



**RBA
AUSTIN HOUSING FINANCE CORPORATION
RECOMMENDATION FOR BOARD ACTION**

**AGENDA ITEM NO.: AHFC-2
AGENDA DATE: Thu 02/26/2004
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SUBJECT: Approve an inducement resolution for a multi-family housing project known as InterPort Apartments, to be constructed at the 3200 block of Interport Lane at Highway 71, to be owned by a to-be-formed limited partnership sponsored by SGI, Ventures, Inc. for bond financing in an amount not to exceed \$15,000,000, to be submitted through the Austin Housing Finance Corporation for existing carry-forward from the 2003 Texas Bond Review Board multi-family allocation of Private Activity Volume Cap authority

AMOUNT & SOURCE OF FUNDING: Each applicant pays their own application fee directly to the Texas Bond Review Board.

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Austin Housing Finance
DEPARTMENT: Corporation

DIRECTOR'S
AUTHORIZATION: Paul Hilgers

FOR MORE INFORMATION CONTACT: Paul Hilgers, Community Development Officer, Neighborhood Housing and Community Development, 974-3108.

PRIOR BOARD ACTION: The Austin Housing Finance Corporation Board approved a similar inducement resolution on October 10, 2002 for the project (the bond transaction did not close – the applicant is modifying their application to use the carry-forward on a modified project).

BOARD AND COMMISSION ACTION: N/A

The mission of the Austin Housing Finance Corporation (AHFC) is to generate and implement strategic financing housing solutions for the benefit of low- and moderate-income residents of Austin. Since 1982, AHFC has issued 23 series of multi-family housing revenue bonds totaling \$212 million. These multi-family bonds have financed 31 multi-family properties creating 6,252 low- and moderate-income rental units. Of these, 280 units have just begun leasing at the Rosemont at Oak Valley apartments located at the intersection of Pleasant Valley at Oltorf.

AHFC received an allocation of private activity volume cap of \$15 Million for the Interport Apartments, to be constructed at the 3200 block of Interport Lane at Highway 71. Since the bonds were not issued before December 31, 2003, the required carry-forward was filed with the Bond Review Board and the IRS. The filed carry-forward reserves this allocation for AHFC for up to three years. Due to market conditions in the apartment market, the applicant chose to cancel the previous application under which the allocation was awarded and is re-applying for Multi-family bond financing for a modified Interport Apartment complex under a new priority three category.

The AHFC board will have two additional opportunities to review the project before the bonds are issued. Upon securing confirmation from the Texas Bond Review Board of allocation of the carry-forward to this

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project, the project will be brought before the AHFC board for a public hearing as required by the Tax Equity Financial Responsibility Act (TEFRA). It will then secure four percent Low-Income Housing Tax Credits (LIHTC) from the Texas Department of Housing and Community Affairs. Such credits are automatically available to volume cap bond-financed projects. Once the bond issue is structured, the item will be brought back to the AHFC Board for approval of the sale of the bonds within the allotted time allowed by the Texas Bond Review Board for closing. Projects brought forward for Board consideration on the issuance of AHFC multi-family bonds will be compliant with S.M.A.R.T. Housing™ requirements.

Approval of this inducement resolution for the project will permit staff to proceed to submit the application for consideration for the carry forward allocation currently reserved for AHFC by the Texas Bond Review Board. Regulations governing the issuance of mortgage revenue bonds for the purpose of financing affordable housing specify that the bonds are non-recourse and the full faith and credit of the AHFC is not pledged to repay the bonds.

