignment by the PFC in favor of the Partnership; (iii) the Regulatory Agreement; (iv) Mortgage Loan Documents that require execution by the PFC, including without limitation a subordination agreement subordinating PFC's rights under the Lease to the Lender's rights under the Mortgage Loan Documents and any requisite joinders by the PFC with respect to certain Mortgage Loan Documents for purposes of securing Lender's lien against the Land, and an estoppel certificate relating to the Lease; (v) the Construction Documents; (vi) the Operating Agreement; and (vii) such other and further documents, leases, instruments, resolutions and other writings of every nature whatsoever as the PFC deems necessary to consummate the transactions contemplated herein, or as may be required by the Lender, the Limited Partner or the Partnership; and it is further

**RESOLVED**, that all of the documents, instruments, or other writings executed by PFC in consummation of the transactions herein described (collectively and together with the Acquisition Documents, the Lease, the Regulatory Agreement, the Mortgage Loan Documents, the Construction Documents, and the Operating Agreement, the "Transaction Documents") shall be in form and substance approved by the Executing Officer (as such term is hereinafter defined), both individually and in a representative capacity as identified in these resolutions, his/her approval of each such instrument to be conclusively evidenced by his execution thereof; and it is further,

**RESOLVED**, that PFC review, execute and approve all other documents necessary to effectuate the foregoing transactions, all on such terms and containing such provisions as the

Executing Officer shall deem appropriate, and the approval of the terms of each such instrument herein described by the Executing Officer shall be conclusively evidenced by his/her execution and delivery thereof; and it is further

**RESOLVED**, that any officer of PFC (each an "Executing Officer"), acting alone without the joinder of any other officer, is hereby authorized and directed for and on behalf, and as the act and deed of PFC, to execute and deliver all other documents and other writings of every nature whatsoever in connection with the operation and financing of the Project, including but not limited to, the Transaction Documents, as the Executing Officer deems necessary in order to carry into effect the intent and purposes of these resolutions, and any other instruments approved by the Executing Officer (acting individually or in a representative capacity as identified in these resolutions), executing same, his/her approval of each such instrument to be conclusively evidenced by his/her execution thereof, and to take such other action in the consummation of the transactions herein contemplated as the Executing Officer acting shall deem to be necessary or advisable, without the necessity of attestation by the secretary or other officer or director, and any and all acts heretofore taken by the Executing Officer to such end are hereby expressly ratified and confirmed as the acts and deeds of PFC, effective as of the date such action was taken; and it is further

**RESOLVED**, that action by any of any of the officers of PFC, and any person or persons designated and authorized so to act by any such officer or manager, to do and perform, or cause to be done and performed, in the name and on behalf of PFC, or the execution and delivery, or causing to be executed and delivered, such other security agreements, financing statements, notices, requests, demands, directions, consents, approvals, waivers, acceptances, appointments, applications, certificates, agreements, supplements, amendments, further assurances or other instruments or communications, in the name and on behalf of PFC or otherwise, as they, or any of them, may deem to be necessary or advisable in order to carry into effect the intent of the foregoing resolutions or to comply with the requirements of the instruments approved or authorized by the foregoing resolutions is hereby approved, ratified and confirmed; and it is further

**RESOLVED**, that the Board of Directors finds the actions authorized by these resolutions may reasonably be expected to directly or indirectly benefit PFC.

**Certificate as to  
RESOLUTIONS AND INCUMBENCY  
(SOUTH CONGRESS PUBLIC FACILITY CORPORATION)**

I certify that I am the duly qualified and acting secretary of South Congress Public Facility Corporation, a Texas nonprofit public facility corporation ("PFC"), and as follows:

1. Attached hereto as Exhibit A is a true and complete copy of a resolution adopted by PFC pertaining to the SOCO II. The resolution has not been amended or modified in any manner and remains in full force and effect as of the date hereof.

2. I further certify that the following individuals are officers of PFC, authorized to act on behalf of PFC:

<u>NAME</u>	<u>TITLE</u>
_____	President
_____	Vice-President
Michael Gerber	Secretary
_____	Treasurer

In witness whereof, I have hereunto set my hand as of September 19, 2019.

By: \_\_\_\_\_  
Michael Gerber  
Secretary

Attachments:

Exhibit A

