



Date: July 21, 2023
Location: Hyatt Regency Orlando International Airport

SUPPLEMENTAL CONSENT AGENDA

Multifamily Program

- A. [Request Approval of CHIRP ITP Waiver for LPA Closing Deadline for Banyan East Town Apartments \(RFA 2021-201/2022 CHIRP ITP/2022-022C/2023-194C\)](#)

MULTIFAMILY PROGRAMS

Supplemental Consent

A. Request Approval of CHIRP ITP Waiver for LPA Closing Deadline for Banyan East Town Apartments (RFA 2021-201/2022 CHIRP ITP/2022-022C/2023-194C)

Development Name: Banyan East Town Apartments	Location: Seminole County
Applicant/Borrower: BDG Banyan East Town, LLC	Set-Asides: 13% @ 30% AMI 87% @ 60% AMI
Developer/Principal: BDG Banyan East Town Developer, LLC/Scott Zimmerman	Demographic/Number of Units: Family/92
Requested Amounts: 9% HC: \$1,700,000 CHIRP 9% HC: \$500,000	Development Category/Type: New Construction/Garden

1. Background/Present Situation

- a) BDG Banyan East Town, LLC ("Applicant") applied for and was awarded funding from Request for Applications (RFA) 2021-201 for Housing Credit Financing for Affordable Housing Developments Located in Medium and Small Counties. The funds are being utilized to finance the construction of a 92-unit Family development in Seminole County. On May 5, 2022, staff issued an invitation to the Applicant to enter credit underwriting.
- b) The Applicant also applied for CHIRP funding from 2022 Construction Housing Inflation Response Program (CHIRP) Invitation to Participate (ITP). The Credit Underwriting Report was completed on December 16, 2022 and recommended \$1,700,000 in 9% Housing Credits and \$500,000 in 9% Housing Credits under the CHIRP program. Upon completion of credit underwriting, staff executed a 2022 Carryover Allocation Agreement for a total award in the amount of \$2,200,000.
- c) On April 28, 2023, the Board approved a waiver of Rule 67-48.002(96), F.A.C. and the CHIRP ITP, thereby granting an immediate exchange of credits and waiving the LPA closing deadline from April 28, 2023 to July 21, 2023. At that time, the Applicant reported that it had experienced delays to obtaining permits due to a disagreement between the City of Altamone ("City") and Seminole County regarding improvements to the roadways bordering the Development site. The parties came to an agreement in February 2023 and afterwards the Applicant completed its development plans and submitted them to the City. The Credit Exchange was requested at this time because the PIS deadline was December 31, 2024 and the investor required a projected PIS date for the Development at least three months before the PIS deadline. Based on the construction timeline, this requirement could not be met and the investor would not close on the transaction without the credit exchange, which would extend the PIS deadline to December 31, 2025. In order to facilitate the closing of the transaction, staff made a recommendation to approve the Applicant's request.
- d) On July 5, 2023, Florida Housing received a letter from the Applicant requesting another waiver of the CHIRP ITP deadline to close on the Limited Partnership Agreement ("LPA") from July 21, 2023, to September 8, 2023. The request letter is provided as [Exhibit A](#).
- e) The Applicant reports that it continues to have delays in obtaining permits. On June 28, 2023, the City conducted its third review of the final site plan; however, the public works department has identified additional revisions that need to be

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made before granting its approval. The Applicant modified and submitted the building plans to address the requested revisions and based on information received on a call with the Applicant on Monday, July 17th, it had received its permits from the City and was waiting on the County right-of-way permit. In an abundance of caution, the Applicant wanted to make a request to the Board to waive the LPA deadline as it was unsure if it would have the permit by July 21st.

