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Chapman and Cutler LLP  
111 West Monroe Street  
Chicago, Illinois 60603  
Attention: Charles L. Jarik, Esquire

FIRST AMENDMENT TO  
REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS

By and Among

THE COUNTY OF LAKE, ILLINOIS,

EMERALD POINTE LIMITED PARTNERSHIP

and

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

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DATED AS OF NOVEMBER 1, 2011

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Relating to

\$7,260,000  
Multifamily Housing Revenue Bonds, Series 2001  
(Emerald Pointe Apartments Project)

## TABLE OF CONTENTS

NAME	TITLE	PAGE
Section 1.	Definitions.....	2
Section 2.	Amendment of References to Mortgage.....	2
Section 3.	Amendment of References in <i>Exhibit D</i> to the Original Agreement.....	2
Section 4.	Amendment of Paragraph 4 of <i>Exhibit D</i> to the Original Agreement.....	2
Section 5.	Original Agreement Confirmed.....	3
Section 6.	Counterparts.....	3
Section 7.	Applicable Law.....	3
Section 8.	Captions.....	3
Section 9.	Severability.....	3
Section 10.	Limitation on Issuer Liability.....	3
EXHIBIT A	Description of Project Site	

**FIRST AMENDMENT TO REGULATORY AGREEMENT AND DECLARATION  
OF RESTRICTIVE COVENANTS**

THIS FIRST AMENDMENT TO REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (including the Exhibits attached hereto) dated as of November 1, 2011 (this "*First Amendment*"), 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*"), EMERALD POINTE LIMITED PARTNERSHIP, 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. (as successor in trust to BNY Midwest Trust Company), 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 December 1, 2001, 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 is the record owner of land, buildings and related improvements and furnishings, equipment and related property to be acquired, constructed and installed, and to be located in Lake County, Illinois, legally described in *Exhibit A* attached hereto and made a part hereof, comprised of 120 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, construction and installation of the Project was financed in part from the proceeds of the sale of the Multifamily Housing Revenue Bonds, Series 2001 (Emerald Pointe Apartments Project) of the Issuer in the aggregate principal amount of \$7,260,000 (the "*Bonds*"), issued by the Issuer under the Indenture and pursuant to the provisions of 50 *Illinois Compiled Statutes*, 445/1 *et seq.*, as supplemented and amended (the "*Act*"); and

WHEREAS, 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, in connection with the issuance of the Bonds, the Borrower agreed to enter into the Regulatory Agreement and Declaration of Restrictive Covenants dated as of December 1, 2001, by and among the Issuer, the Borrower and the Trustee (the "*Original Agreement*"), and thereby consented to be regulated as therein 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; and

WHEREAS, in connection with a refinancing of the Project and the payment in full of the principal of, premium, if any, and interest on the Bonds, it is necessary to amend the Regulatory Agreement (which by its terms does not terminate upon the payment in full of the principal of, premium, if any, and interest on the Bonds) to recognize a new mortgagee and its lien position;

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. Definitions.* All words and terms defined in the Original Agreement shall have the same meanings in this First Amendment, unless otherwise defined in this First Amendment. As used herein, all words and terms defined herein shall have the meanings assigned to them in this First Amendment.

*Section 2. Amendment of References to Mortgage.* All references in the Original Agreement (including without limitation *Exhibit D* attached thereto and made a part thereof) to the Multifamily Mortgage, Assignment of Rents and Security dated December 1, 2001, by and among the Borrower, Fannie Mae, the Issuer and ARCS Commercial Mortgage Co., L.P., are hereby amended to refer to the Multifamily Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing by the Borrower for the benefit of CWCapital LLC, as assigned to Fannie Mae pursuant to an Assignment of Multifamily Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the “*2011 Security Instrument*”), which the parties hereto acknowledge is being entered into simultaneously with the payment in full of the principal of, premium, if any, and interest on the Bonds.

