

RESOLUTION 2016-100

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVING REVISIONS TO THE HOUSING AND COMMUNITY DEVELOPMENT LIEN SUBORDINATION AGREEMENTS; PROVIDING CONDITIONS UNDER WHICH THE COUNTY ADMINISTRATOR MAY EXECUTE THE LIEN SUBORDINATION AGREEMENTS; REPLACING ST. JOHNS COUNTY RESOLUTIONS 2003-157, 1998-215, AND 1998-112; PROVIDING FOR CORRECTION OF TYPOGRAPHICAL ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, St. Johns County, Florida, has been eligible to receive funding under the State Housing Initiative Partnership (SHIP) Program since inception in 1992 and administer other state and federal housing programs; and

WHEREAS, the St. Johns County SHIP and Housing programs provide homeownership and housing rehabilitation services to County residents; and

WHEREAS, funds are provided to the benefit of eligible homeowners as a deferred forgivable loan to secure public interest; and

WHEREAS, from time to time, the County receives subordination requests from homeowners who have loans through the SHIP program; and

WHEREAS, the Board of County Commissioners has previously approved a subordination form via Resolution 2003-157 and has authorized the County Administrator to execute subordinations under certain conditions; and

WHEREAS, as a result of changes to the TILA-RESPA Disclosure Rule that took effect on October 3, 2015, lenders are no longer required to use Good Faith Estimates or the HUD-1 form, both of which are currently required to be submitted to the County as a condition of subordination; and

WHEREAS, the County's subordination agreements have been revised to reflect the changes to the TILA-RESPA Disclosure Rule.

NOW THEREFORE, be it resolved by the Board of County Commissioners of St. Johns County:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the mortgage lien subordination agreements attached hereto and authorizes the County Administrator to execute agreements substantially in the form of the attached agreements upon the recommendation of the Housing and Community Development Division, provided that the following conditions are met:

- a. Subordination may only occur once for any particular loan;
- b. Except as provided below, the purpose of the subordination is not to facilitate consolidation or payment of other debts;
- c. There is a benefit to the borrower as a result of the lien subordination, including, but not limited to, one of the following:
 - i. The monthly payment (PITI) and the interest rate of the new mortgage are lower than the PITI and interest rate of the existing mortgage on the property;
 - ii. There is a beneficial reduction in the term of the existing mortgage on the property without a significant increase in monthly payment;
 - iii. The borrower's new mortgage will be a fixed rate loan with a duration of no more than 30 years; or
 - iv. Subordination is necessary in order to prevent foreclosure of the property.
- d. There shall be no cash or check returned to the borrower at closing; and
- e. A Loan Estimate and Closing Disclosure issued pursuant to the Rule shall be provided to the County. If the Loan Estimate or Closing Disclosure is not required under the Rule documents containing substantially the same information as the applicable form may be substituted.

Section 3. This resolution supersedes and replaces any previous resolution inconsistent with the provisions of this resolution, including St. Johns County Resolutions 2003-157, 1998-215, and 1998-112.

Section 4. To the extent that there are typographical errors that do not change the tone, tenor, or concept of this Resolution, this Resolution may be revised without subsequent approval by the Board of County Commissioners.

Section 5. This resolution shall be effective upon its adoption by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 5th day of April, 2016.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

BY: _____

Jeb S. Smith, Chair

ATTEST: Hunter S. Conrad, Clerk

BY: _____

Deputy Clerk

RENDITION DATE 4/7/16



Mail to: St. Johns County
Housing and Community Development
200 San Sebastian View, Suite 2300
St. Augustine, FL 32084

**ST. JOHNS COUNTY, FLORIDA
HOMEOWNERSHIP ASSISTANCE PROGRAM (HAP)**

SUBORDINATION AGREEMENT

This subordination agreement is made by St. Johns County, a political subdivision of the state of Florida, on this _____ day of _____, _____, as follows:

1. The undersigned warrants that St. Johns County is the owner and holder of a note (the HAP note) and mortgage (the HAP mortgage) dated the _____ day of _____, _____. The HAP mortgage is recorded in official records book _____, page _____, of the public records of St. Johns County, State of Florida, and encumbers the property described as follows (the Property):
(Enter legal property description below or attach as Schedule A.)

2. The HAP mortgage was executed by _____
_____ (the Borrower) to the undersigned.

3. The HAP mortgage and HAP note have not been assigned, transferred or pledged by the undersigned which has full authority to execute this subordination agreement.

