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REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS

By and Among

THE COUNTY OF LAKE, ILLINOIS,

WHISPERING OAKS ASSOCIATES, L.P.

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Trustee

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Dated as of November 1, 2008

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Relating to

\$26,000,000

Variable Rate Demand Multifamily Housing Revenue Bonds  
(Whispering Oaks Apartments Project),  
Series 2008

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## TABLE OF CONTENTS

NAME	TITLE	PAGE
Section 1.	Term of Restrictions .....	2
Section 2.	Project Restrictions .....	3
Section 3.	Occupancy Restrictions .....	4
Section 4.	Rental Restrictions .....	6
Section 5.	Transfer Restrictions .....	6
Section 6.	Enforcement.....	6
Section 7.	Covenants to Run with the Land; Successors Bound.....	7
Section 8.	Recording and Filing .....	8
Section 9.	Indemnification .....	8
Section 10.	Agent of the Issuer and the Trustee.....	9
Section 11.	No Conflict with Other Documents .....	9
Section 12.	Interpretation.....	9
Section 13.	Amendment.....	9
Section 14.	Severability .....	9
Section 15.	Notices .....	9
Section 16.	Governing Law. ....	10
Section 17.	Freddie Mac Rider.....	10
Section 18.	Limitation on Issuer Liability .....	10

EXHIBIT A	Description of Project Site
EXHIBIT B	Certification of Income
EXHIBIT C	Certificate of Continuing Program Compliance
EXHIBIT D	Freddie Mac Rider

**REGULATORY AGREEMENT AND DECLARATION  
OF RESTRICTIVE COVENANTS**

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (including the Exhibits attached hereto) dated as of November 1, 2008 (this “*Regulatory Agreement*”), by and among The COUNTY OF LAKE, ILLINOIS, a political subdivision duly organized and validly existing under the Constitution and the laws of the State of Illinois (the “*Issuer*”), WHISPERING OAKS ASSOCIATES, L.P., a limited partnership duly organized and validly existing under the laws of the State of Illinois (the “*Borrower*”), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association duly organized and validly existing under the laws of the United States of America, as trustee (the “*Trustee*”) under that certain Trust Indenture dated as of November 1, 2008, by the Issuer and the Trustee (together with any other trust indenture authorizing the issuance of bonds to refund the bonds authorized in said Trust Indenture, the “*Indenture*”);

**WITNESSETH:**

WHEREAS, the Borrower will be the record owner of land, buildings and related improvements and furnishings, equipment and related property to be acquired, rehabilitated and equipped, and to be located in Lake County, Illinois, legally described in *Exhibit A* attached hereto and made a part hereof, comprised of 405 units of housing for residential rental purposes, a portion of such units which are to be rented to individuals and families of low or moderate income (such land, buildings, improvements, furnishings, equipment and related property being collectively referred to herein as the “*Project*”); and

WHEREAS, the acquisition, rehabilitation and equipping of the Project will be financed in part from the proceeds of the sale of the Variable Rate Demand Multifamily Housing Revenue Bonds (Whispering Oaks Apartments Project), Series 2008 of the Issuer in the aggregate principal amount of \$26,000,000 (the “*Bonds*”), issued by the Issuer under the Indenture and pursuant to the provisions of 50 *Illinois Compiled Statutes 2006*, 445/1 *et seq.*, as supplemented and amended (the “*Act*”); and

WHEREAS, the interest on the Bonds is excludible from gross income of the owners thereof for federal income tax purposes, provided, among other things, the Project continuously complies with Section 142(d) of the Internal Revenue Code of 1986, as amended (the “*Code*”), and the regulations promulgated thereunder (the “*Regulations*”); and

WHEREAS, compliance of the Project with the requirements of Section 142(d) of the Code and the Regulations for treatment of the Bonds as “exempt facility bonds” used to provide a qualified residential rental project (as defined therein) is within the control of the Borrower; and

WHEREAS, it is necessary for the Borrower to agree to this Regulatory Agreement, and thereby consent to be regulated as herein set forth to preserve the exclusion of the interest on the Bonds from gross income of the owners thereof under Section 103(a) of the Code and the Regulations;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other valuable consideration, the Issuer, the Borrower and the Trustee hereby agree, as follows:

*Section 1. Term of Restrictions.* (a) *Occupancy Restrictions:* The term of the Occupancy Restrictions set forth in Section 3 hereof (the “*Occupancy Restrictions*”) with respect to the Project shall commence on the date the Bonds are issued and end with respect to the Project on the latest of the date (i) which is fifteen (15) years after the date on which at least 60% of the residential units in the Project are first occupied following the acquisition, rehabilitation and installation thereof by the Borrower, (ii) which is the first day on which no Bond or other tax-exempt private activity bond (as defined in Section 141(a) of the Code) issued with respect to the Project is outstanding (including any refunding of any such obligations), or (iii) on which any project-based assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates (which Occupancy Restrictions period is hereinafter referred to as the “*Qualified Project Period*” for such Project).

(b) *Rental Restrictions:* The Rental Restrictions set forth in Section 4 hereof (the “*Rental Restrictions*”) with respect to the Project shall remain in effect during the Qualified Project Period for the Project set forth in paragraph (a) of this Section 1.

(c) *Involuntary Termination.* Notwithstanding the provisions of paragraphs (a) and (b) of this Section 1, this Regulatory Agreement and all other restrictions hereunder shall cease to apply in the event of an involuntary noncompliance caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the date of issue of the Bonds which prevents the Trustee from enforcing the provisions of this Regulatory Agreement, or condemnation or similar event; *provided*, that within a reasonable time period either (i) the Bonds are retired, or (ii) any insurance proceeds or condemnation award or other amounts received as a consequence of such event are used to provide a project which meets the requirements of Section 142 of the Code and applicable Regulations, or any successor law or regulation. However, the provisions of this subsection (c) shall cease to apply (and the provisions of subsections (a) and (b) shall apply for the remainder of the Qualified Project Period) in the event of foreclosure, transfer of title by deed in lieu of foreclosure or similar event if, at any time subsequent to such event and during the Qualified Project Period, the Borrower or any transferee or assignee of the Project or a related person to any of the foregoing (as defined in Section 147(a)(2) of the Code) (a “*Related Person*”) obtains an ownership interest in the Project for federal tax purposes.

(d) *Termination.* This Regulatory Agreement shall terminate with respect to the Project upon the earlier of (i) the termination of the Occupancy Restrictions and the Rental Restrictions, as provided in subsections (a) and (b) of this Section 1 for the Project, or (ii) the termination pursuant to the provisions of subsection (c) of this Section 1 for the Project, or (iii) the delivery to the Issuer, the Borrower and the Trustee of an opinion of nationally recognized municipal bond counsel (“*Bond Counsel*”) in form and substance satisfactory to the Issuer and the Trustee to the effect that continued compliance with the Rental Restrictions and Occupancy Restrictions is not required in order for interest on the Bonds to remain excludible from the gross income of the owners of the Bonds for federal income tax purposes.

