



RBA:
CITY OF AUSTIN
RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM NO. 2
AGENDA DATE: 8/7/08
PAGE 1 OF 2

SUBJECT Approve a resolution authorizing the negotiation and execution of the assumption of Regulatory Agreement and consent to transfer ownership of Stony Creek Apartments and Princeton Apartments from SAN ANTONIO ALTERNATIVE HOUSING NO 4, an affiliate of San Antonio Alternative Housing Corporation, to M3 MULTIFAMILY, LLC or an affiliate entity

AMOUNT & SOURCE OF FUNDING: None

FISCAL NOTE A Fiscal Note is not required

REQUESTING
DEPARTMENT: Austin Housing Finance Corporation

DIRECTOR'S
AUTHORIZATION: _____

FOR MORE INFORMATION CONTACT: Margaret Shaw, Austin Housing
Finance Corporation, 974-3184

PRIOR COUNCIL ACTION N/A

PRIOR BOARD ACTION: On November 18, 1999, the Austin Housing Finance Corporation Board approved Resolution #1999-1118-01 authorizing the issuance, sale, and delivery of multifamily housing revenue bonds (Stony Creek/Princeton Apartments Project) Series 1999A and taxable Series 1999B

By this action, the Board authorizes the negotiation and execution of the assumption of the Regulatory Agreement and consents to the transfer of ownership of the Stony Creek Apartments (4911 Manchaca Road) and the Princeton Apartments (4411 Airport Boulevard), from San Antonio Alternative Housing No 4, an affiliate of San Antonio Alternative Housing Corporation (SAAHC), 1215 South Trinity, San Antonio, TX, to M3 Multifamily LLC or an affiliate entity, and authorizes the Austin Housing Finance Corporation (AHFC) General Manager to execute all documents. Fifty-three of the apartments at Stony Creek and 36 of the apartments at Princeton rent to individuals and families earning less than 60% of the Median Family Income, currently \$42,660 for a family of four. These apartment units will remain affordable through October 2019.

In November 1999, the AHFC issued \$9,390,000 in tax-exempt Multi-family Housing Mortgage Revenue Bonds and \$270,000 in taxable Multi-family Housing Mortgage Revenue Bonds to finance the acquisition and rehabilitation of the 132-unit Stony Creek apartment complex and the 90-unit Princeton apartment complex. The \$270,000 in taxable Multi-family Housing Mortgage Revenue Bonds was fully repaid in 2004. The remaining outstanding bonds will be paid off as a result of this transfer on November 1, 2009, the

earliest date allowed by the financing documents. Funds for paying off the tax-exempt bonds will be held in an irrevocable escrow account until that date. The financing documents require the AHFC's consent to any transfer of ownership. Transfer of ownership will occur immediately upon the closing of this transaction.

M3 Multifamily LLC will assume all obligations of the Regulatory Agreement for the two properties, including the affordability requirements at these properties. M3 Multifamily LLC is a partnership formed by three individuals with property management and real estate development experience.

RESOLUTION AHFC NO. _____

WHEREAS, the Austin Housing Finance Corporation (the “Corporation”) has been duly created and organized by action of the City Council of the City of Austin, Texas (the “Sponsoring Governmental Unit”) under the Texas Housing Finance Corporations Act, Chapter 394, Texas Local Government Code (the “Act”), to provide a means of financing the costs of residential ownership and development to provide decent, safe, sanitary and affordable housing for persons of low- and moderate-income, and

WHEREAS, the Act authorizes the Corporation to issue bonds to defray, in whole or in part, the development costs of multifamily residential developments, and

WHEREAS, the Board of Directors of the Corporation (Board) authorized the issuance of the Austin Housing Finance Corporation Multifamily Housing Revenue Bonds (Stony Creek/Princeton Apartments Project) Series 1999A and Taxable Series 1999B (collectively, the Bonds), in the aggregate principal amount of \$9,390,000 and \$270,000, respectively,

in accordance with the terms of a Trust Indenture, dated as of November 1, 1999 (the "Indenture"), by and between the Corporation and American National Bank, successor to The Bank of Cherry Creek, N A , as Trustee (the "Trustee"), to fund the cost of acquiring and rehabilitating two multifamily residential rental projects located in Austin, Texas (collectively, the "Project"), in accordance with the Constitution and laws of the State of Texas, and

WHEREAS, the Corporation loaned the proceeds of the Bonds to San Antonio Alternative Housing Corporation No 4, a Texas non-profit corporation (the "Borrower"), to finance the development of the Project, in which a portion of the units were required pursuant to Section 142(d) of the Internal Revenue Code of 1986, as amended, to be occupied by persons of low- and moderate-income, and

WHEREAS, the Corporation and the Borrower executed and delivered a Loan Agreement, dated as of November 1, 1999 (the "Loan Agreement"), under which the Corporation agreed to lend funds to the Borrower to enable the Borrower to finance the Project, and

WHEREAS, the Borrower executed, delivered and filed for record a Regulatory Agreement and Declaration of Restrictive Covenants for each property, each dated October 1, 1999 (collectively, the "Regulatory Agreement"), that restricts occupancy of a portion of the units in the Project to persons and families of low- and moderate-income, and

WHEREAS, the Borrower has determined to sell the Project and desires to defease the Bonds with a portion of the proceeds of the sale, and

WHEREAS, the Borrower has requested that the Corporation consent to the transfer of the Project, along with all other interests of the Borrower, from the Borrower to M3 Multifamily, LLC, a California limited liability company, or an affiliate or assigned entity (the "Transferee") and execute all documents allowing the transfer and other related matters, including a Consent to Sale Agreement and a Defeasance Agreement, and

WHEREAS, in connection with the transfer, the Transferee and Borrower are required to comply with the transfer provisions set forth in the Regulatory Agreement

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE
AUSTIN HOUSING FINANCE CORPORATION:**

Section 1. Approval of Transfer and Defeasance The negotiation and execution of the Agreements and other documents to effectuate the transfer and defeasance set forth in the recitals above is approved

Section 2. Power to Negotiate, Execute and Deliver Documents
The authorized representatives of the Corporation are authorized to negotiate, execute, and deliver the Agreements and all other documents as, in the judgment of an authorized representative, and in the opinion of McCall, Parkhurst & Horton L L P , Bond Counsel to the Corporation, may be necessary or convenient to carry out this resolution, including but not limited to the transfer of the Project and the discharge or defeasance of the Bonds

Section 3. Authorized Representatives The President, Vice President, Secretary, General Manager, and Treasurer are named as authorized representatives of the Corporation to execute, attest, affix the Corporation's seal to, and deliver the documents described in this resolution

and such other documents and other actions as may be necessary or convenient to effectuate the foregoing, and such representatives of the Corporation are authorized to approve such changes to the forms of such documents as may be reasonably requested and are consistent with the tenor of this resolution

ADOPTED: _____, 2008
ATTEST: _____

Shirley A Gentry
Secretary