

A 10415

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP

☐ WAIT

☐ MAIL

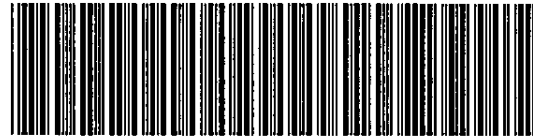
(Business Entity Name)

(Document Number)

Certified Copies \_\_\_\_\_ Certificates of Status \_\_\_\_\_

Special Instructions to Filing Officer:

Office Use Only



500262289945

10/06/14--01031--025 \*\*105.00

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

14 OCT -6 PM 1:04

FILED



Sirote & Permutt, PC  
2311 Highland Avenue South  
Birmingham, AL 35205-2972

PO Box 55727  
Birmingham, AL 35255-5727

**Cynthia McCraw, CP**

Certified Paralegal  
cmcraw@sirote.com  
Tel: 205-930-5351  
Fax: 205-930-5101

October 3, 2014

**VIA FEDERAL EXPRESS**

Florida Department of State  
Registration Section, Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

Re: Whisper Lake, Ltd.

Dear Sir or Madam:

Enclosed for recording is the Sixth Amendment to Second Amended and Restated Limited Partnership Agreement and Certificate of Whisper Lake, Ltd. and our check, in the amount of \$105.00, for the filing fee and a certified copy. Please file the amendment as soon as possible and return filing confirmation and a certified copy to me via Federal Express. A self-addressed Federal Express envelope, charged to this Firm's account, is enclosed.

Thank you for your assistance.

Yours very truly,

A handwritten signature in cursive script that reads "Cynthia McCraw".

Cynthia McCraw  
Paralegal for Bradley J. Sklar

/cam  
Enclosures

**SIXTH AMENDMENT TO SECOND AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT AND CERTIFICATE  
OF  
WHISPER LAKE, LTD.**

THIS SIXTH AMENDMENT TO SECOND AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT AND CERTIFICATE of Whisper Lake, Ltd. (the "Amendment"), made and entered into this 1st day of October, 2014, by and among **Whisper Lake, L.L.C. and Southeastern Capital Corporation** (the "General Partners"), **Charles V. Welden, III, William B. Welden, Robert C. Field, W. Edgar Welden, Southeastern Capital Corporation, and Southeastern Property Management, LLC** (the "Special Limited Partners"), and **ERI/WL Holdings LLC**, a Massachusetts limited liability company (the "Investor Limited Partner") (all being referred to herein collectively as the "Partners"), as follows:

WHEREAS, Whisper Lake, Ltd. (the "Partnership") was created pursuant to the Certificate of Limited Partnership executed on April 28, 1981 and filed with the Secretary of State of Florida on April 29, 1981; and

WHEREAS, said Certificate of Limited Partnership was thereafter amended and restated by the Amended and Restated Limited Partnership Agreement and Certificate filed with the Secretary of State of Florida on February 24, 1982, further amended by amendments filed with the Secretary of State of Florida on January 28, 1983, June 28, 1983, and May 3, 1984, and thereafter amended and restated in its entirety by the Second Amended and Restated Limited Partnership Agreement and Certificate filed on June 19, 1985; and

WHEREAS, said Second Amended and Restated Limited Partnership Agreement and Certificate was amended by the First, Second, Third, Fourth, and Fifth Amendments thereto as filed with the Secretary of State of Florida on December 1, 1997, November 22, 2002, December 6, 2002, June 10, 2003, and July 24, 2014, respectively (said Second Amended and Restated Limited Partnership Agreement and Certificate, as amended, being herein referred to as the "Partnership Agreement"); and

WHEREAS, the parties hereto now desire to further amend the Partnership Agreement with respect to the term of the Partnership and certain required HUD provisions;

NOW, THEREFORE, in consideration of the premises and the mutual covenants of the parties, the parties do hereby agree and bind themselves as follows:

1. The Partnership Agreement is hereby amended by modifying **Section 2.2 Name and Office** to reflect that the principal office of the Partnership is changed to:

2101 Highland Avenue South, Suite 110, Birmingham, AL 35205

FILED  
14 OCT - 6 PM 1:04  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

2. The Partnership Agreement is hereby amended by deleting Section 2.5 in its entirety and substituting in lieu thereof the following:

**"Section 2.5 Term**

A. The Partnership shall continue in full force and effect until December 31, 2059, except that, subject to paragraph C of this Section 2.5, the Partnership shall be terminated and wound up prior to such date upon the happening of any of the following events:

(1) The sale or other disposition of all or substantially all the assets of the Partnership in accordance with Section 3.2; provided, however, that the Partnership may continue in existence solely for the purpose of collecting any deferred installment payment of the purchase price of such assets;

(2) The Retirement of a General Partner if the Partnership is not continued as provided in Section 7.2; or

(3) The election to terminate the Partnership made in writing by the General Partners with the Consent of the Limited Partners.