*Section 2. Project Restrictions.* The Borrower hereby represents and warrants, as of the date hereof, and covenants that:

(a) The Borrower has reviewed the provisions of this Regulatory Agreement with its counsel and understands said provisions.

(b) Any functionally related and subordinate facilities (e.g., parking areas, laundry facilities, meeting rooms, common areas, swimming pools, tennis courts, etc.) to the Project (the “*Related Facilities*”) will be made available to all tenants of the Project on an equal basis. Fees charged to residential tenants for use of the Related Facilities will be commensurate with fees charged for similar facilities at similar residential rental properties in the surrounding area and, in no event will any such fees charged to tenants of the Project be discriminatory or exclusionary as to the low income tenants of the Project. No Related Facilities will be made available to persons other than tenants or their guests. Parking, if available, will be made available to all tenants on a first come, first served basis.

(c) For the Qualified Project Period, the Borrower shall not: (1) except upon a sale or transfer of the Project in accordance with the terms of this Regulatory Agreement or in connection with the delivery of the Reimbursement Mortgage (as defined in the Indenture), encumber any portion of the Project or grant commercial leases of any portion thereof or permit the conveyance, transfer or encumbrance of any portion of the Project (except for apartment leases); or (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project; *provided*, that nothing herein shall prohibit the Borrower from granting easements, operating leases and/or licenses of the Related Facilities, for the purpose of providing for the operation of the Related Facilities for the benefit of the Project.

(d) For the Qualified Project Period, the Borrower shall exercise reasonable diligence to comply with the requirements of this Regulatory Agreement, and shall correct any noncompliance within sixty (60) days after such noncompliance is first discovered or would have been discovered by the exercise of reasonable diligence.

(e) The Project consists of a building or structure or several proximate buildings or structures of similar construction, each containing one or more similarly constructed residential units located on a single tract of land or contiguous tracts of land (separated only by streets or roads) which are owned, for Federal income tax purposes, at all times by one (1) person, and may include facilities functionally related and subordinate thereto. Each such building or structure is a discrete edifice or other man-made construction, consisting of an independent foundation, outer walls and roof and containing five (5) or more similarly constructed units.

(f) All of the units in the Project contain complete living, sleeping, eating, cooking and sanitation facilities for a single person or a family. Each unit contains a kitchen that includes a stove, a cooking range, a full-size refrigerator and sink.

Continuing or frequent nursing, medical or psychiatric services will not be made available at the Project.

(g) None of the units in the Project will at any time be utilized on a transient basis, or used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, nursing home, sanitarium or rest home.

*Section 3. Occupancy Restrictions.* Pursuant to Section 142 of the Code, the Issuer has elected, and the Borrower hereby agrees, that the requirements of subparagraph B of such Section 142(d)(1) of the Code shall apply to the Project. The Borrower represents, warrants and covenants that:

(a) At all times during the Qualified Project Period, at least 40% of the residential units in the Project shall be continuously occupied (or, only after the date on which the Bonds are issued, treated as occupied as provided herein) by individuals whose aggregate adjusted income (computed in the manner described in Section 1.167(k)-3(b)(3) of the Regulations prior to its removal by TD 8 474, 1993-1 C.B. 242) does not exceed 60% of the median gross income, adjusted for family size, for the area in which the Project is located, determined in a manner consistent with determinations of lower income families and median gross income under Section 8 of the United States Housing Act of 1937, as amended (a “*Qualifying Tenant*”); *provided*, that if all the occupants of a unit are students (as defined in Section 151(c)(4) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code, the occupants of that unit shall not be deemed to be “*Qualifying Tenants*.” For leases in existence on the date hereof, the determination of whether an individual or family meets the income requirement set forth in this Agreement shall be made as of the date the Bonds are issued or, if desired, the date the current lease with respect to a unit was executed so long as it was executed no longer than twelve (12) months prior to the date on which the Bonds are issued and on an annual basis thereafter, based solely for a determination made on or after the date hereof on an Income Certification (as hereinafter defined). For leases executed on and after the date on which the Bonds are issued, the determination of whether an individual or family meets the income requirement set out above shall be made at the earlier of the time occupancy commences or the execution of a lease with respect thereto on and after the date on which the Bonds are issued and on an annual basis thereafter and shall be based upon Income Certifications (as hereinafter defined). Any residential unit occupied by an individual or family on or after the date on which the Bonds are issued who is a Qualifying Tenant shall continue to be treated as occupied by a Qualifying Tenant during their tenancy in such unit, even though they subsequently cease to be of low or moderate income, unless the most recent determination of their income indicates that their income exceeds 140% of the applicable income limit (whether as a result of an increase in income or a decrease in family size or otherwise) and after such determination, but before the next determination, any residential unit of comparable or smaller size in the Project is occupied by a new resident whose income exceeds the then applicable income limit. Any residential unit vacated by a Qualifying Tenant shall be treated as occupied by a Qualifying Tenant until reoccupied, other than for a temporary period not to exceed thirty-one (31) days, at which time the

character of such unit with respect to occupancy by a Qualifying Tenant shall be redetermined. In applying the foregoing 40% requirement, 0.40 shall be multiplied by the total number of completed residential units, and if the resulting number contains a fraction, it shall be rounded up to the next highest whole unit.

(b) As a condition to occupancy of a unit on and after the date on which the Bonds are issued, each individual or family who is intended to be a Qualifying Tenant shall, prior to occupying a residential unit or signing a lease, be required to sign and deliver to the Borrower, the "Certification of Income" attached hereto as *Exhibit B* (the "*Income Certification*") in which the prospective Qualifying Tenant certifies that he and his family, if applicable, are Qualifying Tenants and pursuant to the lease signed by a Qualifying Tenant, said tenant shall be required to submit, at least annually, a new Income Certification on the basis of the current income of the tenant. In addition, such Qualifying Tenant shall be required to provide whatever other information, documents or certifications, including employment verifications and income tax returns, as are reasonably deemed necessary by the Borrower to substantiate the initial or subsequent Income Certification.

(c) The Borrower shall use or cause to be used in renting any residential units in the Project to a prospective Qualifying Tenant on and after the date on which the Bonds are issued, a lease that provides for termination of the lease and consent by such person to immediate eviction, subject to applicable provisions of Illinois law, for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Income Certification.

(d) All materials used to determine compliance with the provisions of this Section 3 and Income Certifications will be maintained on file at such Project so long as any Bonds are outstanding and for five (5) years thereafter with respect to each Qualifying Tenant who occupied a residential unit in the Project during the period the restrictions hereunder are applicable, and the Borrower shall, upon request, make such Income Certifications available for inspection by the Trustee.