AHFC RESOLUTION NO. 040226-NN

Inducement Resolution – \$15,000,000 [InterPort Apartments]

WITH RESPECT TO THE ISSUANCE OF BONDS TO FINANCE A MULTI-FAMILY PROJECT (INTERPORT APARTMENTS)

WHEREAS, the Austin Housing Finance Corporation (the "Corporation") has been duly created and organized pursuant to and in accordance with the provisions of the Texas Housing Finance Corporations Act, Chapter 394, Local Government Code, V.T.C.A., as amended (the "Act"), for the purpose of providing a means of financing the costs of residential ownership and development that will provide decent, safe and sanitary housing for persons of low and moderate income at prices at which they can afford; and

WHEREAS, pursuant to law, and particularly the Act and/or other applicable laws, the Issuer and/or an entity legally acting for and on behalf of the Corporation (either or both being hereinafter called, for convenience of reference, the "Issuer") is or are authorized to provide for the acquisition and construction of multifamily housing projects, and to provide for the issuance of revenue bonds for such purpose; and

WHEREAS, as hereinafter used the term "Borrower" shall mean InterPort Apartments, L.P., a to-be-formed Texas limited partnership, with InterPort Development, L.L.C., a to-be-formed Texas limited liability company,

having as its sole managing member SGI Ventures, Inc., its general partner, and SGI Ventures, Inc., a Texas corporation, as the sponsor, and/or one of its subsidiary, affiliate or related corporations or entities; and

WHEREAS, the Borrower has advised the Issuer that it is considering proceeding with the acquisition, construction, and/or improvement of a multi-family project described in **Exhibit A**, attached hereto and incorporated herein for all purposes (the "Project") within the City of Austin, Texas, and the boundaries of the Issuer; and

WHEREAS, the Borrower has advised the Issuer that a contributing factor which would further induce the Borrower to proceed with providing for the acquisition, construction and/or improvement of the Project would be a commitment and agreement by the Issuer to issue revenue bonds pursuant to the Act (the "Bonds") to finance and pay for the Project, subject to final approval by the Issuer following a public hearing concerning the proposed development; and

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

WHEREAS, Borrower has agreed that it will (i) pay all development cost which are not or cannot be paid or reimbursed from the proceeds of the bonds

issued to provide funds to finance the Project, and (ii) at all times, indemnify, and hold harmless the Issuer against all losses, costs, damages, expenses, and liabilities of whatever nature; and

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

WHEREAS, in the event the Project currently does not have a zoning classification which would authorize the Project to be constructed and occupied, the Borrower understands that approval of this Resolution does not subject the City of Austin to any requirement to approve a change in the current zoning classification which would allow the construction or occupancy of the Project; and

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

WHEREAS, the Issuer finds, intends, and declares that this Resolution shall, in accordance with its provisions, constitute the commitment and agreement of the Issuer to issue the Bonds in such aggregate principal amount, now estimated not to exceed \$15,000,000, as is actually required to finance and

pay for the acquisition, construction and/or improvement of the Project; and

WHEREAS, the Issuer finds, considers, and declares that the issuance of the Bonds in such amount and for such purpose will be appropriate and consistent with the objectives of the Act, and that the adoption of this Resolution subject to its terms and conditions is and constitutes, and is intended as, (i) an inducement to the Borrower to proceed with providing for the acquisition, construction and/or improvement of the Project, (ii) the taking of affirmative official action by the Issuer, acting by and through its Board of Directors, towards the issuance of the Bonds, and that such action is, and is intended to be, similar to the adoption of a bond resolution, within the meaning of Section 1.103-8(a)(5) of the Federal Treasury Regulations and (iii) the declaration of the intention of the Issuer, in accordance with the provisions of Section 1.150-2 of the Federal Treasury Regulations, to reimburse the Expenditures for the Project at such time as the Bonds are issued; **NOW, THEREFORE**,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF AUSTIN HOUSING FINANCE CORPORATION THAT:

Section 1. The Issuer is committed and agrees as follows:

(a) To adopt a bond resolution or bond resolutions prepared by its Bond Counsel, McCall, Parkhurst & Horton L.L.P., Dallas, Texas, when

requested by the Borrower, authorizing the issuance of Bonds pursuant to the Act, and to issue the Bonds, subject to this Resolution, the requirements of the Act, the execution of the appropriate agreements or contracts described in (d), below, and the sale of the Bonds under terms and conditions satisfactory to the Issuer and the Borrower, to finance and pay for the acquisition, construction and/or improvement of the Project, including amounts sufficient to pay the fees, expenses, and costs in connection with such issuance, including an amount adequate to reimburse the Issuer for its administrative and overhead expenses and costs with respect to the Bonds and the Project, with the Bonds to be payable from payments by the Borrower to the Issuer and/or to a corporate trustee in such sums as are necessary to pay the principal of, interest on, and redemption premium, if any, together with the paying agents' and trustee's fees on, the Bonds, as and when the same shall become due and payable.

