

#1615

516

SECOND MORTGAGE

THIS INDENTURE OF MORTGAGE, made this 31st day of August, 1982, BETWEEN Pilgrim Baptist Village, Inc. (I), a non-profit housing corporation, organized and existing under and by virtue of the laws of the State of New Jersey and constituting a qualified housing sponsor as that term is defined by the New Jersey Housing Finance Agency Law of 1967, as amended (hereinafter referred to as the "Act"), having its principal office at c/o Shanley and Fisher, 550 Broad Street, Newark, NJ 07102 (hereinafter referred to as "Mortgagor"), and

NEW JERSEY HOUSING FINANCE AGENCY, a body corporate and politic created pursuant to the aforesaid Act, as amended, and having its principal office at 3625 Quakerbridge Road, Trenton, New Jersey (hereinafter referred to as "Mortgagee"):

WITNESSETH:

WHEREAS, the said Mortgagor did heretofore execute in favor of, and deliver to, the said Mortgagee a certain Mortgage dated the 1st day of May, 1978, securing an indebtedness in the principal sum of Eight Million, Fifty Five Thousand Dollars (\$8,055,000), covering the premises described in Schedule "A" attached hereto, together with any and all buildings and improvements erected or thereafter to be erected thereon (hereinafter referred to as the "project") and recorded on the 7th day of June, 1978, at Book 4754 at Page 803, in the Office of the Essex County Register (hereinafter referred to as "NJHFA First Mortgage"); and

WHEREAS, contemporaneously with the execution and delivery of said NJHFA First Mortgage, the Mortgagor did further execute and deliver to the Mortgagee a Mortgage Note of even date as evidence of said Mortgagor's indebtedness to the Mortgagee in the principal sum of Eight Million, Fifty Five Thousand Dollars (\$8,055,000) (hereinafter referred to as "NJHFA First Mortgage Note"), which NJHFA First Mortgage Note did incorporate by reference the aforesaid NJHFA First Mortgage; and

WHEREAS, the Mortgagor has made application to the Mortgagee for an additional loan in the principal sum of Three Hundred, Forty Six Thousand, Seventeen Dollars (\$346,017) to meet current cash needs, construction cost arrearages and outstanding taxes as set forth in the Agendum of the One Hundred Forty-Fourth Meeting of the New Jersey Housing Finance Agency held on

December 17, 1981, and for such other purposes or items as may be mutually agreed upon by and between the Mortgagee and the Mortgagor; and

WHEREAS, contemporaneously with the execution and delivery of this Mortgage, the Mortgagor has executed and delivered to the Mortgagee its Second Mortgage Note (hereinafter referred to as "Second Mortgage Note") of even date herewith, as evidence of its indebtedness to the Mortgagee in the principal sum of Three Hundred Forty Six Thousand, Seventeen Dollars, (\$346,017) lawful money of the United States, or so much thereof as hereafter may be advanced to the Mortgagor by the Mortgagee, together with lawful interest on disbursed proceeds at the rate of 12% per annum, simple interest,

NOW, THEREFORE, THIS INDENTURE OF MORTGAGE WITNESSETH:

THAT THIS MORTGAGE (hereinafter referred to as "Second Mortgage") is made to secure the payment of an indebtedness in the principal sum of Three Hundred Forty Six Thousand, Seventeen Dollars, (\$346,017) lawful money of the United States, or so much thereof as hereafter may be advanced by the Mortgagee to the Mortgagor, together with lawful interest on disbursed proceeds at the rate of 12% per annum, simple interest, to be repaid in full in accordance with the terms of the Second Mortgage Note evidencing said indebtedness executed of even date herewith, or upon demand at the option of the Mortgagee if there occurs default as defined in Paragraph 11 of this Second Mortgage.

IN CONSIDERATION OF the second mortgage loan evidenced by the Second Mortgage Note bearing even date herewith, the Mortgagor does hereby mortgage to the Mortgagee, subject only to the aforesaid prior first mortgage lien of the New Jersey Housing Finance Agency (hereinafter referred to as "NJHFA"), the lands and buildings situated in the City of Newark, County of Essex and State of New Jersey, more particularly described in Schedule "A" attached hereto and hereafter to be known as the "premises".