(e) On \_\_\_\_\_, 2009, and on the first day of each calendar quarter thereafter, the Borrower will submit to the Trustee the "Certificate of Continuing Program Compliance," in the form attached hereto as *Exhibit C*, executed by the Borrower, stating the percentage of completed residential units in the Project which were occupied or held available for occupancy by Qualifying Tenants (but only after initial occupancy by a Qualifying Tenant on and after the date on which the Bonds are issued) at all times during the preceding quarter and identifying Qualifying Tenants who commenced or terminated occupancy in the Project during such quarter.

(f) On the annual anniversary of the issuance of the Bonds (or at such other times, as prescribed by the Secretary of the United States Treasury Department), the Borrower will submit to the Secretary of the United States Treasury Department (with a copy to the Trustee), a certificate in the form that the Secretary prescribes that the Project continues to meet the requirements of Section 142 of the Code.

*Section 4. Rental Restrictions.* The Borrower hereby represents, warrants and covenants that each residential unit in the Project will be rented or available for rental on a continuous basis to members of the general public (other than residential units for a resident manager and/or maintenance personnel and residential units for individuals or families of low or moderate income as provided for in Section 3 of this Regulatory Agreement). Each Qualifying Tenant occupying a unit in the Project shall be required to execute a written lease which shall be effective for a term of at least six (6) months. The costs of meals and other services shall not be included in the rent. Such meals and services, if any, shall be optional, and fair market value shall be charged for such meals and services.

*Section 5. Transfer Restrictions.* For the Qualified Project Period, the Borrower shall sell, transfer, assign, convey, change title to or otherwise dispose of the Project or any interest therein (a “*Transfer*”), in whole or in part, only in accordance with the terms of the Financing Agreement dated as of November 1, 2008, by and among the Issuer, the Trustee and the Borrower (the “*Financing Agreement*”). Further, any such sale, transfer, assignment, conveyance, change in title or other disposition shall only be permitted if: (1) the Borrower shall not be in default hereunder; (2) the purchaser or assignee shall execute any necessary or appropriate document reasonably requested by the Trustee with respect to assuming its obligations under this Regulatory Agreement and the Financing Agreement (the “*Assumption Agreement*”), which document shall be recorded in the Recorder’s Office in The County of Lake, Illinois; (3) the Trustee shall have received an Opinion of Bond Counsel, which opinion is acceptable to the Trustee, to the effect that such transfer will not adversely affect the exclusion of the interest on the Bonds from gross income of the owners thereof for federal income tax purposes; (4) the Borrower shall deliver to the Trustee a certificate, acceptable in form to the Trustee, to the effect that the Borrower did not develop such Project with the intention of sale upon completion; (5) the Borrower shall deliver to the Trustee an opinion of counsel to the transferee, acceptable in form to the Trustee, that the transferee has duly assumed the obligations of the Borrower under this Regulatory Agreement and that such obligations and this Regulatory Agreement are binding on the transferee; and (6) such other conditions are met as are set forth in or referred to in the Financing Agreement or as the Trustee may reasonably impose as part of the Assumption Agreement: (i) to protect the exclusion of the interest on the Bonds from gross income of the owners thereof for federal income tax purposes; (ii) to ensure that such Project is not acquired by a person which has pending against it, or which has a history of, building code violations, as identified by county, state or federal regulatory agencies; and (iii) to provide that indemnification of the Trustee pursuant to Section 9 of this Regulatory Agreement and elsewhere is assumed by the purchaser or assignee. Once the Assumption Agreement has been delivered and all conditions of this Section 5 have been satisfied, the Trustee shall deliver a release to the Borrower with respect to any future compliance with the provisions of this Regulatory Agreement with respect to such Project, and the Issuer shall have delivered a release with respect to the Financing Agreement (subject to any further transfer restrictions in the Financing Agreement). The Borrower shall deliver the Assumption Agreement, along with opinions and certificates required by this Section, to the Trustee at least ten (10) business days prior to a proposed Transfer.

*Section 6. Enforcement.* (a) The Borrower shall permit, after three (3) business days prior notice, any duly authorized representative of the Trustee to inspect any books and records



of the Borrower regarding the Project and with respect to the incomes of Qualifying Tenants which pertain to compliance with the provisions of this Regulatory Agreement.

(b) In addition to the information provided for in Section 3(e) hereof, the Borrower shall submit any other information, documents or certifications reasonably requested by the Issuer or the Trustee which the Issuer or the Trustee deems reasonably necessary to substantiate continuing compliance with the provisions of this Regulatory Agreement.

(c) The Issuer, the Trustee and the Borrower each covenants that it will not knowingly take, fail to take or permit any action within its control that would adversely affect the exclusion of the interest on the Bonds from gross income of the owners thereof for federal income tax purposes. Moreover, each covenants to take any lawful action within its control (including amendment of this Regulatory Agreement as may be necessary, in the opinion of Bond Counsel) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statement promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations issued under Section 142(d) of the Code and affecting the Project, but only in the event that each of the Issuer, the Trustee and the Borrower receives an opinion of Bond Counsel, which sets forth such requirements.

(d) If the Borrower shall fail to observe or perform any covenant, condition or agreement contained herein on its part to be observed or performed, and such failure continues for sixty (60) days after the Borrower discovers, or by the exercise of reasonable diligence should have discovered, or receives notice from the Issuer or the Trustee of, such failure, then and in such event, the Trustee and, to the extent permitted by the Indenture, any owner of a Bond shall be entitled, individually or collectively, and in addition to all other remedies provided by law or in equity to compel specific performance by the Borrower of its obligations under this Regulatory Agreement, it being recognized that the beneficiaries of the obligations of the Borrower hereunder cannot be adequately compensated by monetary damages in the event of a default by the Borrower.

(e) The Borrower and the Trustee each acknowledge that the primary purpose for requiring compliance with the restrictions provided in this Regulatory Agreement is to preserve the exclusion from gross income for federal income tax purposes of the interest on the Bonds to the owners of the Bonds, and that the Trustee on behalf of the owners of the Bonds, who are declared to be third party beneficiaries of this Regulatory Agreement, shall be entitled, for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default under this Regulatory Agreement.

(f) In the enforcement of this Regulatory Agreement, the Trustee may rely on any certificate or opinion of counsel delivered by or on behalf of the Borrower or any tenant with respect to the Project.

*Section 7. Covenants to Run with the Land; Successors Bound.* The Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Borrower hereby declares its express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants, reservations and restrictions running with

the land to the extent permitted by law, and shall pass to and be binding upon the successors in title to the Project throughout the term of this Regulatory Agreement. Each and every contract, deed, mortgage, or other instrument hereafter executed covering or conveying the Project or any portion thereof or interest therein shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

*Section 8. Recording and Filing.* The Borrower shall cause this Regulatory Agreement and all amendments and supplements hereto to be recorded and filed in the conveyance and real property records of Lake County, Illinois, and in such other places as the Trustee may reasonably request. This Regulatory Agreement shall be recorded in the grantor-grantee index to the name of the Borrower as grantor and to the name of the Trustee as grantee. The Borrower shall pay all fees and charges incurred in connection with any such recording.

