AMENDMENT TO DEVELOPMENT AGREEMENT

This **AMENDMENT TO DEVELOPMENT AGREEMENT** (the "Amendment") is made this _____ day of _____, 2011 by and between the **TOWN OF WENDELL**, a municipal corporation existing under the laws of the State of North Carolina (the "Town"), **REDUS RALEIGH HOUSING, LLC**, a North Carolina limited liability company ("REDUS"), and the **CITY OF RALEIGH**, a municipal corporation existing under the laws of the State of North Carolina (the "City").

W I T N E S S E T H:

WHEREAS, on or about June 26, 2006, the Town and Wendell Falls Development, LLC entered into a Development Agreement (the "Agreement") with regard to multiple tracts of land comprising approximately 1,200 acres within the jurisdiction of the Town, described in Exhibit A attached to the Agreement (collectively, the "Property");

WHEREAS, on or about October 9, 2006 and July 14, 2008, the Town approved development of the Property as a Planned Unit Development (the "PUD Approval");

WHEREAS, the Term of the Agreement was suspended for a period that ended on December 31, 2010 by state legislation;

WHEREAS, with respect to the Agreement and as more fully set forth hereafter, REDUS is the successor-in-interest to Wendell Falls Development, LLC;

WHEREAS, circumstances with regard to the national and local economies have changed significantly since 2006, and the Town and REDUS believe that certain modifications to the Agreement are in order;

WHEREAS, the Town and the City entered into a Merger Agreement dated June 26, 2006 (the "Merger Agreement") which provided for a merger of their water and sewer systems,

the City's assumption of full responsibility for the provision of water and sewer services in the Town, and the Town's retention of responsibility for the allocation of water and sewer capacity that it has purchased from the City; and

WHEREAS, the City joins as a party to this Amendment solely with respect to the provisions hereof related to installation and operation of the water and sewer service, but the City is not a party to any provision which requires the Town to allocate and provide water and sewer capacity to REDUS;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

(1) Defined Terms. Terms defined in the Agreement shall have the same meaning in this Amendment.

(2) Status of REDUS. REDUS and the Town acknowledge and agree that REDUS is now the owner of the Property and the successor-in-interest to the Developer under the Agreement. In accordance with § 160A-400.30 of the General Statutes, REDUS has succeeded to the rights and obligations of the Developer under the Agreement, as modified in this Amendment. REDUS does not intend to develop the Property, but will seek a qualified developer or developers to undertake completion of its development.

(3) Amendment of the Agreement. The terms and provisions of the Agreement are modified and amended as provided in this Amendment. Except as modified herein, the terms and provisions of the Agreement shall remain in full force and effect. If, and to the extent that this Amendment and the PUD Approval are inconsistent, this Amendment shall control.

(4) Amendment of Section 1.2 of the Agreement. The Term of the Agreement shall be extended for a period of fifteen (15) years from and after the date of this Amendment.

(5) Development Schedule – New Exhibit C. Exhibit C of the Agreement is hereby deleted in its entirety and a new Exhibit C, a copy of which is attached hereto, shall be substituted in lieu thereof. The new Exhibit C establishes a time line and construction goals, referred to as "Residential Units Completed" and "Commercial Development Completed," with the timing of actual construction to be based on market conditions.

(6) Water and Sewer Capacity. Section 4.5 of the Agreement is deleted in its entirety and the following is substituted in lieu thereof:

> Section 4.5 Water and Sewer Capacity.
>
> (a) Purchase Prior to September 30, 2011. Prior to September 30, 2011, REDUS will purchase from the Town 103,000 gallons of water and sewer capacity for 412 residential units at a total price of $1,001,160.00. The Town shall reserve the purchased capacity for REDUS, its successors, or assigns, until such capacity is utilized incident to the development of the Property.
>
> (b) Purchase in Subsequent Years. In each of the years listed in Exhibit C, REDUS shall purchase from the Town water and sewer capacity for the number of Residential Units listed for the respective year under "Residential Units Completed." In each such year, the respective amount of water and sewer capacity shall be available for purchase by REDUS, its successor, or assignee for

a period commencing July 1 and ending August 31. Subsequent to each such purchase the Town shall reserve the purchased capacity for the purchaser until the first to occur of (i) the utilization of such capacity incident to the development of the Property or (ii) September 1, 2029, which will enable the utilization of such capacity until the end of a period of three years following the schedule of capacity purchases provided in Exhibit C. Should REDUS, its successor, or assignee fail to make such purchase in any year within the aforesaid period, the Town shall at its sole option make such capacity available to any other purchaser. Such failure on the part of REDUS, its successor, or assignee shall not otherwise affect the rights and obligations of the parties under this Agreement. Notwithstanding the foregoing, at no time following July 1, 2014, will REDUS, its successor, or assignee have the right to purchase from the Town water and sewer capacity that results in a reserve of capacity for Wendell Falls that exceeds 225,000 gallons per day unless REDUS, its successor, or assignee provides the Town's staff reasonable evidence that the pace of development of Wendell Falls justifies a purchase that will exceed such amount of reserved capacity.

