



Legislation Text

File #: 21-1195, **Version:** 1

STRATEGIC PRIORITY: Economic and Neighborhood Vitality
AGENDA DATE: August 11, 2021
COUNCIL DISTRICT(S): 2
DEPARTMENT: Department of Housing & Neighborhood Revitalization
EXECUTIVE: Dr. Eric A. Johnson

SUBJECT

Authorize the Investment Partnerships Program (HOME) development loan agreement and security documents in an amount of \$2,500,000.00 in HOME Funds with Kiva East, LLC ("Kiva East"), or an affiliate thereof, conditioned upon Kiva East receiving a 2021 9% Housing Tax Credit award for the acquisition and development of a mixed-income affordable multifamily complex located at 4724 and 4806 East Side Avenue - Not to exceed \$2,500,000.00 - Financing: HOME Funds

BACKGROUND

Kiva East submitted a proposal under the City's Notice of Funding Availability (NOFA), issued on August 7, 2020, as amended, to receive gap financing in the form of a cashflow loan to support acquisition and development of affordable housing units located within the City limits. The NOFA was issued by the Department of Housing and Neighborhood Revitalization (Housing) in accordance with the City's Comprehensive Housing Policy (CHP). In addition to NOFA funding, Kiva East also plans to utilize 9% Competitive Low Income Housing Tax Credits from the Texas Department of Housing and Community Affairs (TDHCA) to develop the property.

Housing administers programs to appropriately incentivize private investment for the development of quality, sustainable housing that is affordable to the residents of the City. Specifically, Housing administers the New Construction and Substantial Rehabilitation Program which where necessary seeks to provide financial assistance to new developments or substantially rehabilitate existing developments. All projects seeking financial assistance are required to submit a Notice of Intent to apply for financial assistance through the Notice of Funding Availability (NOFA) to Develop Affordable Homeownership and Rental Housing. As outlined in the NOFA, multiple sources of funding are available, however, proposed projects must meet specific thresholds to qualify for the use of a specific funding source. At minimum, each proposed project must be composed of at least five affordable units and must achieve a fundable score as outlined in the NOFA solicitation. Kiva East received a fundable score of 96 points.

Kiva East proposes to develop 87 units. The 87 units will 18 1-bedroom, 48 2-bedroom, and 21 3-bedroom units. The units will include energy efficient appliances and lighting and other TDHCA-required features. Plans include a community room, a cyber lounge, outdoor seating area and barbecue stations, a community kitchen, bicycle parking, and a fitness room for residents. The project also features targeted resident services including classes, social events, children's activities, and tutoring. The site has direct access to the Santa Fe Trail, a 12 ft wide and 4.3 mile long concrete path that connects Deep Ellum and Downtown Dallas to White Rock Lake. The developer plans to activate the southern portion of the trail and bring visual interest that matches the northern portion. Along with direct access from the property to the trail, there will be decorative screening to hide the parking, public art, and a butterfly garden.

Total development costs are anticipated to be approximately \$22,700,159.00 which includes the acquisition price for the land. The hard cost construction budget is anticipated to be \$11,970,173.00 which is \$137,588.00 per unit. The total construction amount includes a 6.0% contingency.

Proposed Financing Source	Amount
Permanent Loan	\$ 5,900,000.00
HOME Loan	\$ 2,500,000.00
Housing Tax Credits Equity	\$13,498,650.00
Deferred Developer Fee	\$ 801,509.00
Total	\$22,700,159.00

Proposed Use	Costs
Acquisition	\$ 3,270,120.00
Hard Construction Costs	\$11,970,173.00
Soft Costs & Financing Fees	\$ 4,565,337.00
Developer Fees	\$ 2,352,120.00
Reserves	\$ 542,410.00
Total	\$22,700,160.00

After the development is complete, it is anticipated that 7 of the 87 units will be made available to households earning 0%-30% of Area Median Income (AMI), 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.

The City proposes to provide an amount not to exceed \$2,500,000.00 in HOME gap financing for the acquisition and construction of the development.

HOME Funds will be used for acquisition costs and/or other allowable development costs, as allowed by federal regulations governing the use of the funds and the CHP. All funds will be provided on a

reimbursable basis. The terms of the loan agreement are as follows:

1. The term of the loan agreement is anticipated to be 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 of Housing and Neighborhood Revitalization 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; 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 (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 NOFA score;
5. Loan amortization is 35 years, with an interest rate of 1 percent simple annual interest;
6. Kiva East must execute a promissory note(s) for the total loan amount;
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, U.S. Department of Housing and Urban Development (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, or its affiliate, 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;
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 lender 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
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.

Kiva East has submitted an application to TDHCA for 2021 9% Non-Competitive Housing Tax Credits (9% Housing Tax Credits) for the development of the Kiva East [p](#)Project. The property is currently owned by Willow Partners, LP. TDHCA requires 9% Housing Tax Credit applicants to provide a Resolution of Support from the governing body of the jurisdiction in which the proposed development will be sited. On February 24, 2021, the City Council issued a Resolution of Support by Resolution No. 21-0376 for Kiva East.

City Council approval of this item will authorize the City Manager to execute the loan agreement and all financing documents related to the loan. Staff have confirmed the proposed development meets all threshold and underwriting requirements of the standing NOFA application, and recommends City Council approval.

ESTIMATED SCHEDULE OF PROJECT

Construction Commence May 2022
Construction Complete December 2023

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

The Housing and Homelessness Committee (HHSC) was briefed on the development and the authorization of a Resolution of Support on February 22, 2021. The HHSC approved moving forward to Council for consideration.

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

[City Council was briefed by memorandum regarding this matter on August 6, 2021.](https://dallascityhall.com/government/citymanager/Documents/FY%2020-21%20Memos/Kiva-East-Award%20Memo%20080621.pdf)
<<https://dallascityhall.com/government/citymanager/Documents/FY%2020-21%20Memos/Kiva-East-Award Memo 080621.pdf>>

FISCAL INFORMATION

Fund	FY 2021	FY 2022	Future Years
HOME Fund	\$2,500,000.00	\$0.00	\$0.00

M/WBE INFORMATION

In accordance with the City's Business Inclusion and Development Policy adopted on September 23, 2020, by Resolution No. 20-1430, as amended, the M/WBE participation on this contract is as follows:

Contract Amount	Procurement Category	M/WBE Goal	M/WBE %	M/WBE \$
\$2,500,000.00	Construction	25.00%*	25.00%	\$625,000.00
• This contract meets the M/WBE goal.				
• Kiva East, LLC - Local; Workforce - 50.00% Local				

OWNER

Kiva East, LLC, ~~Investment Partnerships Program (HOME)~~

Megan Lasch, President of O-SDA

Lisa Stephens, President of Saigebrook Development

MAP

Attached