

August 11, 2021

WHEREAS, on May 9, 2018, City Council adopted a Comprehensive Housing Policy Manual (Policy) that set citywide production goals for homeownership and rental units for the next three years along with respective income bands that will be prioritized within the production goals and also set forth various programs, tools and strategies to be used to meet the production goals while also overcoming concentrations of poverty and racial segregation by Resolution No. 18-0704; and

WHEREAS, on November 28, 2018, City Council adopted certain amendments to the Policy in order to correct inconsistencies and to facilitate effective implementation by Resolution No. 18-1860; and

WHEREAS, on June 12, 2019, City Council amended the Policy to amend the policy for developers requesting a Resolution of Support or No Objection (Resolutions) for multifamily rental housing developments seeking Housing Tax Credits (HTC) through the Texas Department of Housing and Community Affairs (TDHCA) by Resolution No. 19-0884; and

WHEREAS, on August 7, 2020, the City issued a Notice of Funding Availability, as amended, in accordance with the Policy and Kiva East, LLC (Applicant) submitted an application for gap financing and received a fundable score; and

WHEREAS, on February 24, 2021, City Council held a hearing and following the hearing, City Council adopted a Resolution of Support related to the Applicant and Applicant's 9% Non-Competitive Low Income Housing Tax Credits application to TDHCA by Resolution No. 21-0376; and

WHEREAS, Applicant has proposed the acquisition and development of an 87-unit mixed-income multifamily complex known as Kiva East located at 4724 and 4806 East Side Avenue and provides future residents with access to quality affordable housing; and

WHEREAS, Applicant or its affiliate (collectively referred to as Applicant) has advised the City that it submitted an application to TDHCA for 2021 9% Competitive HTC for the proposed acquisition of the land and the construction of new improvements for the development of Kiva East.

Now, Therefore,

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

SECTION 1. That the City Manager, is hereby authorized to execute a HOME development loan agreement with Kiva East, LLC, or an affiliate thereof, approved as to form by the City Attorney, conditioned upon Kiva East receiving a 2021 9% HTC award from TDHCA, in an amount not to exceed \$2,500,000.00 of HOME Funds with Kiva East, subject to the requirements below.

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SECTION 2. That the City Manager, is hereby authorized to execute each of the agreements, approved as to form by the City Attorney, described herein including any financing and associated documents related to the loan agreement, subordinations to the senior lender for a loan in a greater amount, and release of liens and termination of deed restrictions on the property upon satisfaction of all applicable conditions, approved as to form by the City Attorney. The Director of the Department of Housing and Neighborhood Revitalization (Director) may extend deadlines for up to two years.

SECTION 3. That as a requirement for the loan, Kiva East must provide at least 7 of the 87 units to households earning at or below 30 percent of Area Median Income (AMI) as defined by the U.S. Department of Housing and Urban Development (HUD), 28 of the 87 units will be made available to households earning between 31%-50% of AMI, and 35 of the 87 units will be made available to households earning between 51%-60% of AMI. 17 Units will remain as non income-restricted market-rate units. These affordable units must remain affordable for a minimum of 20 years. The Director may authorize minor changes to the affordability mix so long as the revised mix adheres to the CHP and the Project maintains a fundable Notice of Funding Availability (NOFA) score. Additionally, in conformance with Dallas City Code, Kiva East shall set aside at least 10% of the total units, and solely lease those units to holders of housing vouchers, including vouchers directly or indirectly funded by the federal government. The voucher units must be set aside to voucher holders for a minimum of 15 years from the date of initial lease-up of all voucher units. These affordable and voucher units must be dispersed throughout the residential floor area and shall have identical finish-out and materials as the market rate units.

HOME funds will be used for acquisition costs and other allowable development costs, as allowed by federal regulations governing the use of the funds and the Comprehensive Housing Policy (CHP). All funds will be provided on a reimbursable basis. The terms of the loan agreements are as follows:

1. The term of the loan agreement is 35 years beginning from the effective date;
2. The term of the loan shall be 35 years and ends on the maturity date. The maturity date and the repayment schedule shall be defined/detailed in the loan agreement and other financing documents for the loan, in accordance with the CHP;
3. Kiva East shall complete construction of the 87 units within two years of the effective date, which may be extended by the Director for up to two years (unless prohibited by the applicable regulations);
4. 7 of the 87 units to households earning at or below 30% AMI and 63 of the 87 units to households earning at or below 60% of AMI and the remaining units at market rates. The Director of Housing & Neighborhood Revitalization may authorize minor changes to the affordability mix so long as the revised mix adheres to the CHP and the Project maintains a fundable NOFA score;
5. Loan amortization is 35 years, with an interest rate of 1% simple annual interest;
6. Kiva East must execute a promissory note(s) for the total loan amount;