*Section 9. Indemnification.* The Borrower shall be required and hereby agrees to pay, indemnify and hold the Issuer and the Trustee, and their respective officers, members, directors, officials and employees and the owners of the Bonds harmless from, any and all loss, damage, cost, expense, suit, judgment, action, injury or liability which they, or any of them, may offer or incur (including without limitation any costs, fees and expenses, including reasonable attorneys', agents' or administrators' fees, costs and expenses, incurred in connection with the enforcement of this Regulatory Agreement) by reason of (a) the design, acquisition, rehabilitation, equipping, operation, use, occupancy, maintenance or ownership of the Project (including compliance with laws, ordinances and rules and regulations of public authorities relating thereto); or (b) any written statements or representations with respect to the Borrower, the Project or the Bonds made or given to the Issuer or the Trustee, or any underwriters or purchasers of any of the Bonds, by the Borrower, or any of its partners, agents or employees, including, but not limited to, statements or representations of facts, financial information or Borrower affairs; or (c) any fraudulent act by or on behalf of the Borrower or any officer or employee of the Borrower, including without limitation any intentional misrepresentation of, or intentional failure to disclose, a material fact in connection with the issuance and sale of the Bonds or the application of the proceeds thereof; or (d) any violation of the restrictions contained in Section 2 hereof or the Occupancy Restrictions contained in Section 3 hereof and the continuation of such violation of Section 2 hereof or Section 3 hereof for thirty (30) days after written notice of such violation shall be given to the Borrower by the Issuer or the Trustee or any owner of the Bonds, or forty-five (45) days after the date such violation should have been discovered by the Borrower by exercise of reasonable diligence; or (e) any violation of the Rental Restrictions contained in Section 4 hereof or the Transfer Restrictions contained in Section 5 of this Regulatory Agreement.

The Borrower also shall pay and discharge and shall indemnify and hold harmless the Trustee from (x) any lien or charge upon payments by the Borrower to the Trustee hereunder, and (y) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the Trustee shall give prompt notice to the Borrower, and the Borrower shall have the duty to assume, and will assume, the defense

thereof, with full power to litigate, compromise or settle the same; *provided*, that the Trustee shall have the right to employ separate counsel in any such action or proceeding and to participate in the defense thereof. Notwithstanding the foregoing, the Borrower shall not be responsible for indemnifying the Trustee for the Trustee's own gross negligence or willful misconduct.

*Section 10. Agent of the Issuer and the Trustee.* The Issuer and the Trustee shall have the right to appoint an agent or administrator to carry out any of their respective duties and obligations hereunder, and shall inform the other parties hereto of any such agency appointment by written notice.

*Section 11. No Conflict with Other Documents.* The Borrower warrants that it has not executed, and will not execute, any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede all other requirements in conflict with this Regulatory Agreement.

*Section 12. Interpretation.* Any terms not defined in this Regulatory Agreement shall have the same meaning as terms defined for purposes of Section 142 of the Code and in the Regulations, the Indenture and the Financing Agreement.

*Section 13. Amendment.* This Regulatory Agreement may be amended by the parties hereto to reflect changes in the Code, the Regulations and revenue rulings promulgated thereunder, or in the interpretation thereof, subject to the opinion of Bond Counsel that such amendment does not adversely affect the exclusion of the interest on the Bonds from gross income of the owners thereof for federal income tax purposes.

*Section 14. Severability.* The invalidity of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions of this Regulatory Agreement; *provided, however*, that no such invalidity shall require the Issuer to make any payments from revenues, other than the proceeds derived from the sale of the Bonds issued under the Indenture and the proceeds derived from the Financing Agreement (except such proceeds as may be derived by the Issuer pursuant to the Unassigned Rights, as defined in the Indenture) or impose any personal liability on any past, present or future director, member, elected or appointed officer, official, employee, attorney or agent of the Issuer.

*Section 15. Notices.* Any notice, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when personally delivered and receipted for, or, if sent by telecopy (to be confirmed and with a copy thereof sent by overnight service) by private courier service or by overnight mail service, shall be deemed to have been given if and when received (unless the addressee refuses to accept delivery, in which case it shall be deemed to have been given when first presented to the addressee for acceptance), or on the first day after being sent by telegram, or on the third day after being deposited in United States registered or certified mail, return receipt requested, postage prepaid. Any such notice, demand or other communication shall be addressed to a party at its address set forth

below or to such other address the party to receive such notice may have designated to all other parties by notice in accordance herewith:

The Borrower: Whispering Oaks Associates, L.P.  
c/o ATWO Development  
1755 East Martin Luther King, Jr. Boulevard  
Los Angeles, California 90058  
Attention: Tim English

With a copy to: Resch, Polster & Berger, LLP  
9200 Sunset Boulevard, 9th Floor  
Los Angeles, California 90069  
Attention: Sheldon P. Berger and  
Jeffrey A. Rabin

The Trustee: The Bank of New York Mellon Trust  
Company, N.A.  
Two North LaSalle Street  
Chicago, Illinois 60602  
Attention: Corporate Trust Department

The Issuer: The County of Lake, Illinois  
18 North County Street  
Waukegan, Illinois 60085  
Attention: County Clerk

With a copy to: Lake County Partners  
28055 Ashley Circle  
Suite 212  
Libertyville, Illinois 60048  
Attention: President

*Section 16. Governing Law.* This Regulatory Agreement shall be construed in accordance with and governed by the laws of the State of Illinois, without regard to conflicts of laws principles and, where applicable, the laws of the United States of America.

*Section 17. Freddie Mac Rider.* During such time that Freddie Mac is the Credit Facility Provider, the provisions of the Freddie Mac Rider attached to this Regulatory Agreement as *Exhibit D* (the “*Freddie Mac Rider*”) are incorporated into this Regulatory Agreement by reference as if fully set forth in this Section 17. Notwithstanding anything contained herein or in the Freddie Mac Rider, in no event shall the provisions of the Freddie Mac Rider be construed to contravene the laws of the State of Illinois.

*Section 18. Limitation on Issuer Liability.* No pledge, agreement, covenant, representation, obligation or undertaking by the Issuer contained in this Regulatory Agreement and no other pledge, agreement, covenant, representation, obligation or undertaking by the Issuer contained in any other document executed by the Issuer in connection with the Project or the

Bonds shall give rise to any pecuniary liability of the Issuer or charge against its general credit, or shall obligate the Issuer financially in any way, except out of payments to be made by the Borrower under the Financing Agreement, other than payments to be made by the Borrower pursuant to the Unassigned Rights. No failure of the Issuer to comply with any term, condition, covenant, obligation or agreement contained herein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charge, except to the extent the same is paid by the Borrower; and no execution of any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or other property of the Issuer. Nothing herein shall preclude a proper party in interest from seeking and obtaining specific performance against the Issuer for any failure to comply with any term, condition, covenant, obligation or agreement contained herein; *provided*, that no costs, expenses or other monetary relief shall be recoverable from the Issuer, except as may be payable by the Borrower. No owner of the Bonds shall have the right to compel any exercise of the taxing power of the Issuer, the State of Illinois or any political subdivision thereof to pay the Bonds or the premium, if any, or interest thereon. The Bonds shall not constitute an indebtedness of the Issuer, the State of Illinois or any political subdivision thereof, within the meaning of any constitutional or statutory provision.