TOGETHER with all right, title, and interest of the Mortgagor in and to the land lying in the streets and roads in front of and adjoining said premises.

TOGETHER with any and all structures, buildings and improvements and additions thereto, now or hereafter constructed, erected, installed or placed upon the premises and all fixtures, chattels and articles of personal property now or hereafter attached to or used in connection with said premises, including but not limited to furnaces, boilers, oil burners, radiators and piping, coal stokers, plumbing and bathroom fixtures, refrigeration, air-conditioning

and sprinkling systems, washtubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, elevators, motors, dynamos, refrigerators, kitchen cabinets, incinerators, plants and shrubbery, and all other equipment and machinery, appliances, fittings, and fixtures of every kind in or used in the operation of the buildings standing on said premises, together with any and all replacements thereof and additions thereto, except such items of personal property as are owned by Mortgagor's tenants.

TOGETHER, subject to the approval of the Mortgagee, with any and all award and awards heretofore made and hereafter to be made by any municipal, Federal or State authorities to the present and all subsequent owners of the premises herein described, including any award or awards for any change or changes of grade of streets affecting said premises, which said award or awards are hereby assigned to the Mortgagee, and the legal successors and assigns of the Mortgagee, and the Mortgagor, for itself and its successors and assigns, hereby appoints the Mortgagee and any subsequent holder of the Second Mortgage Note and this Second Mortgage its Attorney-in-Fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of such Attorney on behalf of the Mortgagor or its successors and assigns, to adjust or compromise the claim for any such award and to collect and receive the proceeds of any such award and awards from the authorities making the same, and to execute and deliver in the name of the Mortgagor, its successors and assigns, any agreements, instruments or documents necessary to effect such collection, to endorse in the name of the Mortgagor, its successors and assigns, any and all checks or drafts representing the proceeds from any such award or awards, to give proper receipts and acquitances therefor, and after deducting from such proceeds any expenses incurred by it in the collection or handling of such fund or funds, to apply the net proceeds as a credit upon any portion of this mortgage debt selected by it, whether then matured or to mature in the future. And, although it is hereby expressly agreed that the same shall not be necessary in any event, the Mortgagor for itself and its successors and assigns, covenants and agrees to and with the Mortgagee and its successors and assigns, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the aforesaid award and awards to the holder of this Second Mortgage, free, clear and discharged of any and all encumbrances of any kind or nature whatsoever. And it is further agreed that the Mortgagee shall not be held responsible for any failure on its

part to collect such award or awards, regardless of the cause of such failure. And it is further agreed that in the event the housing development can be replaced or restored in whole or in part, and the housing development as so replaced will produce sufficient income to meet the then obligations of the Mortgagor under this Second Mortgage and the Second Mortgage Note, such proceeds, if sufficient, to the extent necessary for the purpose, shall be made available to the Mortgagor for such replacement or restoration, subject to the approval of the Mortgagee or such governmental authority as may then have jurisdiction. Nothing in this paragraph shall affect the lien of this Second Mortgage. Nothing in this paragraph shall affect the liability of the Mortgagor for the payment of the entire balance of this mortgage debt, except to the extent and in the manner herein provided.

And the Mortgagor covenants with the Mortgagee as follows:

1. That the Mortgagor will pay this mortgage debt as hereinbefore provided.

2. That the Mortgagor will keep the buildings on the premises insured for the benefit of the Mortgagee against loss by fire and such other hazards and contingencies as Mortgagee may require from time to time; that he will assign and deliver the policies to the Mortgagee; and that he will reimburse the Mortgagee for any premiums paid for insurance by the Mortgagee on the Mortgagor's default in so insuring the buildings or in so assigning and delivering the policies.

3. That no building on the premises shall be altered, removed, or demolished without the consent of the Mortgagee.

4. That the Mortgagor will pay all taxes, assessments, sewer rents, or water rates, and in default thereof, the Mortgagee may pay the same and the Mortgagor shall, at the option of the Mortgagee, either repay, on demand, the amount so paid with interest thereon at the legal rate, or the same shall be added to this mortgage debt and shall be secured by this Second Mortgage.

