

RESOLUTION NO. 20210603-075

WHEREAS, in 1998 Council determined that construction of a full service hotel on a site adjacent to the Austin Bergstrom International Airport would result in economic benefits to the City, including the generation of additional tax revenues, employment opportunities, and economic activity related to the construction and operation of the hotel; and

WHEREAS, in Resolution No. 981209-11, Council authorized the creation of Austin Bergstrom Landhost Enterprises, Inc. (“ABLE”), a nonprofit public facility corporation created and existing under Article 717s, Vernon’s Annotated Texas Civil Statutes, the predecessor to Chapter 303 of the Texas Local Government Code, as amended, to finance the construction, renovation, and improvement of a hotel; and

WHEREAS, ABLE entered into an Amended and Restated Hotel Management Agreement with Boykin Prospera, LLC, dated as of October 1, 2017 (“ABLE Management Agreement”); and

WHEREAS, the ABLE Management Agreement has an initial term of 60 months, ending in 2022, and may be extended thereafter for up to two additional 12-month periods; and

WHEREAS, in Resolution No. 00303-030 Council adopted corporate bylaws for Austin Convention Enterprises which provided in Article I, Section 4 that the City “shall be entitled to approve all programs and expenditures of [ACE] and annually review any financial statements of [ACE]”; and

WHEREAS, in Resolution No. 981209-11, Council approved ABLE’s Bylaws which contain identical language that “[Council] shall be entitled to

approve all programs and expenditures of [ABLE] and annually review any financial statements of [ABLE]"; and

WHEREAS, ABLE'S Amended and Restated Articles of Incorporation and Chapter 303 of the Texas Local Government Code provide that Council appoints all directors to the ABLE Board of Directors and may remove a director at any time for cause or without cause; and

WHEREAS, Resolution No. 20191017-024 established certain conditions for Council approval of the ACE operating agreement; and

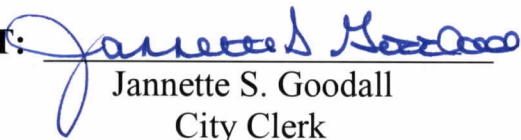
WHEREAS, in accordance with Resolution No. 20191017-024 Council approved the ACE operating agreement on December 3, 2020 under Resolution No. 20201203-047; **NOW, THEREFORE**,

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

In order to responsibly and consistently exercise its rights under Article I, Section 3 of the ABLE Bylaws to approve ABLE expenditures, Council directs the Board of Directors of ABLE to follow the City's ACE Operating Agreement approval policy described in Resolution No. 20191017-024, including minimum briefing and Council approval standards therein, regarding any future amendment, renewal, successor, or extension of the ABLE Management Agreement and all future ABLE hotel management agreements. Council will not approve any ABLE hotel management agreement that does not meet the standards and achieve the goals of Resolution No. 20191017-024.

ADOPTED: June 3, 2021

ATTEST:


Jannette S. Goodall
City Clerk