

This instrument was prepared by:

- SPACE ABOVE THIS LINE RESERVED FOR RECORDER -

**ORANGE COUNTY HOUSING FINANCE AUTHORITY
DOWN PAYMENT ASSISTANCE SUBORDINATE LOAN PROGRAM**

This **SECOND MORTGAGE** (this, "Mortgage") is made this _____ day of _____, 20____, between the Mortgagor, _____ (herein the "Borrower") and the Mortgagee, the Orange County Housing Finance Authority, a public body and corporate and politic created under the laws of the State of Florida, whose address is 2211 East Hillcrest Street, Orlando, Florida 32803 (herein the "Lender").

WHEREAS, the Borrower has applied to the Lender for a loan under the Lender's Single Family Mortgage Revenue Bond Program for the purchase of the Property (as defined herein), which Mortgage Loan shall be secured by a first mortgage lien (the "First Mortgage") in favor of Lender. The Borrower has also applied to Lender for an Orange County Housing Finance Authority Down Payment Assistance Subordinate Loan (the "Loan"). The Borrower, along with his/her/their family, intends to reside as a household in the Property (as defined herein), which Property is a single-family residence, the Borrower is eligible to participate in Lender's Mortgage Revenue Bond Program, and the Lender has agreed to extend and has extended a Loan to the Borrower pursuant to said property; and

WHEREAS, the Borrower is indebted to Lender in the principal sum of _____ (\$_____) which indebtedness is evidenced by the borrower's Promissory Note dated _____, 20____, and extensions and renewals dated thereof (herein "Note"), providing for payment of principal indebtedness;

TO SECURE to the Lender the repayment of the indebtedness evidenced by the Note; the payment of all other sums, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of the Borrower herein contained, the Borrower does hereby mortgage, grant and convey to Lender the property described on the attached Exhibit A located in the County of _____, State of Florida:

THIS MORTGAGE IS EXEMPT FROM FLORIDA DOCUMENTARY STAMP TAX UNDER 201.08, F.S. AND FLORIDA NONRECURRING INTANGIBLE TAX UNDER 199, F.S. PER 159.621 FLORIDA STATUTES.

which has the address of _____
(Street) (City)
Florida _____ (herein the "Property Address");
(Zip Code)

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property."

BORROWER COVENANTS, represents and warrants to the Lender and its successors and assigns that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the Property is unencumbered, except for the mortgage lien of the First Mortgage in favor of Lender, and for other encumbrances of record.

Borrower covenants, represents and warrants to the Lender and its successors and assigns that Borrower will defend generally the title to the Property against all claims and demands, subject to the mortgage lien of the First Mortgage and other encumbrances of record.

BORROWER FURTHER COVENANTS and agrees with the Lender as follows:

1. **Payment.** The Borrower shall promptly pay when due the indebtedness evidenced by this Note.

2. **Prior Mortgages and Deeds of Trust; Charges; Liens.** The Borrower shall perform all of the Borrower's obligations under the First Mortgage and any other mortgage, or other security agreement with a lien which has priority over this Mortgage, including the Borrower's covenants to make payments when due. The Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.

3. **Hazard Insurance.** The Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and such other hazards as the Lender may require and in such amounts and for such periods as the Lender may require.

The insurance carrier providing the insurance shall be chosen by the Borrower subject to approval by the Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to the Lender and shall include a standard mortgage clause in favor of, and in a form acceptable to the Lender. The Lender shall have the right to hold the policies and renewals thereof, subject to the terms of the First Mortgage and any other mortgage, or other security agreement with a lien which has priority over this Mortgage.

In the event of loss, the Borrower shall give prompt notice to the insurance carrier and to the Lender. The Lender may make proof of loss if not made promptly by the Borrower.

If the Property is abandoned by the Borrower, or if the Borrower fails to respond to the Lender within thirty (30) days from the date notice is mailed by the Lender to the Borrower that the insurance carrier offers to settle a claim for insurance benefits, the Lender is authorized to collect and apply the insurance proceeds at the Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

4. Preservation and Maintenance of Property; Leaseholds; Condominiums, Planned Unit Developments. The Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, the Borrower shall perform all of the Borrower's obligations under the declaration or covenants creating or governing such condominium or planned unit development, and constituent documents.