4. The undersigned acknowledges that the Borrower has executed a mortgage in favor of _____, a(n) _____ corporation (the Lender), dated the _____ day of _____, _____ securing a note in the amount of \$ _____, encumbering the Property. The undersigned recognizes that the Lender will not close on its mortgage loan and disburse the proceeds thereof unless the HAP mortgage is subordinated in priority to the Lender's mortgage.

5. To induce the Lender to disburse the proceeds of its mortgage loan, the undersigned hereby subordinates and makes inferior in lien and dignity the HAP mortgage and HAP note to the Lender's mortgage. The lien, security interest, and all of the terms and conditions of the HAP mortgage and HAP note, and any and all assignments, amendments, extensions, consolidations, or renewals of the HAP mortgage and HAP note, as well as all future advances thereunder, are likewise subordinated.

6. This Subordination Agreement shall inure to the benefit the Borrower and the Borrower's successors and assigns, and shall be binding upon the undersigned and the undersigned's successors and assigns.

7. As an inducement to St. Johns County to subordinate the HAP mortgage to the Lender's

mortgage, the Borrower offers the following assurances:

a. This is the first and only lien subordination requested by the Borrower on the real property described herein.

b. Except as provided below, the purpose of the subordination is not to facilitate consolidation or payment of other debts.

c. There is a benefit to Borrower as a result of the lien subordination, including, but not limited to one of the following:

1. The monthly payment (PITI) and the interest rate of the Lender's mortgage are lower than the PITI and interest rate of the existing mortgage on the Property;
2. There is a beneficial reduction in the term of the existing mortgage on the Property without a significant increase in monthly payment;
3. The Lender's mortgage will be a fixed rate loan with a duration of no more than 30 years; or
4. It is necessary for the Borrower to execute the Lender's mortgage in order to prevent foreclosure of the Property.

d. There shall be no cash or check returned to the Borrower at closing.

e. A Loan Estimate issued pursuant to the TILA-RESPA Integrated Disclosure Rule (the Rule) shall be provided to the County before or with the completed Subordination Agreement. If a Loan Estimate is not required under the Rule, a document providing substantially the same information as the Loan Estimate shall be provided to the County.

f. A Closing Disclosure issued pursuant to the Rule shall be faxed for final review to the County by the title company before closing. If a Closing Disclosure is not required under the Rule, a document providing substantially the same information as the Closing Disclosure shall be provided to the County.

8. This Subordination Agreement shall be governed by the laws of the State of Florida. Venue for any cause of action arising under this subordination agreement shall lie exclusively in St. Johns County or, in the case of a federal action, the Middle District of Florida, Jacksonville Division.

(Lender)

STATE OF _____
COUNTY OF _____

By: _____
(signature of officer or agent)

Its: _____
(title or position)

The foregoing instrument was acknowledged before me this

_____ by _____
(date) (name of officer or agent)

_____ of _____
(title) (name of corporation acknowledging)

a _____ corporation, on behalf of the corporation. He/she is
(state or place of incorporation)

personally known to me or has produced _____
(type of identification)

as identification.

(signature of person taking acknowledgment)

(name typed, printed or stamped)

(title or rank)

(serial number, if any)

STATE OF FLORIDA
COUNTY OF ST. JOHNS COUNTY

By:
County Administrator of St. Johns County
Post Office Drawer 349
St. Augustine, Florida 32085

The foregoing instrument was acknowledged before me this _____
(date)

by _____, County Administrator, who
is personally known to me or has provided _____ as
identification.

(type of identification)

(signature of person taking acknowledgment)

(name typed, printed or stamped)

(title or rank)

(serial number, if any)

Mail to: St. Johns County
Housing and Community Development
200 San Sebastian View, Suite 2300
St. Augustine, FL 32084

**ST. JOHNS COUNTY STATE HOUSING INITIATIVES PARTNERSHIP (SHIP)
HOME BUYER DOWN PAYMENT ASSISTANCE PROGRAM**

SUBORDINATION AGREEMENT

This subordination agreement is made by St. Johns County, a political subdivision of the state of Florida, on this _____ day of _____, _____, as follows:

1. The undersigned warrants that St. Johns County is the owner and holder of a note (the SHIP note) and mortgage (the SHIP mortgage) dated the _____ day of _____, _____. The SHIP mortgage is recorded in official records book _____, page _____, of the public records of St. Johns County, State of Florida, and encumbers the property described as follows (the Property):
(Enter legal property description below or attach as Schedule A.)