5. That the Mortgagor, within five days upon request in person or within ten days upon request by mail, will furnish a written statement duly acknowledged of the amount due on any mortgage debt and whether any offsets or defenses exist against such mortgage debt.

6. That the Mortgagor warrants fee title to the premises, subject only to the prior first mortgage given to NJHFA and any easements and restrictions of record. It is agreed between the Mortgagor and Mortgagee that \$ \_\_\_\_\_ of

the Second Mortgage proceeds will be held by the Mortgagee pending satisfaction of any liens asserted under Mechanics Lien Law and payment of all outstanding taxes.

7. That the Mortgagor will fund a reserve account for repairs, replacements and contingencies and shall pay monthly into such account 4% of the total gross income (including subsidy) of the Mortgagor's development for the preceding month, payable on the 15th of the each calendar month. This amount may be increased or decreased from time to time by the Mortgagee after consultation with the Mortgagor depending upon the demonstrated needs of the development. Such reserve fund shall be deposited in an account with the Mortgagee and shall be maintained under the sole control of the Mortgagee. While decisions to make expenditures from the account normally will be made jointly by the Mortgagee and the Mortgagor, the Mortgagee shall have the authority to expend funds from the account for approved purposes. Any investment income earned on said account shall remain in the account and shall be used for similar purposes.

8. That any construction contract entered into by the Mortgagor, pursuant to which funds advanced under the Second Mortgage Note executed of even date herewith and this Second Mortgage shall be paid to any party, will be subject to the Affirmative Action requirements of NJHFA.

9. That the Mortgagor will use its best efforts to obtain second user syndication of the project.

10. That the Mortgagor will maintain rents at the Mortgagor's development at levels sufficient to insure payment of operating expenses and debt service on the aforementioned NJHFA First Mortgage.

11. That the whole of this mortgage debt shall become due and payable at the option of the Mortgagee upon: (a) foreclosure by NJHFA of the aforementioned first mortgage; or (b) after default upon request in furnishing a statement of the amount due on any mortgage and whether any offsets or defenses exist against the mortgage debt; or (c) after default in the payment of any tax, water rate, sewer rent or assessment for thirty days after notice and demand; or (d) after failure to exhibit to the Mortgagee, within ten days after demand, receipts showing payment of all taxes, water rates, sewer rents, and assessments; or (e) after default after notice and demand either in assigning and delivering the policies insuring the buildings against loss by fire or in reimbursing the Mortgagee for premiums paid on such insurance; or (f) after the actual or threatened alteration, demolition or removal of any building on the

premises without the written consent of the Mortgagee; or (g) after the assignment of the rents of the premises or any part thereof without the written consent of the Mortgagee; or (h) if the buildings on said premises are not maintained in reasonably good repair as determined by NJHFA; or (i) after failure to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental department claiming jurisdiction over the premises within three months from the issuance thereof; or (j) in the event of the removal, demolition, or destruction in whole or in part of any of the fixtures, chattels, or articles of personal property covered hereby, unless the same are promptly replaced by similar fixtures, chattels, and articles of personal property at least equal in quality and condition to those replaced, free from chattel mortgages, or other encumbrances thereon and free from any reservation of title thereto; or (k) if the Mortgagor fails to keep, observe, abide by, or perform any of the terms, provisions, covenants, conditions, or agreements contained in the aforementioned NJHFA First Mortgage and/or this mortgage; or (l) in the event that the first mortgage held by NJHFA and/or this Mortgage are refinanced; or (m) the execution of any contract for the sale of the premises without the written consent of the Mortgagee; or (n) the termination of any Tax Abatement or Subsidy Agreement executed by the Mortgagor with any municipality, State or Federal Agency; or (o) the abandoning or vacating of the premises by the Mortgagor; or (p) the institution of proceedings by or against Mortgagor under any bankruptcy or insolvency law, or any law for the benefit of creditors or relief of debtors; or (q) if the Mortgagor fails to keep, observe, abide by, or perform any of the terms, provisions, covenants, conditions, or agreements contained in any mortgage note of the Mortgagor held by NJHFA; or (r) in the event that Mortgagor fails to pay when due any payments on any mortgage note held by the NJHFA. In no event shall the enumeration hereinabove of specific events of default be deemed a waiver of, or limitation upon, the statutory rights of the Mortgagee with respect to this Second Mortgage, as provided in N.J.S.A. 55:14J-1, et seq.