5. Protection of Lenders Security. If the Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects the Lender's interest in the Property, then the Lender, at the Lender's option upon notice to the Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect the Lender's interest in the Property. If the Lender required mortgage insurance as a condition of making the Loan secured by this Mortgage, the Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with the Borrower's and the Lender's written agreement or applicable law.

Any amounts disbursed by the Lender pursuant to this Paragraph 5, with interest thereon, at the rate of four percent (4%) per annum, shall become additional indebtedness of the Borrower secured by this Mortgage. Unless the Borrower and the Lender agree to other terms of payment, such amounts shall be payable upon notice from the Lender to the Borrower requesting payment thereof. Nothing contained in this Paragraph 5 shall require the Lender to incur any expense or take any action hereunder.

6. Inspection. The Lender may make or cause to be made reasonable entries upon and inspections of the Property; provided that the Lender shall give the Borrower notice prior to any such inspection specifying reasonable cause therefor related to the Lender's interest in the Property.

7. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to the Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

8. Borrower Not Released; Forbearance by Lender Not a Waiver. Extension of the time for payment or modification of the sums secured by this Mortgage granted by the Lender to any successor in interest of the Borrower shall not operate to release, in any manner, the liability of the original Borrower and the Borrower's successors in interest. The Lender shall not be required to commence proceedings against such successor or refuse to extend time for

repayment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and the Borrower's successors in interest. Any forbearance by the Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

9. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the Lender and the Borrower, subject to the provisions of Paragraph 14 hereof. If more than one Borrower executes this Mortgage, all covenants, representations, warranties and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note; (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the property to the Lender under the terms of this Mortgage, (b) is not personally liable on the Note or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

10. Notice. Except for any notice required under applicable law to be given in another manner: (a) any notice to the Borrower provided for in this Mortgage shall be given by delivering it or by mailing such notice by certified or registered mail, postage prepaid, addressed to the Borrower at the Property Address or at such other address as the Borrower may designate by notice to the Lender as provided herein, and (b) any notice to the Lender shall be given by certified mail, postage prepaid, to the Lender's address stated on page 1 hereof with a copy to Warren S. Bloom, General Counsel, Greenberg Traurig, P.A., 450 South Orange Ave., Suite 650, Orlando, Florida 32801, or to such other address as the Lender may designate by notice to the Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to the Borrower or the Lender when given in the manner designated herein.

11. Governing Law; Severability; Costs. This Mortgage shall be governed by the laws of the state of Florida, and, to the extent applicable hereto, the laws and regulations of the United States of America. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs," "expenses," and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

12. Borrower's Copy. Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation thereof.

13. Rehabilitation Loan Agreement. Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair other loan agreement which Borrower enters into with the Lender, the Lender, at the Lender's option, may require Borrower to execute and deliver to the Lender, in a form acceptable to the Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

14. Transfer of the Property. If all or any part of the Property or any interest in it is sold, transferred, gifted or otherwise conveyed, whether by voluntary act, involuntarily, by operation of law or otherwise, or if the Borrower is divested of title by judicial sale, levy or other proceeding, or if foreclosure action is instituted against the Property, or if the First Mortgage is satisfied or refinanced, or if the Property is leased or rented, all sums secured by this Mortgage shall immediately become due and payable as provided herein.

Lender or Servicer on behalf of the Lender shall give Borrower notice of any acceleration. The acceleration notice shall provide a period of not less than thirty (30) days from the date the notice is given in accordance with Paragraph 10 hereof within which the Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, the Lender may invoke any remedies permitted by this Mortgage without further notice or demand on the Borrower.