Anything in this Regulatory Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that (a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee or the Borrower as to the existence of any fact or state of affairs required hereunder to be noticed by the Issuer; (b) the Issuer shall not be under any obligation hereunder to perform any recordkeeping or to provide any legal services, it being understood that such services shall be performed either by the Trustee (with respect to such recordkeeping) or the Borrower upon the request of the Issuer; and (c) none of the provisions of this Regulatory Agreement shall require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless it shall first have been adequately indemnified to its satisfaction against the cost, expenses and liability which may be incurred thereby.

All covenants, stipulations, representations, promises, agreements and obligations of the Issuer contained in this Regulatory Agreement or in any of the Bonds or in any other document executed in connection herewith or therewith shall be deemed to be the limited covenants, stipulations, representations, promises, agreements and obligations of the Issuer, and not of any past, present or future director, member, elected or appointed officer, official, employee, attorney or agent of the Issuer in his or her individual capacity. No recourse shall be had against any such individual, either directly or through the Issuer or otherwise for the payment for or to the Issuer or any sum that may be due and unpaid by the Issuer upon the Bonds or under any obligation, covenant, stipulation, promise or agreement contained herein, in the Bonds or in any other document executed in connection herewith or therewith, and no recourse shall be had against any of such persons on account of the issuance and sale of the Bonds or on account of any representations made in connection therewith. Any and all personal liability or obligation, whether in common law or in equity or by reason of statute or constitution or by the enforcement of any assessment or otherwise, of any such person to respond by reason of any act or omission on his or her part or otherwise, for the payment for or to the Issuer or any receiver thereof, or for

or to the owner of any of the Bonds or otherwise, of any sum that may remain due and unpaid upon the Bonds or under any of the documents executed in connection with the issuance thereof is hereby expressly waived and released as a condition to and in consideration for the issuance of the Bonds and the execution of this Regulatory Agreement and related documents.

The Issuer shall not be obligated to take any action or execute any instrument pursuant to any provision hereof or of any related document until it shall have been requested to do so by the Borrower or the Trustee, and shall have received from the Borrower, assurance satisfactory to the Issuer that the Issuer will be reimbursed for its expenses, including attorneys' fees and expenses, incurred or to be incurred in connection with the taking of such action or the execution of such instrument.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Regulatory Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first above written.

THE COUNTY OF LAKE, ILLINOIS

[SEAL]

By: \_\_\_\_\_  
Title: Chairman

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Trustee

[SEAL]

By: \_\_\_\_\_  
Title: \_\_\_\_\_

WHISPERING OAKS ASSOCIATES, L.P., an  
Illinois limited partnership

By: ATWO, LLC, a California limited  
liability company, its sole general  
partner

By: 1755 EFM 3, LLC, a California  
limited liability company, its Manager

By \_\_\_\_\_  
Tim English, Managing Member

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF LAKE )

I, \_\_\_\_\_, a Notary Public, do hereby certify that Suzi Schmidt, personally known to me to be the same person whose name is, as the Chairman of the County Board of THE COUNTY OF LAKE, ILLINOIS, subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she, being thereunto duly authorized, signed and delivered the said instrument as the free and voluntary act of said County and as her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

---

Notary Public in and for  
Lake County, Illinois

(SEAL)

My commission expires:



STATE OF ILLINOIS    )  
                                  ) SS  
COUNTY OF LAKE    )

I, \_\_\_\_\_, a Notary Public, do hereby certify that \_\_\_\_\_, personally known to me to be the same person whose name is, as a \_\_\_\_\_ of THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that s/he, being thereunto duly authorized, signed, and delivered the said instrument as the free and voluntary act of said corporation and as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public in and for  
Lake County, Illinois

(SEAL)

My commission expires:

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a Notary Public, do hereby certify that Tim English, personally known to me to be the same person whose name is, as a Managing Member of 1755 EFM 3, LLC, the Manager of ATWO, LLC, the sole general partner of WHISPERING OAKS ASSOCIATES, L.P., an Illinois limited partnership, subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he, being thereunto duly authorized, signed, and delivered the said instrument as the free and voluntary act of said limited partnership and as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public in and for  
\_\_\_\_\_, \_\_\_\_\_

(SEAL)

My commission expires:

**EXHIBIT A**

**DESCRIPTION OF PROJECT SITE**

**EXHIBIT B**

**CERTIFICATION OF INCOME**

NAME OF DEVELOPMENT: Whispering Oaks Apartments

ADDRESS OF DEVELOPMENT: 2401-2443 West Dugdale Road, Waukegan, Illinois

DATE: \_\_\_\_\_

The undersigned does hereby declare, depose and certify, under penalty of perjury, as follows:

If additional space is needed in filling out this form, attach sheets identifying the additional information referenced to the appropriate line number.

Line:

1.	2.	3.	4.	5.
Name of Head of Household, Spouse and Members of Your Family living in Unit	Relationship to Head of Household	Age	Social Security Number	Place of Employment
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Each line hereinafter is for the income of *all of the above persons* during the 12-month period beginning on this date or, if you signed a lease prior to this date, the date of the signing of your lease or the latest anniversary date of the signing of your lease, whichever is applicable. Please refer to Part I of the Instruction Sheet for detailed explanations as to the income information required. Part II of the Instruction Sheet provides information on income which may be excluded.

6. (a) Wages, salaries, tips, etc. \$\_\_\_\_\_

- (b) Interest, dividends, and other net income of any kind from real or personal property (also enter on line 13(b)) \$\_\_\_\_\_
- 7. Net income from the operation of a business or profession \$\_\_\_\_\_
- 8. The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment \$\_\_\_\_\_
- 9. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay \$\_\_\_\_\_
- 10. Welfare assistance (*i.e.*, welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by federal, state or local governments) \$\_\_\_\_\_
- 11. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the unit \$\_\_\_\_\_
- 12. All regular pay, special pay, and allowances of a member of the Armed Forces \$\_\_\_\_\_

The individual incomes of all the persons listed in Line 1 above during the 12-month period beginning this date is as follows:

Names	Totals
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

- 13. If any of the persons described above has any income of any kind from real property, savings, stocks, bonds, and other forms of capital investment (excluding interests in

Indian trust land and excluding equity accounts in the Department of Housing and Urban Development (“HUD”) homeownership programs), provide the following:

(a) The total value of all such assets owned by all such persons \$\_\_\_\_\_

(b) The total amount of income expected to be derived from such assets in the 12-month period commencing this date or, if you signed a lease prior to this date, the date of the signing of your lease or the latest anniversary date of the signing of your lease [from line 6(b)] \$\_\_\_\_\_

14.(a) Will all of the persons listed in Column 1 above be or have they been full time students during five calendar months of this calendar year (i) at an educational organization which normally maintains regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, or (ii) in institutional on-farm training under the supervision of an accredited agent of an educational organization described in clause (i) or of a state or political subdivision of a state?