(b) To conduct a public hearing in accordance with the Tax Equity and Fiscal Responsibility Act to determine the advisability and need for the Project.

(c) Based on the public hearing described in (b) above, to determine whether to proceed with final action to approve the Bonds.

(d) Prior to the issuance of the Bonds and subject to this Resolution, when requested by the Borrower, to enter into such loan agreement, installment sale agreement, lease, and/or any other appropriate contracts or agreements between the Issuer and the Borrower as are mutually acceptable in all respects to

the Issuer and the Borrower, under which the Borrower will be obligated to make payments to the Issuer and/or to a corporate trustee in such sums as are necessary to pay the principal of, interest on, and redemption premium, if any, together with the Issuer's, paying agents' and trustee's fees on the Bonds, as and when the same shall become due and payable, and with such payments also to be sufficient to defray the Issuer's administrative, overhead, and other expenses and costs with respect to the Bonds and the Project.

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

Section 2. With respect to this inducement resolution and because the Borrower will have to comply with federal and State of Texas rent control requirements in the event the Borrower is awarded Low Income Housing Tax Credits, the Issuer, to the extent the Borrower is awarded Low Income Housing Tax Credits and complies with such requirements, waives its Affordable Rent requirements set forth in the Issuer's Rules.

Section 3. The adoption of this Resolution shall be deemed to constitute the acceptance of the Borrower's proposal that it be further induced to proceed with providing for the acquisition, construction and/or improvement of the

Project, and said proposal and acceptance shall constitute an agreement between the Issuer and the Borrower in accordance with and subject to the provisions of this Resolution.

Section 4. Prior to the Issuer taking any action described in Section 1(c) of this Resolution and before Issuer shall issue any Bonds, Borrower shall obtain from the City of Austin zoning approval with respect to this Project which fully authorizes construction and occupancy of the Project without further variance.

Section 5. Notwithstanding anything to the contrary, nothing contained in this Resolution shall be interpreted as to bind the Issuer to issue any bonds. The Issuer shall have the authority, without cause, to not issue bonds.

Section 6. The Issuer reasonably expects (based upon information supplied by the Borrower, upon which it is reasonable and prudent for the Issuer to rely) to reimburse the Expenditures with the proceeds of the Bonds.

ADOPTED: February 26, 2004 **ATTEST:** _____
Shirley A. Brown
Assistant Secretary

EXHIBIT A
(InterPort Apartments)

This proposed project has applied to the Austin Housing Finance Corporation (AHFC) for an inducement resolution to be submitted to the Texas Bond Review Board for allocation of the current carry-forward reserved for AHFC as a result of last year's award of private activity volume cap.

Project Summary:

Project Name: InterPort Apartments

Proponent/Applicant: InterPort Apartments, L.P. a to be formed limited partnership associated with SGI Ventures, Inc. (Sally Gaskin)

Address of Project: 3200 block of Interport Lane at Highway 71 East

Amount of Bond Issue: \$15,000,000

Lottery Priority: Three – allows for a market component of possibly 10 to 20 percent of the units with the remainder reserved for families with incomes below 60 percent of MFI

Number of Units/Composition: 248 units, with 80 one-bedroom, one-bath, 120 two-bedroom, two-bath, and 48 three-bedroom, two-bath units

Rental Rates: \$644 - \$850

Project Type: New family living units

Additional Project Information:

Total Projected cost estimated at \$19,647,976