- f) Additionally, the General Contractor that was underwritten on this transaction recused itself from this project and a replacement General Contractor has been hired. As part of this recommendation, staff requests that the Underwriter assigned to this transaction, in conjunction with a Construction Consultant analyze the replacement General Contractor and construction contract and any other material changes to the Development as a condition of this approval.
- g) Per the CHIRP ITP, Applicants must close on the limited partnership agreement and, if applicable, Corporation funding and construction funding by the earlier of the existing closing deadlines for the Active Award (excluding Rule extension requests that require Board approval) or January 31, 2023. On August 5, 2022, the Board approved a Modification of the ITP, whereby the LPA closing deadline would be January 31, 2023; the "earlier of the existing closing deadline" would not be enforced. On January 27, 2023, the Board approved a Modification of the ITP, whereby the deadline for closing the LPA was extended to March 10, 2023. On March 10, 2023, the Board approved a Modification of the ITP, whereby the deadline for closing the LPA was extended to April 28, 2023. As noted above, the board subsequently approved a waiver of the CHIRP ITP thereby waiving the LPA closing deadline from April 28, 2023 to July 21, 2023.
- h) Staff has reviewed this request and finds that the development meets all applicable requirements of the RFA/ITP. Due to the fact that the Development appears to be ready to close upon receipt of permits, staff is making a positive recommendation for this request.

2. Recommendation:

- a) Approve a waiver of the CHIRP ITP to waive the LPA closing deadline of July 21, 2023, to September 8, 2023 with the following conditions:
 - (1) Further waivers of the CHIRP ITP be presented as an Action Item.
 - (2) The replacement General Contractor, construction contract, and any other material change must be analyzed by the Credit Underwriter in conjunction with the Construction Consultant and a satisfactory recommendation must be provided by the Credit Underwriter.

BDG BANYAN EAST TOWN, LLC

501 N Magnolia Ave, Orlando, Florida 32801

(407) 447-1780 Ext. 2001

July 3, 2023

Ms. Melissa Levy
Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301

Re: Banyan East Town Apartments (2022-022C) – Request for Extension of Deadline for Closing of Limited Partnership Agreement

Dear Ms. Levy:

As you know, BDG Banyan East Town, LLC (the “Applicant”) filed its application for CHIRP funds on July 5, 2022. On December 16, 2022, the credit underwriting report was finalized. Per the ITP, the deadline for closing the Limited Partnership Agreement or Limited Liability Operating Agreements (LPA) was January 31, 2023 (hereinafter, the “LPA Closing Deadline”). At the January 27, 2023 Board Meeting, the Board approved an extension of the LPA Closing Deadline to March 10, 2023. At the March 10, 2023 Board Meeting, the Board again approved an extension of the LPA Closing Deadline until April 28, 2023 and at the meeting it was noted that the April 28th deadline is the last global extension and any further extension requests would be reviewed on a case-by-case basis. The Board subsequently approved an extension of the LPA Closing Deadline for the Development to July 21, 2023. At this time, the Development is seeking an extension of the LPA Closing Deadline to September 8, 2023.

The Development timeline has been severely impacted by permitting delays. Plan development and local government plan review began prior to the invitation to enter credit underwriting almost a year ago and the pursuit of permits needed to close the LPA has been continuous and ongoing, as described in further detail in the Development’s prior petition to extend the deadline further to July 21, 2023, as approved by the Board on April 28, 2023.

At this time, the Development has not yet obtained the necessary permits, but it is expected to have them before the Board Meeting on September 8, 2023. On June 28, 2023, the City of Altamonte (the “City”) conducted their third review of the final site plan. However, the public works department has identified some additional revisions that need to be made before granting their approval. At present, the building plans have been appropriately modified in accordance with the feedback received from the City. It is expected that these revised plans will obtain approval within the forthcoming week, provided no additional comments are received. Nevertheless, the investor limited partner is unable to proceed with the finalization until the building permit has been granted.


We anticipate we will be unable to close on the limited partnership agreement by July 21, 2023 and therefore, we are seeking an extension of the LPA Closing Deadline until **September 8, 2023**.

Should you wish to discuss this matter further, please contact Scott Zimmerman at (407) 447-1780 Ext. 2001, or via email at szimmerman@agpmanager.com.

Sincerely,

BDG Banyan East Town, LLC, a Florida limited liability company

By: _____



Scott Zimmerman
Manager