Yes \_\_\_\_\_

No \_\_\_\_\_

(b) If the answer to 14(a) is yes, is any such person married and eligible to file a joint federal income tax return?

Yes \_\_\_\_\_

No \_\_\_\_\_

I/WE, the undersigned, state that I/WE have read and answered fully and truthfully each of the preceding questions for all persons who are to occupy the unit in the above apartment development for which application is made, all of whom are listed above, and I/WE declare under penalty of perjury that the foregoing representations are true and correct.

\_\_\_\_\_  
HEAD OF FAMILY

\_\_\_\_\_  
SPOUSE

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public [SEAL]

My commission expires:

## INSTRUCTION SHEET

Part I of this Instruction Sheet contains line-by-line instructions to assist your completion of the Certification of Income. The Certification of Income is a statement of the total anticipated amounts, monetary or not, which go to, or on behalf of, the Head of the Family or Spouse (even if temporarily absent) or to any other member of the family who proposes to live in the unit during the 12-month period commencing on this date or, if you signed a lease prior to this date, the date of the signing of your lease or the latest anniversary date of the signing of your lease, whichever is applicable, including (i) amounts which are anticipated to be received from a source outside the Family during the 12-month period commencing on this date, and (ii) all net income derived from assets to which any member of the Family has access. Excluded therefrom is income specified in PART II of this section.

### PART I:

1. "Family" means two or more persons related by blood, marriage, adoption, or operation of law.

6. (a) Provide the total of all wages, salaries, commissions, tips, bonuses, over-time pay, fees and other compensation for personal services, without regard to payroll deductions.

(b) For this purpose, expenditures for amortization of capital indebtedness shall not be deducted to determine income. An allowance for depreciation of assets may be deducted based on straight-line depreciation as provided in regulations of the United States Treasury. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family.

7. For this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business. An allowance for depreciation of assets used in a business or profession may be deducted based on straight-line depreciation as provided in regulations of the United States Treasury. Any withdrawal of cash or assets from the operation of a business or profession will be included in net income from a business or profession except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the Family.

8. Periodic amounts do *not* include deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

9. Payments in lieu of earnings do *not* include lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and



accident insurance and worker's compensation), capital gains and settlements for personal or property losses.

10. If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the amount of Welfare Assistance income to be included as income shall consist of:

(i) the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus

(ii) the maximum amount that the Welfare Assistance agency could in fact allow the Family for shelter and utilities. If the Family's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

12. This does *not* include the special pay to a Family member serving in the Armed Forces who is exposed to hostile fire.

13. The amount entered on line 13(a) should include the net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds or other forms of capital investment,

(a) *excluding* an interest in Indian trust land, equity accounts in HUD ownership programs, the value of necessary items of personal property such as furniture and automobiles, the value of a trust fund which is not revocable by, or under the control of, any member of the Family or household, so long as the fund continues to be held in trust and the value of a home currently purchased with assistance under 24 C.F.R., Part 982, Subpart M (limited however to the last ten (10) years after the purchase date of the home), but

(b) *including*, in the case of the disposition of any business or family assets for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of this certificate, the excess of the fair market value of the assets disposed over the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the household member receives important consideration not measurable in dollar terms.

## Part II:

The determination of income for the Certification of Annual Income does *not* include any of the following:

- A. Temporary, nonrecurring or sporadic income (including gifts).
- B. Income from the employment of children (including foster children) under the age of 18 years.
- C. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the Family, who are unable to live alone).
- D. Amounts received by the Family that are specifically for, or in reimbursement of, the cost of medical expenses for any Family member.
- E. The full amount of student financial assistance paid directly to the student or to the educational institution.
- F.
  - (i) Amounts received under training programs funded by HUD;
  - (ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the public housing agency or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination and serving as a member of the governing body of the public housing agency. No resident may receive more than one such stipend during the same period of time; and
  - (v) Incremental earnings and benefits resulting to any Family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the Family member participates in the employment training program.
- G. Income of a live-in aide. A “live-in aide” means a person who resides with one or more elderly or near-elderly persons (*i.e.*, persons who are at least 50 years of age), or persons with disabilities, and who:

(a) is determined to be essential to the care and well-being of the person(s);

(b) is not obligated for the support of the person(s); and

(c) would not be living in the unit except to provide the necessary supportive services.

A “person with disabilities” means a person who: (a) has a disability as defined in 42 U.S.C. § 423; (b) is determined, pursuant to certain regulations, to have a physical, mental, or emotional impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes his or her ability to live independently, and (iii) is of such a nature that such ability could be improved by more suitable housing conditions; or (c) has a developmental disability as defined in 42 U.S.C. § 6001. The term does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. The term does not include a person whose disability is based solely on any drug or alcohol dependence.

H. Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the United States Housing Act of 1937, as amended, as published in the Federal Register from time to time

I. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

J. Earnings in excess of \$480 for each full time student 18 years old or older (excluding the Head of Household and Spouse).

K. Adoption assistance payments in excess of \$480 per adopted child.

L. Amounts received by the Family in the form of refunds or rebates under state or local law for property taxes paid on the unit.

M. Amounts paid by a state agency to a Family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled Family member at home.

FOR COMPLETION BY DEVELOPMENT OWNER ONLY:

I. CALCULATION OF ANNUAL INCOME:

1. Enter the amount of income for the entire family by adding line 6(a) with lines 7 through 12: \$\_\_\_\_\_

- 2.(a) If the amount entered in 13(a) is *greater* than \$5,000, enter the *greater* of:
- (i) the amount entered in 13(b) *or*
  - (ii) a percentage of the total entered in 13(a) based on the current passbook savings rate as determined by HUD
- (b) If the amount entered in 13(a) is less than \$5,000, enter the amount entered in 13(b): \$\_\_\_\_\_
3. Add number (1) and (2) to determine ANNUAL INCOME: \$\_\_\_\_\_

II. DETERMINATION OF TENANT ELIGIBILITY:

1. Is the amount entered in line 3 above less than or equal to 40 percent of area median gross income for the area in which the Project is located, completed taking into account the area in which the Project is located and size of the Family occupying the unit for which this Certification of Income is being completed?