12. That this mortgage may not be changed or terminated orally. The covenants contained in this mortgage shall run with the land and bind the Mortgagor, its successors, and assigns, and all subsequent owners, encumbrancers, tenants, and subtenants of the premises, and shall inure to the benefit of the Mortgagee, the personal representatives, successors, and assigns of the Mortgagee, and all subsequent holders of this mortgage.

13. That Mortgagor shall not permit to exist, except with Mortgagee's prior written consent, any interest, lien, charge or encumbrance in or on the secured premises ranking prior to or on a parity with the lien hereof, other than the lien heretofore mentioned held by NJHFA.

14. That Mortgagor shall not install, or permit to be installed, in or on the premises any new fixture or equipment in replacement of, substitution for, or addition to, any fixtures or equipment in or on the premises, if such new fixture or equipment would be subject to a security interest held by any person other than Mortgagee.

15. That if an event of default occurs, Mortgagor will, subject to the written consent of the holder of the first mortgage: (a) Assign to Mortgagee the rents, issues and profits of the secured premises theretofore accrued and thereafter accruing; (b) Hold in trust for Mortgagee the rents, issues and profits of the secured premises which Mortgagor receives and shall not mingle the same with Mortgagor's other property, and shall pay the same promptly to Mortgagee; and (c) Pay Mortgagee, monthly in advance, as a tenant from month to month, a reasonable rent for any part of the secured premises occupied or used by Mortgagor. If Mortgagor does not do so, Mortgagee may dispossess Mortgagor by summary proceedings and, in any event, Mortgagor's tenancy shall terminate upon delivery of a deed, whether voluntary or in foreclosure.

16. That if an event of default occurs, Mortgagee may, at Mortgagee's option: (a) Declare the entire amount of this mortgage debt to be immediately due and payable, and thereupon the same shall become immediately due and payable; (b) Sue to recover judgment against Mortgagor for this mortgage debt; and neither the recovery of judgment nor the levy of execution thereof on any property, including the Premises, shall affect Mortgagee's rights hereunder or the lien hereof; (c) Enter upon and take possession of the premises, or have a receiver of the rents, issues and profits thereof appointed, without proof of depreciation in the value of the premises, inadequacy of the premises, or insolvency of Mortgagor; and Mortgagee or the receiver may lease the premises, in the name of Mortgagor, Mortgagee or the receiver, and may receive the rents, issues and profits and apply the same:

- (1) To the payment of expenses of operating, maintaining, repairing and improving the premises, including renting

commissions and rental collection commissions paid to an agent of Mortgagee or of the receiver, and/or

- (2) On account of this mortgage debt, in such order and in such amounts as Mortgagee or the receiver determines; but, while in possession of the premises, Mortgagee or the receiver shall be liable to account only for the rents, issues and profits actually received and/or

(d) Take such other action to protect and enforce Mortgagee's rights hereunder and the lien hereof, as Mortgagee deems advisable, including:

- (1) The foreclosure hereof, subject, at Mortgagee's option, to the rights of tenants and other persons in the premises; and, in any proceeding to enforce any liability for this mortgage debt, Mortgagor shall not assert, as a defense, that Mortgagee failed to foreclose any such rights or that any such rights adversely affected the value of the premises, and
- (2) The sale of the premises, in a foreclosure proceeding, in one or several parcels, at Mortgagee's option and without obligation to have the premises marshalled.

17. Mortgagee's Rights Cumulative:

The rights and remedies of Mortgagee hereunder shall be in addition to every other right and remedy now and hereafter provided by law. The rights and remedies of Mortgagee shall be cumulative and not exclusive one or the other. Mortgagee may exercise the same at such times, in such order, to such extent and as often as Mortgagee deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by Mortgagee in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of a default by Mortgagee or shall extend to or affect any other default or impair any right or remedy with respect thereto.