2. The SHIP mortgage was executed by _____
_____ (the Borrower) to the undersigned.

3. The SHIP mortgage and SHIP note have not been assigned, transferred or pledged by the undersigned which has full authority to execute this subordination agreement.

4. The undersigned acknowledges that the Borrower has executed a mortgage in favor of _____, a(n) _____ corporation (the Lender), dated the _____ day of _____, _____ securing a note in the amount of \$ _____, encumbering the Property. The undersigned recognizes that the Lender will not close on its mortgage loan and disburse the proceeds thereof unless the SHIP mortgage is subordinated in priority to the Lender's mortgage.

5. To induce the Lender to disburse the proceeds of its mortgage loan, the undersigned hereby subordinates and makes inferior in lien and dignity the SHIP mortgage and SHIP note to the Lender's mortgage. The lien, security interest, and all of the terms and conditions of the SHIP mortgage and SHIP note, and any and all assignments, amendments, extensions, consolidations, or renewals of the SHIP mortgage and SHIP note, as well as all future advances thereunder, are likewise subordinated.

6. This Subordination Agreement shall inure to the benefit the Borrower and the Borrower's successors and assigns, and shall be binding upon the undersigned and the undersigned's successors and assigns.

7. As an inducement to St. Johns County to subordinate the SHIP mortgage to the Lender's

mortgage, the Borrower offers the following assurances:

a. This is the first and only lien subordination requested by the Borrower on the real property described herein.

b. Except as provided below, the purpose of the subordination is not to facilitate consolidation or payment of other debts.

c. There is a benefit to Borrower as a result of the lien subordination, including, but not limited to one of the following:

1. The monthly payment (PITI) and the interest rate of the Lender's mortgage are lower than the PITI and interest rate of the existing mortgage on the Property;
2. There is a beneficial reduction in the term of the existing mortgage on the Property without a significant increase in monthly payment;
3. The Lender's mortgage will be a fixed rate loan with a duration of no more than 30 years; or
4. It is necessary for the Borrower to execute the Lender's mortgage in order to prevent foreclosure of the Property.

d. There shall be no cash or check returned to the Borrower at closing.

e. A Loan Estimate issued pursuant to the TILA-RESPA Integrated Disclosure Rule (the Rule) shall be provided to the County before or with the completed Subordination Agreement. If a Loan Estimate is not required under the Rule, a document providing substantially the same information as the Loan Estimate shall be provided to the County.

f. A Closing Disclosure issued pursuant to the Rule shall be faxed for final review to the County by the title company before closing. If a Closing Disclosure is not required under the Rule, a document providing substantially the same information as the Closing Disclosure shall be provided to the County.

8. This Subordination Agreement shall be governed by the laws of the State of Florida. Venue for any cause of action arising under this subordination agreement shall lie exclusively in St. Johns County or, in the case of a federal action, the Middle District of Florida, Jacksonville Division.

(Lender)

STATE OF _____
COUNTY OF _____

By: _____
(signature of officer or agent)

Its: _____
(title or position)

The foregoing instrument was acknowledged before me this

_____ by _____
(date) (name of officer or agent)

_____ of _____
(title) (name of corporation acknowledging)

a _____ corporation, on behalf of the corporation. He/she is
(state or place of incorporation)

personally known to me or has produced _____
(type of identification)

as identification.

(signature of person taking acknowledgment)

(name typed, printed or stamped)

(title or rank)

(serial number, if any)

STATE OF FLORIDA
COUNTY OF ST. JOHNS COUNTY

By:
County Administrator of St. Johns County
Post Office Drawer 349
St. Augustine, Florida 32085

The foregoing instrument was acknowledged before me this _____
(date)

by _____, County Administrator, who
is personally known to me or has provided _____ as
identification.

