

LEGISLATIVE #
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RECORDED IN OFFICIAL RECORDS
INSTRUMENT # 2301040 7 PGS
2006 DEC 22 11:59 AM BK 3519 PG 104
J. K. "BUDDY" IRBY
CLERK OF CIRCUIT COURT
ALACHUA COUNTY, FLORIDA
CLERK10 Receipt#312336
Doc Stamp-Mort: 87.50
Intang. Tax: 50.00

Rec \$ 61.00
Doc Stamps 87.50
Int. Tax 50.00
Total \$198.50

PREPARED BY/RETURN TO:

John H. Haswell, Esquire
Chandler, Lang, Haswell & Cole, P.A.
Post Office Box 23879
Gainesville, Florida 32602



SUBORDINATE MORTGAGE

THIS SUBORDINATE MORTGAGE ("Mortgage") is made this 22nd day of December, 2006. The mortgagor is **W. THOMAS HAWKINS, JR.**, a single man, whose address is Post Office Box 13051, Gainesville, Florida 32602 ("Borrower"). This Mortgage is given to **GAINESVILLE COMMUNITY REDEVELOPMENT AGENCY**, a public body both corporate and politic, organized and existing under the laws of the State of Florida, and whose address is Post Office Box 490, MS 48, Gainesville, Florida 32602-0490 ("Lender"). Borrower owes Lender the total principal sum of TWENTY-FIVE THOUSAND DOLLARS (U.S. \$25,000.00). This debt is evidenced by Borrower's Note(s) dated the same date as this Mortgage ("Note" or "Note(s)"), which provides for a *deferral of payments* if the Borrower complies with the terms of the Note(s) and this Mortgage. The Note(s) provide(s) that the full debt, if not paid earlier, shall be due and payable on the occurrence of certain "Payment Due Events", the "maturity date" of the Note(s).

Borrower has also obtained a mortgage loan from ABN AMRO Mortgage Group, Inc. (the "First Lender"), which loan is secured by a first mortgage lien on the property (the "First Mortgage"). The documents evidencing or securing the First Mortgage are collectively referred to herein as the First Mortgage Loan Documents.

This Mortgage secures to Lender: (a) the repayment of the debt evidenced by the Note(s), with interest as provided in the Note(s), and all renewals, extensions and modifications of the Note(s); (b) the payment of all other sums, with interest as provided in the Note(s), advanced under paragraph 8 to protect the security of this Mortgage; and (c) the performance of Borrower's covenants and agreements under this Mortgage and the Note(s). For this purpose, Borrower irrevocably mortgages, grants and conveys to Lender and Lender's successors and assigns, subject to the rights of the First Lender under the First Mortgage, the property located in Alachua County, Florida, which has the address of 408 NW 4th Avenue, Gainesville, Florida, and is further described in Exhibit "A" attached hereto ("Property Address");

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever, all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Mortgage. All of the foregoing is referred to in this Mortgage as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and, except for the First Mortgage and other encumbrances of record acceptable to the First Lender, the Property is unencumbered. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

THIS MORTGAGE combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform Mortgage covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest; Prepayment and Late Charges. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note(s) and any late charges due under the Note(s).

2. Funds for Taxes and Insurance. Intentionally omitted.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender hereunder shall be applied: first, to interest due; second, to principal due.

4. Prior Mortgages; Charges; Liens. The Borrower shall perform all of the Borrower's obligations under the First Mortgage including Borrower's covenants to make payments when due. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Mortgage, Borrower shall pay these obligations on time directly to the person owed payment. Borrower

shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Except for the lien of the First Mortgage, Borrower shall promptly discharge any other lien which shall have attained priority over this Mortgage unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Mortgage. Except for the lien of the First Mortgage, if Lender determines that any part of the Property is subject to a lien which may attain priority over this Mortgage, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy such lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. 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.

6. Hazard or Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards including within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 8.

All insurance policies and renewals shall be subject to Lender's approval and shall include a standard mortgagee clause. All requirements hereof pertaining to insurance shall be deemed satisfied if the Borrower complies with the insurance requirements under the First Mortgage; provided, however, that Lender is named as a loss payee as its interest may appear and is named as an additional insured. If Lender requires, Borrower shall promptly give to Lender copies of all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier, the First Lender and Lender. Lender may make proof of loss if not made promptly by the First Lender or the Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of any payment due hereunder or change the amount of the payments. If under paragraph 23 the property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

7. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Mortgage. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Mortgage or Lender's security interest. Borrower may cure such a default by causing the action or proceeding to be dismissed within 30 days of the commencement of such a proceeding. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note(s), including but not limited to, representations concerning (i) Borrower's occupancy of the Property as a principal residence and (ii) Borrower's income. For purposes of this Mortgage, the term "principal residence" shall mean the home or place in which one's habitation is fixed and to which one, whenever he or she is absent, has a present intention of returning after a departure or absence there from, regardless of the duration of the absence. In determining what is a principal residence, the Lender shall take the following circumstances relating to the owner of the residence into account: business pursuits, employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse and children, if any, location of personal and real property, and motor vehicle registration.

The Borrower acknowledges that this Property is subject to certain use, occupancy, and due on sale restrictions (as provided in the Note) the violation of which may, if not prohibited by federal law, entitle the Lender to the remedies provided in Section 23 hereof.

8. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Mortgage (including sums secured by the First Mortgage), appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 8, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 8 shall become additional debt of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note(s) rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

Prior to taking any actions under this Section 8, however, Lender shall notify the First Lender of such default, in the manner provided in Section 23 of this Mortgage, and shall provide the First Lender with the opportunity to cure any such default under this Mortgage. All amounts advanced by the First Lender to cure a default hereunder shall be deemed advanced by the First Lender and shall be secured by the First Mortgage. In addition, the Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure until it has given the First Lender at least 30 days' prior written notice. Any action by Lender hereunder to foreclose or accept a deed in lieu of foreclosure shall be subject to the "due on sale" provisions of the First Mortgage.