SECTION 3. (continued)

7. The owner of the property, Kiva East, shall execute and record deed restrictions on the property. The deed restrictions may be subordinate to deed restrictions issued by TDHCA, HUD and/or to other financing (without waiving compliance with such deed restrictions), and shall be recorded to secure the 20-year affordability period for the affordable HOME units and 15-year voucher period for the voucher units, which are subject to the requirements of Chapter 20A of the Dallas City Code;
8. The owner of the Property, Kiva East, shall execute and record a deed of trust on the property, including the leasehold and all improvements to secure payment and performance which will be released once all terms and conditions of the HOME loan agreement are met;
9. The City's lien for the loan agreement may only be subordinate to a financial institution's superior lien for a loan in a greater amount. In the event subordination agreements are required, the City agrees to provide it in a form acceptable to the City;
10. Kiva East shall provide guarantees including a completion and operating deficit guaranty for the loan agreement;
11. Kiva East must provide payment and performance bonds or guarantees, or acceptable equivalent methods of guarantees to the City in the total amount of the construction of the development;
12. Repayment of loan principal and interest shall be from annual surplus cash. The City's surplus cash loan funding will be structured with note provisions requiring that at least 50% of Eligible Cash, as defined in the CHP, in excess of \$50,000.00 be paid annually to subordinate lenders (including funding partners and related parties) on a prorated basis;
13. The HOME loan shall be a nonrecourse loan and the City's remedy is limited to foreclosure only, in the event of an uncured default; and
14. Although the term, the maturity date, and the amortization are anticipated to be for a period of 35 years, the Director may adjust the period of years, subject to the CHP, so that it is coterminous with the senior loan or such length as required by the senior lender not longer than 12 months after the end of the term of the senior loan.

The HOME loan agreement is conditioned upon:

1. Kiva East receiving 2021 9% housing tax credit allocation from TDHCA; and
2. Approval of equity, construction, and permanent financing documentation in a form acceptable to the City; and
3. HUD federal requirements including environmental review, site and neighborhood standards, cost reasonableness, subsidy layering, and underwriting; and

SECTION 3. (continued)

4. Kiva East shall make a good faith effort to comply with the City's Business Inclusion and Development goal of 25% participation by certified Minority/Women-owned Business Enterprises for all hard construction expenditures of the Development (i.e. public and private improvements) and meet all reporting requirements of the City of Dallas Office of Economic Development Business Workforce and Inclusion Division; and
5. All conditions listed in the CHP for developer programs; and
6. Final underwriting; and
7. Closing on equity and all other financing for the development.

SECTION 4. That the Chief Financial Officer is hereby authorized to encumber funds and disburse funds in an amount not to exceed \$2,500,000.00 to Kiva East, LLC (VC23253), or its affiliate, as the City receives and reviews reimbursement requests and related supporting documentation submitted by Kiva East for eligible expenditures and accepts supporting evidence as defined in the agreements from funding sources listed and described below:

<u>Fund</u>	<u>Department</u>	<u>Unit</u>	<u>Object</u>	<u>Amount</u>
HM20	HOU	420E	3015	\$506,775.51
20M1	HOU	477E	3015	\$1,157,566.00
HM21	HOU	520F	3015	\$835,658.49

SECTION 5. That the Chief Financial Officer is hereby authorized to record notes receivable - developers loan in Balance Sheet Account 033F and deferred revenue in Balance Sheet Account 050A for the amount of the loan in Section 5.

SECTION 6. That the Chief Financial Officer is hereby authorized upon receipt of payment on the notes receivable to record principal payment revenue in fund HMPI, Department HOU, Unit 6317, Revenue Code 8520 and interest payment revenue in fund HMPI, department HOU, unit 6317, Revenue Code 8521.

SECTION 7. That this resolution does not constitute a binding agreement upon the City or subject the City to any liability or obligation until such time as the loan documents are duly approved by all parties and executed.

SECTION 8. That this contract is designated as Contract No. HOU-2021-00016647.

SECTION 9. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.