(type of identification)

(signature of person taking acknowledgment)

(name typed, printed or stamped)

(title or rank)

(serial number, if any)

Mail to: St. Johns County
Housing and Community Development
200 San Sebastian View, Suite 2300
St. Augustine, FL 32084

**ST. JOHNS COUNTY, FLORIDA
AFFORDABLE HOUSING ECONOMIC INCENTIVE PROGRAM (AHEI)**

SUBORDINATION AGREEMENT

This subordination agreement is made by St. Johns County, a political subdivision of the state of Florida, on this _____ day of _____, _____, as follows:

1. The undersigned warrants that St. Johns County is the owner and holder of a note (the AHEI note) and mortgage (the AHEI mortgage) dated the _____ day of _____, _____. The AHEI mortgage is recorded in official records book _____, page _____, of the public records of St. Johns County, State of Florida, and encumbers the property described as follows (the Property):
(Enter legal property description below or attach as Schedule A.)

2. The AHEI mortgage was executed by _____
_____ (the Borrower) to the undersigned.

3. The AHEI mortgage and AHEI note have not been assigned, transferred or pledged by the undersigned which has full authority to execute this subordination agreement.

4. The undersigned acknowledges that the Borrower has executed a mortgage in favor of _____, a(n) _____ corporation (the Lender), dated the _____ day of _____, _____ securing a note in the amount of \$ _____, encumbering the Property. The undersigned recognizes that the Lender will not close on its mortgage loan and disburse the proceeds thereof unless the AHEI mortgage is subordinated in priority to the Lender's mortgage.

5. To induce the Lender to disburse the proceeds of its mortgage loan, the undersigned hereby subordinates and makes inferior in lien and dignity the AHEI mortgage and AHEI note to the Lender's mortgage. The lien, security interest, and all of the terms and conditions of the AHEI mortgage and AHEI note, and any and all assignments, amendments, extensions, consolidations, or renewals of the AHEI mortgage and AHEI note, as well as all future advances thereunder, are likewise subordinated.

6. This Subordination Agreement shall inure to the benefit the Borrower and the Borrower's successors and assigns, and shall be binding upon the undersigned and the undersigned's successors and assigns.

7. As an inducement to St. Johns County to subordinate the AHEI mortgage to the Lender's

mortgage, the Borrower offers the following assurances:

a. This is the first and only lien subordination requested by the Borrower on the real property described herein.

b. Except as provided below, the purpose of the subordination is not to facilitate consolidation or payment of other debts.

c. There is a benefit to Borrower as a result of the lien subordination, including, but not limited to one of the following:

1. The monthly payment (PITI) and the interest rate of the Lender's mortgage are lower than the PITI and interest rate of the existing mortgage on the Property;
2. There is a beneficial reduction in the term of the existing mortgage on the Property without a significant increase in monthly payment;
3. The Lender's mortgage will be a fixed rate loan with a duration of no more than 30 years; or
4. It is necessary for the Borrower to execute the Lender's mortgage in order to prevent foreclosure of the Property.

d. There shall be no cash or check returned to the Borrower at closing.

e. A Loan Estimate issued pursuant to the TILA-RESPA Integrated Disclosure Rule (the Rule) shall be provided to the County before or with the completed Subordination Agreement. If a Loan Estimate is not required under the Rule, a document providing substantially the same information as the Loan Estimate shall be provided to the County.

f. A Closing Disclosure issued pursuant to the Rule shall be faxed for final review to the County by the title company before closing. If a Closing Disclosure is not required under the Rule, a document providing substantially the same information as the Closing Disclosure shall be provided to the County.

8. This Subordination Agreement shall be governed by the laws of the State of Florida. Venue for any cause of action arising under this subordination agreement shall lie exclusively in St. Johns County or, in the case of a federal action, the Middle District of Florida, Jacksonville Division.

(Lender)

STATE OF _____
COUNTY OF _____

By: _____
(signature of officer or agent)

Its: _____
(title or position)

The foregoing instrument was acknowledged before me this

_____ by _____
(date) (name of officer or agent)

_____ of _____
(title) (name of corporation acknowledging)

a _____ corporation, on behalf of the corporation. He/she is
(state or place of incorporation)

personally known to me or has produced _____
(type of identification)

as identification.

(signature of person taking acknowledgment)

(name typed, printed or stamped)

(title or rank)

(serial number, if any)

STATE OF FLORIDA
COUNTY OF ST. JOHNS COUNTY

By:
County Administrator of St. Johns County
Post Office Drawer 349
St. Augustine, Florida 32085

The foregoing instrument was acknowledged before me this _____
(date)

by _____, County Administrator, who
is personally known to me or has provided _____ as
identification.

(type of identification)

(signature of person taking acknowledgment)

(name typed, printed or stamped)

(title or rank)

(serial number, if any)