

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: May 16, 2023                       Consent                       Regular  
    Ordinance                       Public Hearing

Department: Housing and Economic Development

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I. EXECUTIVE BRIEF

**Motion and Title: Staff recommends motion to receive and file:** Amendment 003 to Loan Agreement R2020-1886 with HTG Banyan, LLC for \$550,000, for the construction of ninety-four (94) rental housing units, extending the completion date from December 31, 2022 to March 31, 2023.

**Summary:** HTG Banyan, LLC, was provided \$550,000 in HOME funding toward the construction of ninety-four (94) rental housing units located at the northeast corner of N. Tamarind Avenue and Banyan Boulevard in West Palm Beach. COVID-19 and supply chain issues impacted the project thereby requiring an extension of the project completion date from December 31, 2022 to March 31, 2023. The project has been completed.

Amendment 003 was executed on March 17, 2023, on behalf of the Board of County Commissioners (BCC) by the Director of the Department of Housing and Economic Development in accordance with Agenda Item 5A-3 as approved by the BCC on February 11, 2020.

County PPM CW-O-051 provides that all delegated contracts, agreements and grants must be submitted by the initiating department as a receive and file agenda item. HOME Program grant funds are Federal funds which require a 25% local match provided by SHIP funds. District 7 (HJF)

**Background and Justification:** The U.S. Department of Housing and Urban Development provides an annual allocation of CDBG and HOME grant funding to Palm Beach County. HOME works to provide affordable rental housing and homeownership opportunities for persons with incomes no greater than 80% of Area Median Income.

- Attachment(s):**
- 1 Amendment 003 to a HOME Loan Agreement with HTG Banyan, LLC. (3 originals)
  - 2 Amendment request letter (HOME Loan Agreement) from HTG Banyan, LLC.

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Recommended By: Jonathan Brown                      4/18/2023  
   Department Director                      Date

Approved By: Donna M. Miller                      5/3/2023  
   Assistant County Administrator                      Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2023	2024	2025	2026	2027
Grant Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>					

# ADDITIONAL FTE POSITIONS (Cumulative)					
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Is Item Included In Current Budget? Yes  X  No       
 Does this Item include the use of Federal funds? Yes  X  No    


Budget Account No.:

Fund 1103 Dept. 143 Unit 1434 Object 8201 Program Code/Period Various

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

No additional fiscal impact

**C. Departmental Fiscal Review:**

  
 \_\_\_\_\_  
 Valerie Alleyne, Division Director II  
 Finance and Administrative Services, DHED

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**




**B. Legal Sufficiency:**

  
 \_\_\_\_\_  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

**AMENDMENT 003 TO THE LOAN AGREEMENT**  
**WITH**  
**HTG BANYAN, LLC**

Amendment 003 to the Loan Agreement with an effective date of March 17, 2023, by and between **Palm Beach County** ("County") and **HTG Banyan, LLC**. ("Borrower").

**WITNESSETH:**

**WHEREAS**, the County entered into a Loan Agreement (R2020-1886) with Borrower on November 2, 2020, as amended by Amendment 001 (R2022-0706) on May 1, 2022, and by Amendment 002 (R2022-1368) on September 30, 2022, to provide \$550,000 of HOME Investment Partnerships Program (HOME) funds for the purpose of constructing ninety four (94) rental housing units known as Flagler Station, of which ten (10) units are HOME assisted; and

**WHEREAS**, the Borrower has experienced construction delays due to material shortages and impediments related to the COVID-19 virus; and

**WHEREAS**, the Borrower has requested that the Loan Agreement be revised to reflect the project timeline and related Performance Requirements to successfully complete these HOME assisted units; and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**SECTION 3: THE LOAN AND LOAN EXPENDITURE REQUIREMENTS**

The following Performance Requirements and dates are revised as follows:

- Complete Construction and obtain Certificates of Occupancy by December 31, 2022, is extended to March 31, 2023.

The Parties acknowledge that all Sections of the Loan Agreement impacted by these changes are deemed to be revised to reflect the revisions noted above.

IN WITNESS WHEREOF, Borrower and the County have caused this Amendment 003 to be executed on the date first above written.

Signed, sealed and delivered in the presence of:

**BORROWER:**

Witnesses:

**HTG BANYAN, LLC**  
a Florida limited liability company

*[Handwritten Signature]*

**By: HTG BANYAN MANAGER LLC,**  
a Florida limited liability company

Witness Signature  
*Benjamin M Besunder*

Print Witness Name

By: *[Handwritten Signature]*  
Matthew Rieger, Manager

Witness Signature  
*Glenda Brown*

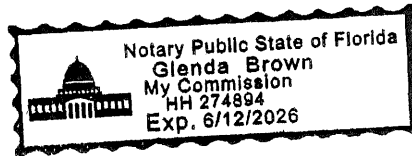
Print Witness Name

**STATE OF FLORIDA**  
**COUNTY OF MIAMI-DADE**

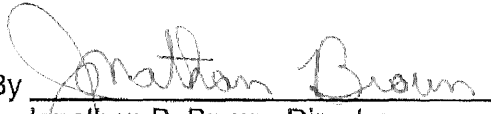
The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization on this 30 day of January, 2023, by Matthew Rieger, as Manager of HTG Banyan Manager, LLC., who is personally known to me, or who has produced \_\_\_\_\_ as identification and who did/did not take an oath.