*Section 3. Amendment of References in Exhibit D to the Original Agreement.* All references in *Exhibit D* attached to and made a part of the Original Agreement to the Loan are hereby amended to refer to the loan secured by the 2011 Security Instrument. All references in said *Exhibit D* to the Security Instrument are hereby amended to refer to the 2011 Security Instrument. All references in said *Exhibit D* to the Loan Documents are hereby amended to refer to the documents executed in connection with the execution and delivery of the 2011 Security Instrument.

*Section 4. Amendment of Paragraph 4 of Exhibit D to the Original Agreement.* Paragraph 4 of *Exhibit D* attached to and made a part of the Original Agreement is hereby amended to read as follows:

4. *Subordination.* The terms, covenants and restrictions of the Regulatory Agreement, other than those set forth in Sections 1, 2, 3, 4, 5 and 18, are and shall at all times remain subject and subordinate, in all respects, to the liens, rights and interests created under the Loan Documents. Upon a conveyance or other transfer of title to the Project by foreclosure, deed in lieu of foreclosure or comparable conversion of the Loan, the Person who acquires

title to the Project pursuant to such foreclosure, deed in lieu of foreclosure or comparable conversion of the Loan (unless such Person is the Borrower or a Person related to the Borrower within the meaning of Section 1.103-10(e) of the Regulations, in which event the Regulatory Agreement shall remain in full force and effect in its entirety) shall acquire such title free and clear of the terms, covenants and restrictions of the Regulatory Agreement, other than those set forth in Sections 1, 2, 3, 4, 5 and 18 and, from and after the date on which such Person acquires title to the Project, the terms, covenants and restrictions of the Regulatory Agreement, other than those set forth in Sections 1, 2, 3, 4, 5 and 18, shall automatically terminate and be of no force and effect; *provided*, that Sections 1, 2, 3, 4 and 5 shall also terminate and be of no force or effect under the circumstances set forth in Sections 1, 2, 3, 4 and 5 of the Regulatory Agreement.

*Section 5. Original Agreement Confirmed.* Except as hereby amended, the provisions of the Original Agreement are hereby ratified, approved and confirmed, and shall remain in full force and effect, and from and after the effective date of this First Amendment shall be deemed to have been amended as herein set forth.

*Section 6. Counterparts.* This First Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*Section 7. Applicable Law.* This First Amendment shall be governed exclusively by the applicable laws of the State of Illinois.

*Section 8. Captions.* The captions or headings in this First Amendment are for conveniences only, and in no way define, limit or prescribe the scope or intent of any provisions or sections of this First Amendment.

*Section 9. Severability.* If any provision of this First Amendment shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

*Section 10. Limitation on Issuer Liability.* The Issuer shall be entitled to the same limitations of liability, rights and indemnities in this First Amendment as are set forth in Section 18 of the Original Agreement.

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: County Board Chairman

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

[SEAL]

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

EMERALD POINTE LIMITED PARTNERSHIP

By Emerald Pointe LLC, its sole  
general partner

By M.R. Pinsky Family Trust, its  
member

By \_\_\_\_\_  
Milton Pinsky, as Trustee

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF LAKE            )

I, \_\_\_\_\_, a Notary Public, do hereby certify that David Stolman, personally known to me to be the same person whose name is, as the County Board 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 he, being thereunto duly authorized, signed and delivered the said instrument as the free and voluntary act of said County 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 November, 2011.

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

(SEAL)

My commission expires:

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

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 he, being thereunto duly authorized, signed, and delivered the said instrument as the free and voluntary act of said banking association 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 November, 2011.

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

(SEAL)

My commission expires:



STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, \_\_\_\_\_, a Notary Public, do hereby certify that Milton Pinsky, personally known to me to be the same person whose name is, as the Trustee of the M.R. PINSKY FAMILY TRUST, a member of EMERALD POINTE LLC, the sole general partner of EMERALD POINTE LIMITED PARTNERSHIP, 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 November, 2011.

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Notary Public in and for  
Cook County, Illinois

(SEAL)

My commission expires:

**EXHIBIT A**

**DESCRIPTION OF DEVELOPMENT SITE**