Yes\_\_\_\_\_ No\_\_\_\_\_

2. Check one of the following:

- (a) Line (1) above is No, therefore the Household does not qualify as a Qualified Tenant. \_\_\_\_\_
- (b) Line (1) above is Yes, and 14(a) above is No, therefore the Household qualifies as a Qualified Tenant. \_\_\_\_\_
- (c) Line (1) above is Yes and 14(b) above is Yes, therefore the Household qualifies as a Qualified Tenant. \_\_\_\_\_
- (d) Line (1) above is Yes and 14(a) above is Yes and 14(b) above is No, therefore the Household does not qualify as a Qualified Tenant. \_\_\_\_\_

3. Number of apartment unit assigned: \_\_\_\_\_

\_\_\_\_\_  
Apartment Owner

## EXHIBIT C

### CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

The undersigned, being the authorized representative of Whispering Oaks Associates, L.P. (the "*Borrower*") has read and is thoroughly familiar with the provisions of the various documents associated with the issuance of the \$26,000,000 aggregate principal amount of Variable Rate Demand Multifamily Housing Revenue Bonds (Whispering Oaks Apartments Project) Series 2008 of The County of Lake, Illinois (the "*Issuer*"), such documents including:

1. the Regulatory Agreement and Declaration of Restrictive Covenants dated as of November 1, 2008 (the "*Regulatory Agreement*"), by and among the Issuer, THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee (the "*Trustee*"), and the Borrower; and

2. the Financing Agreement, dated as of November 1, 2008, by and among the Issuer, the Trustee and the Borrower.

As of the date of this certificate, the following percentages of completed residential units in the Project (i) are occupied by Qualifying Tenants (as such terms are defined in the Regulatory Agreement), or (ii) are currently vacant and being held available for such occupancy and have been so held continuously since the date a Qualifying Tenant vacated such unit; as indicated:

Occupied by Qualifying Tenants: \* \_\_\_\_\_ percent -- Unit Nos. \_\_\_\_\_

Held vacant for occupancy  
continuously since last  
occupied on or after the  
date on which the Bonds  
(as defined in the Regulatory  
Agreement) were issued  
by Qualifying Tenant: \* \_\_\_\_\_ percent -- Unit Nos. \_\_\_\_\_

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\* IMPORTANT: THE SUM OF THESE PERCENTAGES MUST ALWAYS BE 60 PERCENT OR GREATER.

The undersigned hereby certifies that the Borrower is not in default under any of the terms and provisions of the above documents.

WHISPERING OAKS ASSOCIATES, L.P., an  
Illinois limited partnership

By: ATWO, LLC, a California limited  
liability company, its sole general  
partner

By: 1755 EFM 3, LLC, a California  
limited liability company, its Manager

By \_\_\_\_\_  
Tim English, Managing Member

## EXHIBIT D

### FREDDIE MAC RIDER

This Freddie Mac Rider (this “*Rider*”) is attached to and forms a part of the Regulatory Agreement and Declaration of Restrictive Covenants (the “*Regulatory Agreement*”), dated as of November 1, 2008, by and among The County of Lake, Illinois (the “*Issuer*”), a political subdivision duly organized and validly existing under the Constitution and the laws of the State of Illinois, The Bank of New York Mellon Trust Company, N.A., a national banking association duly organized and validly existing under the laws of the United States of America, as trustee under the hereinafter-defined Indenture (together with any successor trustee under the Indenture described below and their respective successors and assigns, the “*Trustee*”), and Whispering Oaks Associates, L.P., an Illinois limited partnership (together with its permitted successors and assigns, the “*Owner*” or the “*Borrower*”).

1. *Definitions.* Terms used in this Rider as defined terms shall have the meanings given those terms in the Regulatory Agreement. In addition, the following terms shall have the following meanings:

“*Bond Mortgage*” has the meaning given that term in the Indenture.

“*Bond Mortgage Loan*” has the meaning given that term in the Indenture.

“*Bond Mortgage Loan Documents*” has the meaning given to that term in the Indenture.

“*Bond Mortgage Note*” has the meaning given to that term in the Indenture.

“*Freddie Mac*” means the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise organized and existing under the laws of the United States.

“*Indenture*” means the Trust Indenture dated as of November 1, 2008, by and between the Issuer and the Trustee with respect to the Bonds, as the same may have been from time to time amended or modified, together with any other supplements thereto.

“*Servicer*” means Prudential Affordable Mortgage Company, or a successor Servicer selected by Freddie Mac.

2. *Applicability.* The provisions of this Rider shall amend and supplement the provisions of, and in the event of a conflict shall supersede the conflicting provisions of, the Regulatory Agreement.

3. *Indemnification.* Inasmuch as the covenants, reservations and restrictions of the Regulatory Agreement run with the land, the indemnification obligations of the Owner contained



in the Regulatory Agreement will be deemed applicable to any successor in interest to the Owner, but, it is acknowledged and agreed, notwithstanding any other provision of the Regulatory Agreement to the contrary, that neither Freddie Mac nor any successor in interest to Freddie Mac will assume or take subject to any liability for the indemnification obligations of the Owner for acts or omissions of the Owner prior to any transfer of title to Freddie Mac, whether by foreclosure, deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan; the Owner shall remain liable under the indemnification provisions for its acts and omissions prior to any transfer of title to Freddie Mac. Freddie Mac shall indemnify the Issuer following acquisition of the Project by Freddie Mac, by foreclosure, deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan, during, and only during, any ensuing period that Freddie Mac owns and operates the Project, provided that Freddie Mac's liability shall be strictly limited to acts and omissions of Freddie Mac occurring during the period of ownership and operation of the Project by Freddie Mac. Except for periods in which Freddie Mac owns and operates the Project and in such case only for such obligations arising during such period, Freddie Mac shall have no indemnification obligations with respect to the Bonds or the Bond Mortgage Loan Documents. The Owner shall remain liable under the Regulatory Agreement for its actions and omissions prior to any transfer of title to Freddie Mac.

4. *Sale or Transfer.* Restrictions on sale or transfer of the Project or of any interest in the Owner, the Issuer and/or the Trustee consents, transferee agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like shall not apply to any transfer of title to the Project to Freddie Mac or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan or to any subsequent transfer by Freddie Mac following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan. No transfer of the Project shall operate to release the Owner from its obligations under the Regulatory Agreement. Nothing contained in the Regulatory Agreement shall affect any provision of the Bond Mortgage or any of the other Bond Mortgage Loan Documents that requires the Owner to obtain the consent of Freddie Mac as a precondition to sale, transfer or other disposition of, or any direct or indirect interest in, the Project or of any direct or indirect interest in the Owner, excluding transfers permitted by the Bond Mortgage. No covenant obligating the Owner to obtain an agreement from any transferee to abide by all requirements and restrictions of the Regulatory Agreement shall have any applicability to a transfer to Freddie Mac upon foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan by Freddie Mac, or to any subsequent transfer by Freddie Mac following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan. Any written consent to a sale or transfer obtained from the Issuer must be deemed to constitute conclusive evidence that the sale or transfer is not a violation of the transfer provisions.