18. Indulgences; Extensions:

Mortgagee may allow Mortgagor any indulgences, forbearances and extensions with respect to this mortgage debt, the premises and Mortgagor's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any part of the premises from the lien hereof, without affecting the liability of any person or entity for the payment of this



mortgage debt, or the priority of the lien hereof upon the remainder of the premises.

19. Other Security:

If this mortgage debt is secured at any time by a lien on or a security interest in any other real or personal property under any mortgage or security instrument executed and delivered by Mortgagor or any other person (corporate or individual), Mortgagor consents to Mortgagee's exercising with respect thereto any of the rights herein and therein provided, at Mortgagee's option and without obligation to have the premises and such other real and personal property marshalled.

20. Advances by Mortgagee:

Whether or not an event of default shall have occurred, if Mortgagor does not pay any amount payable by it under, or fails to comply with any provision of this Second Mortgage debt, Mortgagee may pay such amount or comply with such provision and make such expenditures, including reasonable counsel fees, in connection therewith and with enforcing this Second Mortgage and this mortgage debt, for repairing, maintaining and preserving the premises, for establishing, preserving, protecting and restoring the priority of the lien hereof, for obtaining official tax searches of the premises, for protecting and preserving any use being made of the premises now or hereafter, and for advances to any trustee or receiver of the premises, as Mortgagee deems advisable; each amount so paid or expended, with annual interest at the prime rate of interest at that time as determined by the NJHFA, shall become part of this mortgage debt and be secured hereby; and Mortgagor shall pay to Mortgagee, on demand, the amount of each such payment or expenditure, with interest at the aforementioned prime rate, which obligation shall constitute a personal obligation of Mortgagor and shall survive the foreclosure hereof and any sale of the premises; but no such payment or compliance by Mortgagee shall constitute a waiver of Mortgagor's failure so to do or affect any right or remedy of Mortgagee with respect thereto.

21. Notices:

All notices, requests, consents, approvals, waivers or other communications regarding this mortgage debt shall be addressed and mailed:

- (a) To Mortgagor, at c/o Shanley and Fisher, 550 Broad Street,  
Newark, NJ

(b) To Mortgagee, 3625 Quakerbridge Road, Trenton, NJ

22. Personal Liability:

The officers and directors of the Mortgagor shall not be individually liable on the Mortgage Loan except to the extent any such person has received rentals or other revenues or payments in respect of the project including subsidy payments and has failed to deposit the same in the proper project accounts.

23. Defeasance:

When all of this mortgage debt is paid, Mortgagee's right, title and interest in the premises shall terminate; and, at the request and expense of Mortgagor, Mortgagee shall execute and deliver to Mortgagor an appropriate instrument acknowledging satisfaction of this mortgage.

24. Personal Representatives:

The provisions hereof shall bind, and inure to the benefit of, Mortgagor and Mortgagee and their respective personal representatives, successors and assigns.

25. Cure: If the Mortgagor fails to pay any installment of principal or interest in any prior mortgage when the same becomes due, the Mortgagee may pay the sum and the Mortgagor shall, at the option of the Mortgagee, either repay, upon demand, the amount so paid with interest thereon at the legal rate or the same shall be added to the mortgage indebtedness and be secured by this mortgage.

26. Subordination: This mortgage is subject to, and subordinate to, the  
aforementioned NJHFA First Mortgage.

IN WITNESS WHEREOF, this mortgage has been duly executed by the  
Mortgagor and the Mortgagee this 31st day of August,  
19 82.

SEAL

Pilgrim Baptist Village, Inc. (I)  
(a non-profit housing corporation)

Attest: Witness:

Arthur W. Jones  
Arthur W. Jones  
Assistant Secretary

By: Avant Lowther  
Avant Lowther  
President

SEAL

NEW JERSEY HOUSING FINANCE AGENCY

Attest: Witness:

Frather Connor

By: John M. Rens

This agreement has been reviewed  
and approved as to form.