B. Upon termination and winding up of the Partnership, the General Partners (or their trustees, receivers, successors, or legal representatives) shall, unless the Partnership is continued pursuant to Section 7.2, liquidate the Partnership assets and apply and distribute the proceeds consistent with the agreements between the Partners. Notwithstanding the foregoing, in the event such liquidating General Partners shall determine that an immediate sale of part or all of the Partnership's assets would cause undue loss to the Partners, the liquidating General Partners may, in order to avoid such loss, either (i) defer liquidation of, and withhold from distribution for a reasonable time, any assets of the Partnership except those necessary to satisfy the Partnership debts and obligations (other than Subordinated Loans and Construction Completion Notes) or (ii) distribute the assets to the Partners in kind; provided, however, that the proceeds of any sale or other disposition of Partnership assets shall be distributed if possible in the fiscal year of the Partnership in which the sale or other disposition occurs.

C. Notwithstanding anything else contained herein, in no event shall the Partnership be dissolved or terminated prior to December 31, 2059, without the prior written approval of HUD."

3. The Partnership Agreement is hereby further amended by deleting Section 13.13 in its entirety and substituting in lieu thereof the following:

FILED  
19 OCT -6 PM 1:04  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**"Section 13.13 FHA Provisions"**

A. If any of the provisions of the organizational documents conflict with the terms of the HUD-insured Note, Security Instrument, or HUD Regulatory Agreement ("HUD Loan Documents"), the provisions of the HUD Loan Documents shall control.

B. So long as HUD is the insurer or holder of the Note, no provision required by HUD to be inserted into the organizational documents may be amended without HUD's prior written approval.

C. Unless otherwise approved in writing by HUD, the Partnership's business and purpose shall consist solely of the acquisition, ownership, operation and maintenance of Whisper Lake Apartments, FHA Project No.: 067-11220-PM (the "Project") located in Winter Park, Florida, and activities incidental thereto. The Partnership shall not engage in any other business or activity. The Project shall be the sole asset of the Partnership, which shall not own any other real estate other than the aforesaid Project.

D. None of the following will have any force or effect without the prior written consent of HUD:

(1) Any amendment that modifies the term of the Partnership's existence;

(2) Any amendment that triggers application of the HUD previous participation certification requirements (as set forth in Form HUD 2530, Previous Participation Certification, or 24 C.F.R. § 200.210, et seq.);

(3) Any amendment that in any way affects the HUD Loan Documents;

(4) Any amendment that would authorize any member, partner, owner, officer or director, other than the one previously authorized by HUD, to bind the Partnership for all matters concerning the Project which require HUD's consent or approval;

(5) A change that is subject to the HUD TPA requirements contained in Chapter 13 of HUD Handbook 4350.1 REV-1; or

(6) Any change in a guarantor of any obligation to HUD (including those obligations arising from violations of the Regulatory Agreement).

E. The Partnership is authorized to execute a Note and Security Instrument in order to secure a loan to be insured by HUD and to execute the Regulatory Agreement and other documents required by the Secretary in connection with the HUD-insured loan.

FILED  
14 OCT -6 PM 1:04  
T. J. HARRIS  
SECRETARY OF STATE  
FLORIDA

F. Any incoming member/partner/owner of the Partnership must as a condition of receiving an interest in the Partnership agree to be bound by the HUD Loan Documents and all other documents required in connection with the HUD-insured loan to the same extent and on the same terms as the other members/partners/owners.

G. Notwithstanding any other provisions, upon any dissolution, no title or right to possession and control of the project, and no right to collect the rents from the project, shall pass to any person or entity that is not bound by the Regulatory Agreement in a manner satisfactory to HUD.

H. The key principals of the Partnership identified in the Regulatory Agreement are liable in their individual capacities to HUD to the extent set forth in the Regulatory Agreement.

I. The Partnership shall not voluntarily be dissolved or converted to another form of entity without the prior written approval of HUD.

J. The Partnership has designated William B. Welden as its official representative for all matters concerning the project that require HUD consent or approval. The signature of this representative will bind the Partnership in all such matters. The Partnership may from time to time appoint a new representative to perform this function, but within three business days of doing so, will provide HUD with written notification of the name, address, and telephone number of its new representative. When a person other than the person identified above has full or partial authority with respect to management of the project, the Partnership will promptly provide HUD with the name of that person and the nature of that person's management authority.