5. *Enforcement.* Notwithstanding anything contained in the Regulatory Agreement or the Indenture to the contrary:

(i) the occurrence of an event of default under the Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or constitute a default under the Bond Mortgage Loan Documents, except as may be otherwise specified in the Bond Mortgage Loan Documents;

(ii) neither the Issuer nor the Trustee may, upon the occurrence of an event of default under the Regulatory Agreement, seek, in any manner, to (a) cause or direct acceleration of the Bond Mortgage Loan, (b) enforce the Bond Mortgage Note, (c) foreclose on the Bond Mortgage, (d) cause the Trustee to redeem the Bonds or to declare the principal of the Bonds and the interest accrued on the Bonds to be immediately due and payable, or (e) cause the Trustee to take any other action under any of the Bond Mortgage Loan Documents, any of the Bond Financing Documents or any other documents which action would or could have the effect of achieving any one or more of the actions, events or results described in the preceding clauses (a) through (d) above; and

(iii) the occurrence of an event of default under this Regulatory Agreement shall not impair, defeat or render invalid the lien of the Bond Mortgage.

No person other than Freddie Mac shall have the right to (a) declare the principal balance of the Bond Mortgage Note to be immediately due and payable, or (b) commence foreclosure or other like action. The Issuer and the Trustee acknowledge the foregoing limitations.

The foregoing prohibitions and limitations are not intended to limit the rights of the Issuer or the Trustee to specifically enforce the Regulatory Agreement or to seek injunctive relief in order to provide for the operation of the Project in accordance with the requirements of the Internal Revenue Code and state law. Accordingly, upon any default by the Owner, the Issuer or the Trustee may seek specific performance of the Regulatory Agreement or enjoin acts which may be in violation of the Regulatory Agreement or unlawful, but neither the Issuer nor the Trustee may seek any form of monetary recovery from the Owner, although the Issuer may seek to enforce a claim for indemnification, provided that no obligation of the Owner under the Regulatory Agreement, including, without limitation, any indemnification obligation, any other obligation for the payment of money, any claim and any judgment for monetary damages against the Owner, occasioned by breach or alleged breach by the Owner of its obligations under the Regulatory Agreement or otherwise, shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of the Issuer, the Trustee or any other person, and all such obligations shall be, and by this Rider are, subordinate in priority, in right to payment and in all other respects to the obligations, liens, rights (including without limitation the right to payment) and interests arising or created under the Bond Mortgage Loan Documents. Accordingly, neither the Issuer nor the Trustee shall have the right to enforce any monetary obligation other than directly against the Owner, without recourse to the Project. In addition, any such enforcement must not cause the Owner to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Owner under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

The obligations of any owner under the Regulatory Agreement shall be personal to the person who was the owner at the time that an event, including without limitation any default or breach of the Regulatory Agreement, occurred or was alleged to have occurred, and such person shall remain liable for any and all such obligations, including damages occasioned by a default or breach, even after such person ceases to be the owner of the Project. Accordingly, no subsequent

owner of the Project shall be liable or obligated for the obligation of any prior owner (including the Owner), including, but not limited to, any obligation for payment, indemnification or damages, for default or breach of the Regulatory Agreement or otherwise. The owner of the Project at the time the obligation was incurred, including any obligation arising out of a default or breach of the Regulatory Agreement, shall remain liable for any and all payments and damages occasioned by the owner even after such person ceases to be the owner of the Project, and no person seeking such payments or damages shall have recourse against the Project.

Under no circumstances shall the Issuer or the Trustee:

(i) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Owner to timely pay the principal of, interest on, or other amounts due and payable under, the Bond Mortgage Loan;

(ii) interfere with or attempt to influence the exercise by Freddie Mac of any of its rights under the Bond Mortgage Loan, including, without limitation, Freddie Mac's remedial rights under the Bond Mortgage Loan Documents upon the occurrence of an event of default by the Owner under the Bond Mortgage Loan; or

(iii) upon the occurrence of an event of default under the Bond Mortgage Loan, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Bond Mortgage Loan.

6. *Notice of Violations.* Promptly upon determining that a violation of the Regulatory Agreement has occurred, the Issuer or the Trustee shall, by notice in writing to the Borrower, the Servicer and Freddie Mac, inform the Borrower, the Servicer and Freddie Mac that such violation has occurred, the nature of the violation and that the violation has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such violation, neither the Issuer nor the Trustee shall have, and each of them acknowledge that they shall not have, any right to cause or direct acceleration of the Bond Mortgage Loan, to enforce the Bond Mortgage Note or to foreclose on the Mortgage.

7. *Amendments.* The Regulatory Agreement shall not be amended without the prior written consent of Freddie Mac.

8. *Fees; Penalties.* Freddie Mac shall not be liable for the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by the Owner or any subsequent owner of the Project prior to the date of acquisition of the Project by Freddie Mac, whether such acquisition is by foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan.

9. *Subordination.* The terms, covenants and restrictions of the Regulatory Agreement, other than those set forth in Sections 1A, 2, 3, 10, 11 and 12 thereof, are and shall at all times remain subject and subordinate, in all respects, to the liens, rights and interests created under the Bond Mortgage Loan Documents.

10. *Third-Party Beneficiary.* The parties to the Regulatory Agreement recognize and agree that the terms of the Regulatory Agreement and the enforcement of those terms are essential to the security of Freddie Mac and are entered into for the benefit of various parties, including Freddie Mac. Freddie Mac shall accordingly have contractual rights in the Regulatory Agreement and shall be entitled (but not obligated) to enforce, separately or jointly with the Issuer and/or the Trustee, or to cause the Issuer or the Trustee to enforce, the terms of the Regulatory Agreement. In addition, Freddie Mac is intended to be and shall be a third-party beneficiary of the Regulatory Agreement.

11. *Notices.* Copies of all notices under the Regulatory Agreement shall be sent to the Servicer at the address set forth below or to such other address as the Servicer may from time to time designate:

Prudential Affordable Mortgage Company  
8401 Greensboro Drive, Suite 200  
McLean, Virginia 22102  
Attention: Loan Servicing (Whispering Oaks  
Apartments)  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

Any notice to be given to Freddie Mac shall be sent to Freddie Mac at the address set forth below or to such other address as Freddie Mac may from time to time designate:

Federal Home Loan Mortgage Corporation  
8100 Jones Branch Drive  
Mail Stop B4Q  
McLean, Virginia 22102  
Attention: Multifamily Management and Control  
Telephone: (703) 903-2000  
Facsimile: (703) 714-3273

with a copy to:

Federal Home Loan Mortgage Corporation  
8200 Jones Branch Drive  
Mail Stop 210  
McLean, Virginia 22102  
Attention: Associate General  
Counsel—Multifamily  
Legal Department  
Telephone: (703) 903-2000  
Facsimile: (703) 903-3693

with a copy to:

Federal Home Loan Mortgage Corporation  
8100 Jones Branch Drive  
Mail Stop B4F  
McLean, Virginia 22102  
Attention: Director of Multifamily Loan Servicing  
Telephone: (703) 903-2000  
Facsimile: (703) 714-300