Signature: *[Handwritten Signature]*  
Notary Name: \_\_\_\_\_  
Notary Public - State of Florida

(NOTARY SEAL ABOVE)



**PALM BEACH COUNTY, FLORIDA, a  
Political Subdivision of the State of Florida  
FOR ITS BOARD OF COUNTY COMMISSIONERS**

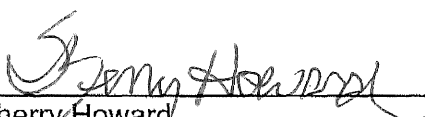
By   
Jonathan B. Brown, Director  
Dept. of Housing & Economic Development

Approved as to Form and  
Legal Sufficiency

Approved as to Terms and Conditions  
Dept. of Housing and Economic Development

By: Howard J. Falcon III  
Howard J. Falcon III  
Chief Assistant County Attorney

Digitally signed by Howard J. Falcon III  
DN: c=US, o=Palm Beach County, DC=pbcgov, OU=Enterprise, OU=Users, CN=Howard J. Falcon III, E=hfalcon@pbcgov.org  
Reason: I am the author of this document  
Date: 2023.03.15 09:03:56-0400  
Foxit PDF Reader Version: 12.1.0

By:   
Sherry Howard  
Deputy Director



Date: December 19, 2022

Mr. Jonathan Brown, Director  
 Palm Beach County Housing & Economic Sustainability  
 100 Australian Avenue, Suite 500  
 West Palm Beach, FL 33406

Re: Request to Modify Performance Requirements - **Flagler Station**

Dear Mr. Brown:

Please consider this the HTG Banyan, LLC request for the modification to the Completion of Construction and Placed in Service / Occupied deadlines for the Flagler Station HOME loan.

Flagler Station has run into construction delays due to material shortages and impediments related to the global COVID-19 pandemic.

Please consider the modification of the schedule as follows:

<u>Performance Requirements</u>	<u>APPROVED</u>	<u>REQUESTED</u>
Complete Construction	December 31, 2022	March 31, 2023
Units rented and in service	March 31, 2023	No Change

Funding sources have not been impacted by this delay. To date, all HOME funding has been drawn and spent on construction hard costs for Flagler Station.

Our current construction schedule estimates construction completion of December 31, 2022; however, we are seeking this extension in an abundance of caution.

Should any additional data be required, please let me know.

Sincerely,  
 Jason

**Larson**  
 Jason Larson  
 HTG Banyan, LLC

Digitally signed by Jason Larson  
 DN: cn=Jason Larson, c=US, o=Housing  
 Trust Group, ou=Development,  
 email=jason@htg.com  
 Reason: I am approving this document  
 Location: 3225 Aviation Ave, 6th Floor,  
 Coconut Grove, FL 33133  
 Date: 2022.12.19 11:31:20 -0500

HOUSING TRUST GROUP

3225 Aviation Avenue, 6<sup>th</sup> Floor • Coconut Grove, FL 33133 • 305-860-8188  
 www.htgf.com

**Marcel Pessoa**

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**From:** Jonathan Brown  
**Sent:** Tuesday, December 20, 2022 12:34 PM  
**To:** Bud Cheney  
**Cc:** Jeffrey Bolton; Marcel Pessoa; Carlos Serrano; Elena O'Keefe; Claudia Goncalves; David Lees; Sherry Howard  
**Subject:** RE: Time extension for HTG Banyan LLC - Flagler Station

Approved.

Thanks.

**From:** Bud Cheney <CCheney@pbcgov.org>  
**Sent:** Tuesday, December 20, 2022 8:31 AM  
**To:** Jonathan Brown <JBrown2@pbcgov.org>  
**Cc:** Jeffrey Bolton <JSBolton@pbcgov.org>; Marcel Pessoa <MPessoa1@pbcgov.org>; Carlos Serrano <CSerrano@pbcgov.org>; Elena O'Keefe <EOKeefe@pbcgov.org>; Claudia Goncalves <MGoncalves@pbcgov.org>; David Lees <DLees@pbcgov.org>; Sherry Howard <SHoward@pbcgov.org>  
**Subject:** FW: Time extension for HTG Banyan LLC - Flagler Station

Good Morning Jonathan,

Please see the attached extension request from HTG for Flagler Station.

All required HOME expenditures for the project have been met.

CIREIS recommends approval of the extension request.

Thank You

Bud Cheney  
Manager  
Capital Infrastructure, Real Estate, & Inspections Services  
Department of Housing & Economic Development  
Palm Beach County Board of County Commissioners  
100 South Australian Avenue – Suite 500  
West Palm Beach, FL 33406  
(561) 233-3691



*DHED Mission Statement...*  
*"Changing lives and transforming neighborhoods into balanced communities."*