(c) Additional Purchases. It is agreed that should the purchases of water and sewer capacity afforded REDUS, its successor, or assignee under the foregoing subparagraphs (a) and

(b) prove insufficient from time to time to meet the actual demands of the development of Wendell Falls, and if the Town has water and sewer capacity available, the Town shall make available for purchase by REDUS, its successor, or assignee additional amounts of water and sewer capacity appropriate to meet the actual demands of the development of Wendell Falls.

(7) Retention of Capacity by the Town. Based upon an analysis of projected requirements for water and sewer capacity to serve the area within the Town's jurisdiction, the Town and the City agree that, notwithstanding the Town's relinquishment of a portion of the water and sewer capacity allocated to it by the City in Section 5.1 1) of the Merger Agreement, of such capacity the Town shall retain at least 550,000 gpd peak water capacity and 150,000 gpd average sewer capacity in addition to its allocation of 1,000,000 gpd peak water capacity and 750,000 gpd of sewer capacity existing at the time of the execution of the Merger Agreement. The City will provide future growth in water and sewer capacity pursuant to Section 5.1 2), 3) and 4) of the Merger Agreement based upon the capacity owned by the town during the year prior to the calculation of the respective adjustment of capacity.

(8) Stormwater Regulations. Subsection (c) of Section 3.4 of the Agreement is deleted in its entirety and the following is substituted in lieu thereof:

(c) Phase I stormwater regulations will be applicable to Pods 1, 2, 3, 4, 5, and 15 designated in the PUD Approval. Phase II stormwater regulations will be applicable to the remaining areas of the Property. It is provided, however, that as permits for development within the Property

are obtained from the North Carolina Department of Environment and Natural Resources ("DENR"), such development shall be subject to stormwater regulations established at such time by DENR for development within the municipal corporate limits of the Town of Wendell. If compliance with such regulations becomes impossible, materially impracticable or otherwise becomes a hardship under the Agreement or the approved PUD Application, REDUS, its successors, or assigns, may submit revisions to this Agreement and/or the approved PUD Application to accommodate the new stormwater requirements for the Town's approval, which approval shall not be unreasonably withheld.

(9) Completion of Richardson Road. REDUS will complete Richardson Road within the later of 180 days following execution of this Amendment or October 31, 2011, and additional infrastructure improvements within Wendell Falls will be completed as development occurs. REDUS acknowledges that the completion of Richardson Road in accordance with this paragraph (8) is a material provision of this Amendment, and to assure such completion, REDUS shall provide a performance surety bond in form satisfactory to the North Carolina Department of Transportation ("NCDOT"). Such performance bond shall assure the completion of Richardson Road in accordance with the terms of this Amendment in a manner acceptable to NCDOT and shall include NCDOT and the Town as obligees. REDUS shall also provide a payment bond or payment guarantee with respect to the completion of Richardson Road in form acceptable to the general contractor and shall provide a copy thereof to the Town.

(10) Addition of Property to Wendell Falls. In the event that any additional property is added to Wendell Falls as contemplated by Section 2.1 of the Agreement, the development of

such additional property will be governed by the provisions of the Unified Development Ordinance adopted by the Town on July 26, 2010.

(11) Section 4.2(a)(ii)(D) of the Agreement. Section 4.2(a)(ii)(D) of the Agreement is deleted in its entirety and it is acknowledged and agreed that the policies of the City's Public Utilities Department, as amended from time to time, shall be applicable to the Initial Pump Station and the New Pump Station.

(12) Addition to Open Space.

A new paragraph shall be added to Section 3.4 of the Agreement as follows:

(e) In addition to the open space provided in Section 1.3 of the approved Wendell Falls Planned Unit Development document (as amended July 14, 2008), upon the issuance of certificates of occupancy for five hundred (500) residential dwelling units within Wendell Falls, and, thereafter, upon the issuance of certificates of occupancy for each additional five hundred (500) residential dwelling units, the Developer shall convey to the Wendell Falls Master Property Owners' Association an area or areas comprising at least two (2) acres or 87,120 square feet free and clear of all liens and encumbrances (other than restrictive covenants applicable to Wendell Falls). Each such area so conveyed shall be a minimum of 2,500 square feet in size and reasonably suitable both locationally and topographically for use by residents of Wendell Falls for outdoor activities. REDUS, its successor, or assignee, in consultation with the Planning Staff, will designate such open space as preliminary plats are approved, with such designation over the course of development to establish a minimum of sixteen (16) acres of additional active open space.