K. Notwithstanding any provision in this Partnership Agreement to the contrary, for so long as the Project is subject to a loan insured by HUD, any obligation of the Partnership to provide indemnification under this Partnership Agreement shall be limited to (i) coverage afforded under any liability insurance carried by the Partnership, and (ii) available "surplus cash" of the Partnership as defined in the Regulatory Agreement. Until funds from a permitted source for payment of indemnification costs are available for payment, the Partnership shall not (a) pay funds to any members, partners, officers and directors, or (b) pay the deductible on an indemnification policy for any members, partners, officers and directors.

L. Notwithstanding any provisions in the Partnership Agreement, no "in kind" distribution may be made without HUD's prior approval.

M. Notwithstanding any provisions in the Partnership Agreement, any future borrowing of funds will be subject to HUD's prior approval.

N. Any replacement or successor general partner must be approved by HUD.

14 OCT - 6 PM 1:04  
RECEIVED  
PROPERTY OFFICE  
ST. LOUIS, MISSOURI  
HUD

O. Notwithstanding any provisions in the Partnership Agreement, HUD shall have the right to enforce the terms of the Partnership Agreement.

P. Notwithstanding any provisions in the Partnership Agreement, for so long as HUD is the insurer or holder of the Mortgage Note secured by the Project, distributions of cash flow (including payments of partnership management fees, incentive management fees, asset management fees, developer fees and other such fees, shall remain subject to restrictions on the distribution of Surplus Cash as defined in the HUD Loan Documents and may be made only on an annual basis."

4. Except as modified or amended by this Amendment, all covenants, terms, and conditions of agreements between the Partners shall remain in full force and effect.

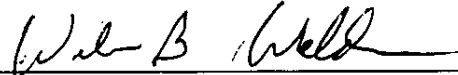
5. This Amendment may be executed in any number of counterparts and all of such counterparts shall for all purposes constitute one instrument, notwithstanding that all parties are not signatories to the same counterpart, and further, the pages of the counterparts on which appear the signatures of the parties may be detached from the respective counterparts of the Amendment and attached all to one counterpart which shall represent the final instrument.

(Signature pages follow)

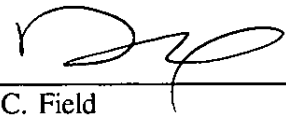
FILED  
14 OCT - 6 PM 1:04  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

IN WITNESS WHEREOF, the undersigned have executed this Amendment on the date first above written.

WHISPER LAKE, L.L.C.

By:   
William B. Welden  
Manager

SOUTHEASTERN CAPITAL CORPORATION

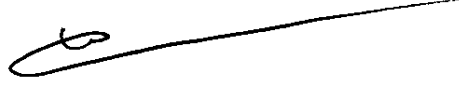
By:   
Robert C. Field  
President

(GENERAL PARTNERS)

*(Signatures continued on following page)*

FILED  
14 OCT -6 PM 1:04  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

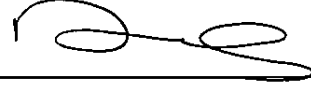




Charles V. Welden, III



William B. Welden

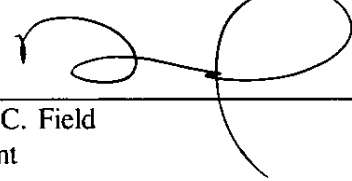


Robert C. Field



W. Edgar Welden

SOUTHEASTERN CAPITAL CORPORATION



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

Robert C. Field  
President

SOUTHEASTERN PROPERTY  
MANAGEMENT, LLC



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

William B. Welden  
Manager

(SPECIAL LIMITED PARTNER)

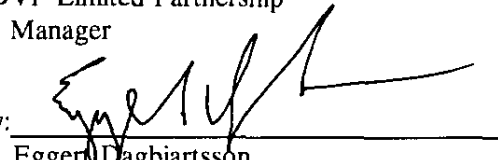
(Signatures continued on following page)

FILED  
14 OCT -6 PM 1:04  
CLERK OF STATE  
TALLAHASSEE, FLORIDA

ERI/WL HOLDINGS LLC

By: EDVP Limited Partnership  
Its Manager

By:



Egger Dagbjartsson  
Its General Partner

(INVESTOR LIMITED PARTNER)

FILED  
14 OCT - 6 PM 1:04  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA