Agenda Item #: 31-1

## PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

#### AGENDA ITEM SUMMARY

**Meeting Date:** July 12, 2022

[X] Consent [ ] Ordinance

] Regular ] Public Hearing

**Department:** 

**Housing and Economic Development** 

#### I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: the following HOME funded amendments to Agreements.

- A) Amendment 001 to a HOME Community Housing Development Organizations (CHDO) Loan Agreement (R2021-1078) with Habitat Housing Solutions, Inc. for \$690,000, reducing the number of units to be constructed from five (5) to four (4), reducing the HOME/CHDO funding amount from \$690,000 to \$552,000, and extending the completion date from December 31, 2022 to December 31, 2023; and
- **B)** Amendment 001 to a HOME Loan Agreement (R2020-1888) with HTG Heron Estates Family, LLC for \$500,000 extending the completion date from September 30, 2022 to January 30, 2023.
- C) Amendment 001 to a HOME Loan Agreement (R2020-1886) with HTG Banyan, LLC for \$550,000 extending the completion date from September 30, 2022 to January 30, 2023.

**Summary:** The attached documents have been executed 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 6D-4 and 5A-3, as approved by the BCC on November 17, 2020 and February 11, 2020 respectively. Agenda Item 5A-3 dated February 11, 2020, awarded HOME funds to successful respondents to Request for Proposal HES.2019.1, and Agenda Item 6D-4, dated November 17, 2020, awarded HOME/CHDO funds to successful respondents to Request for Proposal HES.2020.1.

The Loan Agreement (R2021-1078) with Habitat Housing Solutions, Inc., provided \$625,000 in HOME funding and a \$65,000 HOME/CHDO grant towards the construction of five single family homes in the Glades area. One site is plagued with soil issues and had to be removed from the project. The funding amounts for construction and CHDO expenses were reduced by 20% to reflect the lost unit. The COVID-19 resurgence and supply chain issues have impacted the progress of the project thereby extending the project completion date from December 31, 2022 to December 31, 2023.

The Loan Agreement (R2020-1888) with HTG Heron Estates Family, LLC provided \$500,000 in HOME funding toward the construction of a seventy nine (79) unit rental development in Riviera Beach of which ten (10) are HOME assisted. COVID-19 and supply chain issues have impacted the project thereby extending the project completion date from September 30, 2022 to January 30, 2023.

The Loan Agreement (R2020-1886) with HTG Banyan, LLC provided \$550,000 in HOME funding toward the construction of a ninety four (94) unit rental development known as Flagler Station in West Palm Beach, of which ten (10) are HOME assisted. COVID-19 and supply chain issues have impacted the project thereby extending the completion date from September 30, 2022 to January 30, 2023.

In accordance with County PPM CW-O-051, 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. Districts 2, 6 and 7 (HJF)

**Background and Justification:** The U.S. Department of Housing and Urban Development provides an annual allocation of 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):

- Amendment 001 to a HOME CHDO Loan Agreement with Habitat Housing Solutions, Inc.
- Amendment 001 to a HOME Loan Agreement with HTG Heron Estates Family, LLC Amendment 001 to a HOME Loan Agreement with HTG Banyan, LLC
- Amendment request letter (HOME CHDO Loan Agreement) from Habitat Housing Solutions, Inc. Amendment request letter (HOME Loan Agreement) from HTG Heron Estates Family, LLC
- Amendment request letter (HOME Loan Agreement) from HTG Banyan, LLC

Recommended I	34: Snothan Brown	6 10 2022
	Department Director	' Daţe
Approved By:	lossa a. Nella	2/4/2022
,	Assistant County Administrator	Date

### II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2022	2023	2024	2025	2026
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				
# ADDITIONAL FTE POSITIONS (Cumulative)  Is Item Included In Current E			s X N	lo	
Does this Item include the use Budget Account No.:	30 01 1 04014	n iunus i Te	5 <u>A</u> N		
					<u>s</u>
Budget Account No.:	Object	Progr	am Code/Pe	riod <u>Various</u>	<u> </u>
Budget Account No.: FundDept Unit	Object es of Funds	Progr /Summary of	am Code/Pe	riod <u>Various</u>	i Calo

### III. REVIEW COMMENTS

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

	The Chisha OFMBOCHT (P) 4-14-22	Contract Development and Control  (e. 23-42 Th
B.	Legal Sufficiency:	
	201	

C. Other Department Review:

**Department Director** 

# AMENDMENT 001 TO THE LOAN AGREEMENT WITH HABITAT HOUSING SOLUTIONS, INC.

Amendment 001 to the Loan Agreement is made and entered into on <u>June 6, 2022,</u> by and between **Palm Beach County** ("County") and **Habitat Housing Solutions, Inc.** ("Borrower").

#### WITNESSETH:

**WHEREAS**, the County entered into a Loan Agreement (R2021-1078) with Borrower on June 9, 2021, to provide \$625,000 of HOME Investment Partnerships Program (HOME) funds and a grant of \$65,000 of HOME/CHDO operating funds for the purpose of constructing five (5) affordable housing units in the Glades Area; and

**WHEREAS**, the Borrower has experienced significant issues with the feasibility of one of the sites and project implementation that has been impacted by the COVID-19 pandemic; and

WHEREAS, the Borrower has requested that the Agreement be revised to accurately reflect the changes required to successfully complete these affordable homes; 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:

- 1. The HOME Loan shall be reduced from \$625,000 to \$500,000 and the HOME/CHDO Grant shall be reduced from \$65,000 to \$52,000.
  - \$125,000 in HOME funds shall be returned to the County's overall HOME allocation. The Loan Agreement's per unit allocation remains unchanged at \$125,000/unit.
  - \$13,000 in HOME-CHDO funds shall be returned to the County's HOME/CHDO allocation. The CHDO grant award per unit remains unchanged at \$13,000/unit.
- 2. The project shall be reduced from five (5) units to four (4) units and be made up of three (3) four bedroom units and one (1) two bedroom unit. The site of a proposed duplex is deleted from the scope of work due to soil compatibility issues; and
  - The sites are further explained in Exhibit A-1, attached hereto and made a part hereof. (Exhibit A-1 replaces Exhibit A in the Agreement)

- 3. The following performance requirements dates shall be revised and extended as follows:
  - 50 % of Loan to be expended by January 31, 2022 is extended to January 31, 2023
  - 100% of Loan to be expended by July 31, 2022 is extended to July 31, 2023
  - Certificates of Occupancy to be issued by September 30, 2022 is extended to September 30, 2023
  - Units to be Sold/Placed into Service By December 31, 2022 is extended to December 31, 2023
  - 100% of CHDO Grant expended by September 30, 2022 is extended to December 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.

(REMAINDER OF PAGE INTENTIONALLY BLANK)

IN WITNESS WHEREOF, Borrower and the County have caused this Amendment 001 to be executed on the date first above written.

Signed, sealed and delivered in the presence of:

BORROWER:

Witness Signature

Witness Name

(SEAL)

Corporation of the Corporatio

SEAL SOLUTION OF S

STATE OF FLORIDA COUNTY OF PALM BEACH

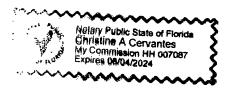
Print Witness Name

The foregoing instrument was acknowledged before me by means of [// physical presence or [] online notarization on this 20 day of, 20 22 by Donald Gill, as Chief Operating Officer of Habitat Housing Solutions, Inc., who is personally known to me, or who has produced \_\_\_\_\_\_\_\_ as identification and who did/did not take an oath.

Notary Name Christine Cervantes

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

Jonathan B. Brown, Director

Dept. of Housing & Economic Development

Date:

Approved as to Form and Legal Sufficiency

Howard J. France Developer, Out-Falcon III Comp. Developer, Out-Falcon III Comp. Developer, Out-Palcon III Comp. Developer, Outper, Developer, Out-Developer, Out-

By: Falcon III
Chief Assistant County Attorney

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

Bv:

Sherry Howard Deputy Director

#### **EXHIBIT A-1**

#### **LEGAL DESCRIPTIONS**

The West 80 feet of the East 315 feet of the South 85 feet of the North 1075 feet of Lot 30, Section 31, Township 43 South, Range 37 East.

PCN: 04-37-43-31-01-030-0810

Address: 641 SW Avenue D, Belle Glade

Lot 7, of Armstrong Addition to Pahokee, according to the Plat Thereof, as recorded in Plat Book 23, Page 12, of the Public Records of Palm Beach County, Florida.

PCN: 48-37-42-18-03-000-0070

Address: 275 Begonia Drive, Pahokee

FISHERS SECOND ADDITION LOT 6, BLOCK A. The above being the real property described under Tax Certificate Number 22934 in the Tax Deed recorded in Official Records Book 19437, Page 1928, Public Records of Palm Beach County, Florida.

PCN: 58-36-44-14-05-001-0060

Address: 135 SW 10th Avenue, South Bay

The North 60 feet of the South 165 feet of the West One Half of Lot 20, Section 31, Township 43, Range 37 East, Less the East 165 feet thereof, Less the West 25 feet thereof for the right-of-way of Northwest 6<sup>th</sup> Street Less the North 41 feet of the South 146 feet of the West 95 feet of said Lot 20

PCN: 04-37-43-31-01-020-0440

Address: 109 NW 6th Street, Belle Glade

# AMENDMENT 001 TO THE LOAN AGREEMENT WITH HTG HERON ESTATES FAMILY, LLC

Amendment 001 to the Loan Agreement is made and entered into on May 1, 2022, by and between Palm Beach County ("County") and HTG Heron Estates Family, LLC. ("Borrower").

#### WITNESSETH:

**WHEREAS**, the County entered into a Loan Agreement (R2020-1888) with Borrower on October 5, 2020, to provide \$500,000 of HOME Investment Partnerships Program (HOME) funds for the purpose of constructing seventy nine (79) rental housing units in Riviera Beach, of which ten (10) 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, attached hereto as Attachment 1, 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 June 30, 2022, is extended to September 30, 2022.
- Units to be Rented/Placed into Service by September 30, 2022, is extended to January 30, 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.

Signed, sealed and delivered in the presence of:

Witnesses:

HTG HERON ESTATES FAMILY, LLC a Florida limited liability company

By: HTG HERON ESTATES FAMILY MANAGER LLC, a Florida limited liability company its Manager

Wicholas Bailkin

Print Witness Name

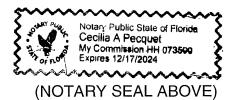
By:

Matthew Rieger, Manager

IN WITNESS WHEREOF, Borrower and the County have caused this Amendment 001

STATE OF FLORIDA
COUNTY OF PALM BEACH Minni-Dade

The foregoing instrument was acknowledged before me by means of physical presence or [] online notarization on this day of day o



Notary Name: CECILLA A PECQUENTE Notary Public - State of Florida

## PALM BEACH COUNTY, FLORIDA, a Political Subdivision of the State of Florida

FOR ITS BOARD OF COUNTY COMMISSIONERS

Jonathan B. Brown, Director

Dept. of Housing & Economic Development

Date

Ву

Approved as to Form and Legal Sufficiency

Howard J. Falcon III

Falcon

Howard J. Falcon III
Chief Assistant County Attorney

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

3y: \_\_\_\_\_\_

Deputy Director



Date: March 31, 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 - Heron Estates Family

Dear Mr. Brown:

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

Heron Estates Family 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:

Performance Requirements	APPROVED	REQUESTED
Complete Construction	June 30, 2022	September 30, 2022
Units rented and in service	September 30, 2022	2 January 30, 2023

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

Our current construction schedule estimates construction completion of June 15, 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

HTG Heron Estates Family, LLC

# AMENDMENT 001 TO THE LOAN AGREEMENT WITH HTG BANYAN, LLC

Amendment 001 to the Loan Agreement is made and entered into on May 1, 2022, 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, 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 June 30, 2022, is extended to September 30, 2022.
- Units to be Rented/Placed into Service by September 30, 2022, is extended to January 30, 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 001 to be executed on the date first above written. Signed, sealed and delivered in the presence of: **BORROWER:** HTG BANYAN, LLC Witnesses: a Florida limited liability company By: HTG BANYAN MANAGER LLC, a Florida limited liability company Nicholas Ballkin Print Witness Name By: Matthew Rieger, Manager Witness-Signature Morin M Witness Name STATE OF FLORIDA COUNTY OF PALM-BEACH MIAM - DAIZ The foregoing instrument was acknowledged before me by means of <a href="High-physical">High-physical</a> presence or [ ] online notarization on this <a href="High-physical">High-physical</a> day of <a href="High-physical">HAJ</a> , 2022, 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:

Notary Name: (VECICIA

Notary Public - State of Florida

Notary Public State of Florida Cecilia A Pecquet My Commission HH 073590 Expires 12/17/2024

## PALM BEACH COUNTY, FLORIDA, a Political Subdivision of the State of Florida

FOR ITS BOARD OF COUNTY COMMISSIONERS

Jonathan B. Brown, Director

Dept. of Housing & Economic Development

Approved as to Form and Legal Sufficiency

Howard By: Falcon III

gitally signed by Howard J. Falcon III
(1) E-crg, DC-pbcgov, OU=Enterprise, Dc. (5), T. OU-Users. CN-Howard J. (6), H E=HFalcon@pbcgov.org easys; yam the author of this document fallony your signing location here [18, 2022.08.06 10:21:26-04'00' vit\*PDF-Efficity version: 11, 21

Howard J. Falcon III
Chief Assistant County Attorney

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

Sherry Howard

Deputy Director



March 23, 2022

To: Joe Greco

As discussed, I would like to confirm the changes that Habitat Housing Solutions would like to request relative to the \$650,000 Loan Agreement dated June 9. 2021.

The agreement will now include four (4) properties including:

109 NW 6th St, Belle Glade 641 SW Ave D,Belle Glade 135 SW 10th Ave, South Bay 275 Begonia Drive, Pahokee

Please note that 109 NW 6th St. Belle Glade lot will be a two bedroom home while the other three lots will be four bedroom homes

We would like to push all the completion date back by 12 months specifically: Draw 50% of loan by Jan 31, 2023
Draw 100% of loan by July 31, 2023
Final Certificate of completion (CO's) by Sept 30. 2023
Borrower to have sold all 4 homes to first time homebuyers by Dec 31, 2023

Hopefully these requested changes are clear but if you have any further questions, please let me know.

Best regards,

Don Gill Chief Operating Officer Habitat Housing Solutions, Inc.

4639 Lake Worth Road, Greenacres FL 33463 Email: donaldg@hhsipbc.org

Phone/Fax: 561 420-0508

Cell: 973-879-8065

ATTACHMENT 4



Date: March 31, 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 - Heron Estates Family

Dear Mr. Brown:

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

Heron Estates Family 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:

Performance Requirements	APPROVED	REQUESTED
Complete Construction	June 30, 2022	September 30, 2022
Units rented and in service	September 30, 202	2 January 30, 2023

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

Our current construction schedule estimates construction completion of June 15, 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

HTG Heron Estates Family, LLC

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

ATTACHMENT 5



Date: March 31, 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:

Performance Requirements	APPROVED	REQUESTED
Complete Construction	June 30, 2022	September 30, 2022
Units rented and in service	September 30, 202	2 January 30, 2023

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 June 30, 2022; however, we are seeking this extension in an abundance of caution.

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

Sincerely,

Jacon Larson

HTG Banyan, LLC

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

ATTACHMENT 6