(13) Notices. The following new section 5.13 shall be added to the Agreement:

Section 5.13 Notices. Any notice provided pursuant to this Agreement shall be transmitted via certified U.S. mail, return receipt requested, and via facsimile, addressed and transmitted to the parties as follows:

If to REDUS:

REDUS c/o Wells Fargo
8540 Colonnade Center, Ste. 111
Raleigh, NC 27615
Mac D0221-010

Attn: Mr. Bill Honaker

Facsimile: 919-847-6418

If to the Town:

If to the City:

Any party may change its designated address or facsimile number by providing notice to the others in the manner provided herein.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Town and Developer have caused this Amendment to be duly executed and sealed pursuant to proper authority as of the day and year first above written.

REDUS RALEIGH HOUSING, LLC

By: _____
Print Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, a Notary Public of Wake County, State of North Carolina, do hereby certify that _____, Manager of REDUS RALEIGH HOUSING, LLC, a North Carolina limited liability company, either being [ ] personally known to me or [ ] proven by satisfactory evidence (such evidence being _____), personally appeared before me this day and acknowledged the above execution of the foregoing instrument on behalf of REDUS RALEIGH HOUSING, LLC.

Witness my hand and seal, this ____ day of _____, 2011.

_____
Notary Public

My Commission Expires:

_____

[NOTARY SEAL]

THE TOWN OF WENDELL

By: _____
Mayor

ATTEST:

_____
Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of the County of _____ and State of North Carolina, certify that _____, either being [ ] personally known to me or [ ] proven by satisfactory evidence (such evidence being _____ _____), personally appeared before me this day and acknowledged that he is the Clerk of the TOWN OF WENDELL, a North Carolina municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was voluntarily signed in its name by its Mayor, sealed with its municipal seal and voluntarily attested by him as its clerk for the purposes stated therein.

Witness my hand and seal, this ____ day of _____, 2011.

_____
Notary Public

My Commission Expires:

_____

[NOTARY SEAL]

This document has been pre-audited to the extent, and in the manner, required by the "Local Government Budget and Fiscal Control Act."

Town Finance Officer:

_____

CITY OF RALEIGH

By: _____

J. Russell Allen, City Manager

ATTEST:

By: _____

Gail G. Smith, City Clerk

(Affix Seal)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

This is to certify that on the _____ day of _____, 2011 before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Treasurer and J. Russell Allen is the City Manager of the City of Raleigh, the municipal corporation described herein and which voluntarily executed the foregoing; that she knows the corporate seal of said municipal corporation; that the seal affixed to the foregoing instrument is said corporate seal, and the name of the municipal corporation was subscribed thereto by the said City Clerk and Treasurer and that the said seal was affixed, by all order of the governing body of said municipal corporation, and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and official seal this the ____ day of _____, 2011.

Date: _____

_____
Official Signature of Notary Public

_____
Notary printed or typed name

[OFFICIAL SEAL]

My commission expires:_____

Exhibit C

Restated and Amended

Calendar Year	Residential Units Completed	Commercial Development Completed
2011	Purchase 103,000 gpd capacity = 412 homes	
2012	0	0
2013	225	0
2014	135	10,000 sq. ft
2015	150	15,000 sq. ft.
2016	200	20,000 sq. ft
2017	225	25,000 sq. ft
2018	225	25,000 sq. ft
2019	225	30,000 sq. ft
2020	250	50,000 sq. ft.
2021	250	75,000 sq. ft
2022	250	100,000 sq. ft
2023	250	200,000 sq. ft
2024	250	350,000 sq. ft
2025	250	350,000 sq. ft
2026	300	350,000 sq. ft
	3,600*	1,600,000 sq. ft*

* Please note that the project is approved for up to 4,000 dwelling units and 2,000,000 sf of commercial space. It is possible that 100% of these units and this space could be built at some point in time. In the event more than 3,600 residential units or 1,600,000 square feet of commercial development is constructed, REDUS, its successor, or assignee shall purchase water and sewer capacity therefor on the same basis and in the same manner as other purchases of such capacity hereunder.