

NORTH CAROLINA

DURHAM COUNTY

SECOND LOAN MODIFICATION AGREEMENT
(BOND)

THIS AGREEMENT is made and entered into this the _____ day of _____, 2013 by and between THE CITY OF DURHAM whose mailing address is 101 City Hall Plaza, Durham, North Carolina 27701 ("the City"), and ROCKWOOD AH-1 LIMITED PARTNERSHIP whose mailing address is 1150-2 Executive Circle, Cary, North Carolina 27511 ("Borrower")

Witness that:

WHEREAS, the borrower has heretofore given to the City a Construction/Permanent Loan Promissory Note (BOND) dated March 28, 1994 secured by a Deed of Trust of even date to Orville W. Powell, Trustee, which Deed of Trust constitutes a first lien on the property described in Exhibit A attached hereto and incorporated herein by reference;

WHEREAS, the parties hereto have previously agreed to modify and amend the abovesaid Promissory Note and Deed of Trust on June 18, 1996 for the purpose of extending the "Permanent Term Maturity Date" to March 31, 2026, hereinafter referred to as LOAN MODIFICATION AGREEMENT;

WHEREAS, the original indebtedness represented by said Promissory Note and secured by said Deed of Trust was in the amount of \$260,000.00;

WHEREAS, the parties hereto have agreed to further modify and amend the abovesaid Promissory Note and Deed of Trust on the following terms and conditions; and

WHEREAS, the borrower and the City, as holder and owner of the above-referenced Note and Deed of Trust, mutually desire to modify and amend the Promissory Note and Deed of Trust as hereinafter set forth, it being specifically understood that except as herein modified and amended, the terms and provisions of the Note and Deed of Trust shall remain unchanged and continue in full force and effect as written therein.

NOW, THEREFORE, the City and the Borrower in consideration of the premises and the sum of One Dollar (\$1.00) to each in hand paid by the other, the receipt of which is hereby acknowledged by each, do hereby agree that the Note is hereby modified and amended as follows:

Paragraph 2. Payments: Section 2.2 is hereby modified to add a section (c) and read as follows:

2.2 (c) **Forgiveness of Principal**. So long as no uncured Event of Default has occurred under any of the City's Loan Documents (a defined term in the Loan Agreement), Twenty Thousand and No/100 dollars (\$20,000.00) of the principal indebtedness shall be forgiven (cancellation of indebtedness) each year hereafter for a period of thirteen (13) years and the original loan amount has been fully forgiven.

It is mutually agreed by and between the parties hereto that nothing herein contained shall impair the security now held for the indebtedness, nor shall waive, annul, vary or effect and provision, condition, covenant or agreement contained in the Note and Deed of Trust except as herein modified or amended, nor effect or impair any rights, powers or remedies under the Notes and Deeds of Trust or either of them.

This Agreement shall be binding upon the heirs, successors and assigns of the parties hereto.

CITY OF DURHAM

By _____

Thomas J. Bonfield, City Manager

ATTEST:

CITY OF DURHAM

City Clerk

**ROCKWOOD AH-1 LIMITED
PARTNERSHIP**

By _____

James W. Pou, General Partner

**NORTH CAROLINA
DURHAM COUNTY**

I, _____ a Notary Public in and for the aforesaid County and State certify that _____ personally appeared before me this day, and acknowledged that he or she is the City Clerk of the City of Durham, a municipal corporation, and that by authority duly given and as the act of the City, the foregoing Contract or Agreement was signed in its corporate name by its City Manager, sealed with its corporate seal, and attested by its said City Clerk or Deputy City Clerk. This the _____ day of _____ 2013.

Notary Public

My Commission Expires

NORTH CAROLINADURHAM COUNTY

I, _____ a Notary Public in and for the aforesaid County and State, certify that _____ personally appeared before me this day and stated that he is a General Partner of Rockwood AH-1 Limited Partnership, a North Carolina limited partnership, and that by authority duly given and as the act of the Limited Partnership, the foregoing contract or agreement with the City of Durham was signed in its name by him all of behalf of and as an act of the partnership. This the _____ day of _____, 2013.

Notary Public

My Commission Expires

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

City's Finance Officer

Date _____