IRWIN I. KIMMELMAN  
Attorney General of New Jersey

By: Susan N. Ferschmann  
Susan N. Ferschmann  
Deputy Attorney General

This instrument prepared by:

Susan N. Ferschmann  
Susan N. Ferschmann  
Deputy Attorney General  
3625 Quakerbridge Road  
Trenton, New Jersey 08619

STATE OF NEW JERSEY )  
                                  ) ss.:  
COUNTY OF MERCER )

BE IT REMEMBERED, that on this *31st* day of *August*, 19*52*, before me the subscriber, *James H. Freis* an Attorney at Law of New Jersey, personally appeared *Arthur W. Jones* being by me duly sworn on his oath, acknowledges and makes proof to my satisfaction, that he is the <sup>*Assistant*</sup> Secretary of *Pilgrim Baptist Village, Inc.*, the Corporation named in the within Mortgage; that *Avant Couster* is the President of said Corporation, that the execution as well as the making of this Instrument has been duly authorized by a proper resolution of the members of said Corporation; that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation in the presence of deponent, who thereupon subscribed his name thereto as attesting witness, acknowledges that the Mortgagor has received a true copy of the Instrument without charge.

Sworn to and subscribed before  
me, the date aforesaid

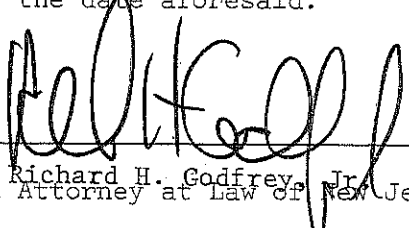
*James H. Freis*  
\_\_\_\_\_  
AN ATTORNEY AT LAW OF NEW JERSEY

*Arthur W. Jones*  
\_\_\_\_\_  
Ass T. SECRETARY

STATE OF NEW JERSEY )  
 ) ss.:  
COUNTY OF MERCER )

BE IT REMEMBERED, that on this 31st day of August, 1982, before me the subscriber, Richard H. Godfrey, Jr., an Attorney at Law of New Jersey, personally appeared FEATHER O'CONNOR, who being by me duly sworn on her oath, acknowledges and makes proof to my satisfaction, that she is the Secretary of the New Jersey Housing Finance Agency, the Agency named in the within instrument; that JOHN P. RENNA is the Chairman of said Agency, that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the members of the said Agency; that deponent well knows the corporate seal of said Agency; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument was signed and delivered by said Chairman as and for the voluntary act and deed of said Agency, in the presence of deponent, who thereupon subscribed his name thereto as attesting witness.

Sworn to and subscribed before  
me the date aforesaid.

  
Richard H. Godfrey, Jr.  
An Attorney at Law of New Jersey

  
FEATHER O'CONNOR  
SECRETARY

DESCRIPTION

PILGRIM BAPTIST VILLAGE I #615

BEGINNING at a corner formed by the intersection of the proposed Easterly line of Bergen Street and the proposed Southerly line of 18th Avenue as shown on a drawing known as "Central Ward, NJ R-32, Disposal Parcel No. 23, Housing Authority of the City of Newark, dated June 24, 1974" and revised by the Housing Authority of the City of Newark on March 4, 1975; thence

(1) Along said line of 18th Avenue South 74 degrees 16 minutes East 386.09 feet; thence

(2) South 15 degrees 44 minutes West 577.80 feet to the proposed Northerly line of Waverly Avenue as shown on above mentioned Map; thence

(3) Along said line of Waverly Avenue, North 71 degrees 37 minutes West 339.77 feet to an angle point; thence

(4) Still along said line of Waverly Avenue North 32 degrees 46 minutes West 69.17 feet to a point in the proposed Easterly line of Bergen Street; thence

(5) Along said line of Bergen Street, North 16 degrees 18 minutes East 516.28 feet to the point and place of BEGINNING.

The foregoing description is in accordance with a site survey prepared by Borrie, McDonald & Watson, Surveyors, dated September 26, 1974 continued to March 9, 1978.

(Being Disposal Parcel No. 23, Urban Renewal Project N.J.R. 32, Newark, New Jersey, designated as Lot 56, in Block 2571, on the Tax Map of Newark, New Jersey