

**AMENDMENT TO DEEDS OF TRUST AND CHDO LOAN AGREEMENT WITH
REBUILD DURHAM, INC.**

This amendment (“Fourth Amendment”), is made and entered into as of the ____ day of _____, 2014, by and between **REBUILD DURHAM, INC.**, a North Carolina nonprofit corporation tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose address is P.O. Box 722, Durham, NC 27702, and designated as a Community Housing Development Organization (CHDO) as defined by the U.S. Department of Housing and Urban Development (HUD), (the “Borrower”) and the **CITY OF DURHAM**, a North Carolina Municipal Corporation, whose address is 101 City Hall Plaza, Durham, NC 27701 (the “City”).

RECITALS:

- A. The City and Borrower entered into an agreement entitled “CHDO Loan Agreement,” dated August 3, 2000 and was amended by the parties on August 15, 2003 and on August 3, 2006 and again on October 16, 2007 (CHDO Loan Agreement as amended hereinafter referred to as the “Agreement.”)
- B. The first amendment provided for the original loan to be increased from up to \$460,000 to up to \$810,000; and the acquisition and rehabilitation of twelve (12) single family homes was increased to thirteen (13) single family houses to be made available to tenants whose income is at or below 60% of area median income.
- C. The second amendment provided for the completion date to be extended from August 15, 2005 to April 1, 2007.
- D. The third amendment provided for the completion date to be extended from April 1, 2007 to May 1, 2008.
- E. In accordance with the CHDO Loan Agreement, a total of \$754,957.75 was loaned by the City to the Borrower for the acquisition and rehabilitation of thirteen properties. Said properties are listed by address on Exhibit “A,” attached and the loan balance associated with each of said properties is included in Exhibit “A.” The loan for each of the said properties was evidenced by a Promissory Note and Deed of Trust. The recording information for each of said Deed of Trusts is listed on Exhibit “A.” Excluded from Exhibit “A” is 110 Chestnut Street which has already been conveyed back to the City.
- F. The City and Borrower, in furtherance of their shared mission of providing affordable housing, now desire to: change the interest rate for the loans to zero percent, change the maturity dates for the loans to “due on sale or transfer”, and remove the federal compliance requirements.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein, and the sum of Ten and No/100 Dollars (\$10.00), paid in hand by each party to the other, the receipt, adequacy and sufficiency of all of which are hereby acknowledged, the parties hereby covenant and agree as follows:

1. Recitals Incorporated. The Recitals are hereby incorporated into this Second Modification.
2. Modification of Agreement.
 - (a) The Agreement and all other Loan Documents are hereby modified and amended to reflect that the Maturity Date is removed and that the loan balance associated with each property is due upon the sale or transfer of each said property.
 - (b) The Agreement and all other Loan Documents are hereby modified and amended to reflect that the interest rate is changed to ZERO percent interest (0.0%).
 - (c) The Agreement and all other Loan Documents are hereby modified and amended to reflect that the Federal requirements are removed, however the parties agree that it is their mutual intention that the properties remain affordable to families and individuals whose income does not exceed (80%) eighty percent of the area median income as defined by HUD as may be revised from to time. Notwithstanding language to the contrary, the Restrictive Covenants attached to and associated with each property shall be re-recorded to allow occupancy by households with incomes up to 80% of the area median income (AMI).
 - (d) The Agreement and all other Loan Documents are hereby modified and amended to reflect that Borrower will, in lieu of making loan payments to the City, direct an equal amount towards ongoing repair needs or into a replacement reserve for future repair or replacement needs. Further, Borrower agrees to fund and complete repairs needed at 1508 W. Club Blvd within twelve months of the execution of this amendment. With respect to 2534 S. Alston Avenue, Borrower will maintain the exterior and grounds until such time that public water is available at that location. At such time, Borrower will either connect to the public water supply and complete any repairs needed for occupancy with twelve months or offer the property for sale. During the deferral period, Borrower shall submit to the City annual financial statements and a separate accounting of repair/replacement expenditures and/or deposits into and withdrawals from replacement reserves to document that funds are invested as specified.
 - (e) Continued Force and Effect. All of the terms and conditions of the Note, the Agreement, and the Deed of Trusts, including those terms and conditions modified by this Amendment, are hereby ratified and confirmed in all respects and shall remain and in full force and effect. This Agreement is not intended to,

and shall not be construed to, effect a novation, and, except as expressly provided herein, none of the Loan Documents have been modified, amended, cancelled, terminated, released, satisfied, superseded or otherwise invalidated. In the event of any conflict between the terms of this Agreement and the terms of any of the Loan Documents, the terms of this Agreement shall control. Borrower acknowledges and agrees that the Loan Documents, as modified hereby, are enforceable against Borrower and against the Property described therein in accordance with their respective terms.

- (f) E-Verify Compliance. Borrower represents and covenants that it and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (NCGS). In this E-Verify Compliance section, "Borrower," "its subcontractors," and "comply" shall have the meanings intended by NCGS 160A-20.1(b). The City is relying on this section in entering into this contract. The parties agree to this section only to the extent authorized by law. If this section is held to be unenforceable or invalid in whole or in part, it shall be deemed amended to the extent necessary to make this contract comply with NCGS 160A-20.1(b).

IN WITNESS WHEREOF, Borrower and City have caused this fourth amendment to be executed in their corporate names by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

CITY:

CITY OF DURHAM

By: _____
Thomas J. Bonfield, City Manager

**ATTEST:
CITY OF DURHAM**

City Clerk

BORROWER:

REBUILD DURHAM, INC., a North Carolina nonprofit corporation

By: _____
Name: _____
Title: _____

ATTEST:

Secretary

NORTH CAROLINA

DURHAM COUNTY

I, a Notary Public in and for the aforesaid County and State certify that _____ personally appeared 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, whose name is Thomas J. Bonfield, sealed with its corporate seal, and attested by its said City Clerk or Deputy City Clerk. This the ____ day of _____, 2014.

Notary Public

My Commission Expires: _____

NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public in and for the aforesaid County and State, certify that _____ personally appeared before me this day, stated that he is the _____ of Rebuild Durham, Inc., and that by authority duly given and as the act of the corporation, the foregoing contract or agreement with the City of Durham was signed in its name by its _____, sealed with its corporate seal, and attested by its Secretary or Assistant Secretary. This the ____ day of _____, 2014.

Notary Public

My Commission Expires: _____

EXHIBIT A

Rebuild Durham Properties	Original Balance	Current Balance	Deed of Trust Book & Page
1302 Castlebay	\$70,000.00	\$23,557.88	Book 3069 Page 238
2507 White Oak	\$35,000.00	\$27,631.88	Book 4504 Page 114
2534 S. Alston	\$70,000.00	\$23,654.88	Book 3262 Page 537
1126 Delano	\$68,000.00	\$27,534.88	Book 4379 Page 683
2107 Concord	\$66,000.00	\$24,524.00	Book 3594 Page 404
2521 Kirby	\$44,360.00	\$23,069.00	Book 2933 Page 152
2919 Chapel Hill Rd	\$52,000.00	\$23,453.12	Book 3022 Page 167
1807 N. Alston	\$32,856.00	\$24,222.90	Book 3239 Page 707
2314 Curtis	\$63,000.00	\$27,437.78	Book 4387 Page 222
2626 Ross	\$70,000.00	\$23,360.00	Book 3072 Page 606
1508 W. Club	\$52,000.00	\$25,079.78	Book 3239 Page 680
1408 Bacon	<u>\$73,945.00</u>	<u>\$35,000.00</u>	none recorded
	\$697,161.00	\$308,526.10	