Lender and Borrower further agree that a default hereunder shall constitute a default under the First Mortgage. In the event of a default hereunder, the First Lender shall have the right to exercise all rights and remedies under the First Mortgage. Likewise, a default under the First Mortgage shall constitute a default under this Mortgage.

9. Mortgage Insurance. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

10. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower reasonable notice of the time of or prior to an inspection specifying reasonable cause for the inspection.

11. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of the First Mortgage.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Mortgage immediately before the taking, unless Borrower and Lender otherwise agree in writing, the sums secured by this Mortgage shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Mortgage whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Mortgage, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of any payment due hereunder.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

13. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 18. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Mortgage but does not execute the Note(s): (a) is co-signing this Mortgage only to mortgage, grant and convey the Borrower's interest in the Property under the terms of this Mortgage; (b) is not personally obligated to pay the sums secured by this Mortgage; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note(s) without that Borrower's consent; provided, however, that such modification or accommodation shall not be made without the prior written consent of the First Lender.

14. Loan Charges. If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note(s) or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note(s).

15. Notices. Any notice to Borrower provided for in this Mortgage shall be given by hand delivering it, by overnight courier if a receipt of delivery is provided, or by mailing it by certified mail return receipt requested, unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designated by written notice to Lender. Any notice to Lender shall be given in the same manner to the following address:

Gainesville Community Redevelopment Agency
Post Office Box 490, MS 48
Gainesville, Florida 32602-0490

16. Governing Law; Severability. This Mortgage shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Mortgage or the Note(s) conflict(s) with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note(s) which can be given effect without the conflicting provision. To this end the provisions of this Mortgage and the Note(s) are declared to be severable.

17. Borrower's Copy. Borrower acknowledges receipt of one conformed copy of the Note(s) and of this Mortgage.

18. Transfer of the Property or a Beneficial Interest in Borrower. Except for a conveyance to the First Lender under the First Mortgage, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent. Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give Borrower and the Senior Lien Holder prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

19. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Mortgage discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Mortgage; or (b) entry of a judgment enforcing this Mortgage. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Mortgage and the Note(s) as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Mortgage, including, but not limited to, reasonable attorneys' fees; and (d)

takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unchanged. Upon reinstatement by Borrower, this Mortgage and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 18.

20. Sale of Note(s); Change of Loan Servicer. The Note(s) or a partial interest in the Note(s) (together with this Mortgage) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects payments due under the Note(s) and this Mortgage. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note(s). If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 15 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

21. No Assignment. Until the loan secured by the First Mortgage has been satisfied in full, the Lender and the Borrower agree that the Note(s) and the Mortgage will not be assigned without the First Lender's prior written consent.

22. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Prior to taking any such remedial action, however, the Borrower shall notify the First Lender that such remedial action is necessary and shall obtain the First Lender's prior written consent for such remedial action.

As used in this paragraph 22, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 22, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

23. Acceleration Remedies. Lender shall give notice to Borrower and the First Lender prior to acceleration following Borrower's breach of any covenant or agreement in this Mortgage. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower (and with respect to the First Lender, 60 days from the date the notice is given to the First Lender), by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured by the Borrower on or before the date specified in the notice, and the First Lender has not exercised its right to cure the default, then Lender at its option may require immediate payment in full of all sums secured by this Mortgage without further demand and pursue all remedies permitted by applicable law. Notwithstanding Lender's right to invoke any remedies hereunder, the Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the First Lender at least 60 days' prior written notice. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 23, including, but not limited to, reasonable attorneys' fees and costs of this evidence.

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24. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without additional charge to Borrower. Borrower shall pay any recordation costs.

BY SIGNING BELOW, the Borrower and the Lender accept and agree to the terms and covenants contained in this Mortgage.

Witnesses:

Raymond Pembert
Print Name: Raymond Pembert

John H. Haswell
Print Name: John H. Haswell

W. Thomas Hawkins, Jr. (SEAL)
W. THOMAS HAWKINS, JR.
BORROWER

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing Subordinate Mortgage was acknowledged before me this 22 day of December, 2006, by **W. THOMAS HAWKINS, JR.**, a single man, who is personally known to me or who has produced a driver's license as identification.

John H. Haswell
Print Name:
Notary Public, State of Florida
My commission expires:
My commission number:



JOHN H. HASWELL
MY COMMISSION # DD 483410
EXPIRES: November 21, 2008
Bonded True Budget Notary Services

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EXHIBIT "A"

Commence at a set 5/8" Rebar and Cap (#3524) marking the Southeast corner of Lot 1 of the North 1/2 of Block 27, Brush's Addition to Gainesville, as recorded in Plat Book "A", Page 88 of the Public Records of Alachua County, Florida, also being the intersection of the West right-of-way line of N.W. 4th Street and the North right-of-way line of N.W. 4th Avenue; thence North 89°05'28" West, along the North right-of-way line of N.W. 4th Avenue, a distance of 46.99 feet to a set 5/8" Rebar and Cap (#3524) and the Point of Beginning; thence continue North 89°05'28" West, a distance of 47.98 feet to a set 5/8" Rebar and Cap (#3524); thence leaving said North right-of-way line, North 00°25'05" East, a distance of 61.39 feet to a set 5/8" Rebar and Cap (#3524); thence North 88°09'33" East, a distance of 48.02 feet to a set 5/8" Rebar and Cap (#3524); thence South 00°25'05" West, a distance of 63.70 feet to the Point of Beginning.