15. Acceleration; Remedies. Except as provided in Paragraph 14 hereof, upon the Borrower's breach of any covenant or agreement of the Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, or in the event that the Borrower shall have made material misrepresentations or materials omissions in his/her/their application for a Down Payment Assistance Subordinate Loan, the Lender, at the Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding, prior to acceleration of this Mortgage, the Lender shall give notice to the Borrower as provided in Paragraph 10 hereof specifying (1) the breach (if the breach is curable); (2) the action required to cure such breach; (3) a date, not less than ten (10) days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding, and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and, the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees, court costs, and costs of documentary evidence, abstracts and title reports.

16. Borrower's Right to Reinstate. Notwithstanding the Lender's acceleration of the sums secured by this Mortgage due to the Borrower's breach, the Borrower shall have the right to have any proceedings begun by the Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) the Borrower pays the Lender all sums which would be then due under this Mortgage and the Note had no acceleration occurred; (b) the Borrower cures all breaches of any other covenants or agreements of the Borrower contained in this Mortgage; (c) the Borrower pays all reasonable expenses incurred by the Lender in enforcing the covenants and agreements of the Borrower contained in this Mortgage, and in enforcing the Lender's remedies as provided in Paragraph 15 hereof, including, but not limited to, reasonable attorneys' fees and court costs; and (d) the Borrower takes such action as the Lender may reasonably require to assure that the lien of this Mortgage, the Lender's interest in the Property and the Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by the Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

17. Assignment of Revenues; Appointment of Receiver. As additional security hereunder, the Borrower hereby assigns to the Lender the rents of the Property, provided that the Borrower shall, prior to acceleration under Paragraph 15 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under Paragraph 15 hereof or abandonment of the Property, the Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

18. Release. Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage. Borrower shall pay all costs of preparation or recordation of the satisfaction, if any.

19. Attorneys' Fees. As used in this Mortgage and in the Note, "attorneys' fees" shall include attorneys' fees, if any, incurred in connection with the collection or enforcement of this Mortgage or of the Note, whether or not suit is brought and whether incurred at trial, on appeal, in bankruptcy proceedings or otherwise.

20. Special Down Payment Assistance Subordinate Loan Covenants, Warranties and Representations. The Borrower covenants, represents and warrants to the Lender that: (a) the Borrower, along with his/her/their family, intends to reside as a household in the Property; (b) the Property is a single-family residence; and (c) the Borrower is eligible to and does participate in the Lender's Single Family Mortgage Revenue Bond Program.

21. Subordination. Lender and Borrower acknowledge and agree that this Mortgage is subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage and to all advances heretofore made or which may hereafter be made pursuant to the First Mortgage including all sums advanced for the purpose of (a) protecting or further securing the lien of the First Mortgage, curing defaults by the Borrower under the First Mortgage, or for any other purpose expressly permitted by the First Mortgage or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Property. The terms and provisions of the First Mortgage are paramount and controlling, and they supersede any other terms and provisions hereof in conflict therewith.

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IN WITNESS WHEREOF, the Borrower has executed this Mortgage.

NOTICE TO BORROWER

**DO NOT SIGN THIS MORTGAGE IF IT CONTAINS BLANK SPACES,
ALL SPACES SHOULD BE COMPLETED BEFORE YOU SIGN.**

Signed, sealed and delivered in the presence of:

Witnesses:

Name: _____
Address: _____

Borrower

Name: _____
Address: _____

Name: _____
Address: _____

Borrower

Name: _____
Address: _____

STATE OF FLORIDA
COUNTY OF _____

I hereby certify that on this day, before me, an officer duly authorized in the state of aforesaid and in the county of aforesaid to take acknowledgment, personally appeared _____ who is personally known to me/presented Florida Drivers' License No. _____ as identification and who did (not) take an oath.

Printed Name Notary Public

STATE OF FLORIDA
COUNTY OF _____

I hereby certify that on this day, before me, an officer duly authorized in the state of aforesaid and in the county of aforesaid to take acknowledgment, personally appeared _____ who is personally known to me/presented Florida Drivers' License No. _____ as identification and who did (not) take an oath.

Printed Name Notary Public