

## **RESOLUTION 2008-05**

A RESOLUTION OF THE CITY OF LAKE WALES PROVIDING FOR THE ISSUANCE BY THE CITY OF NOT TO EXCEED \$35,000,000 AGGREGATE PRINCIPAL AMOUNT OF CITY OF LAKE WALES RETIREMENT FACILITY REVENUE BONDS (WATER'S EDGE OF LAKE WALES, LLC PROJECT), SERIES 2008 TO BE ISSUED IN ONE OR MORE SERIES FOR THE PRINCIPAL PURPOSE OF FINANCING AND REFINANCING COSTS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF SENIOR CARE FACILITIES OWNED OR TO BE OWNED BY WATER'S EDGE OF LAKE WALES, LLC; AUTHORIZING A DELEGATED NEGOTIATED SALE OF SUCH SERIES 2008 BONDS; AUTHORIZING THE USE OF A LIMITED OFFERING MEMORANDUM IN CONNECTION WITH SUCH SALE; PROVIDING CERTAIN TERMS AND DETAILS OF SAID SERIES 2008 BONDS, AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, AN INDENTURE OF TRUST, THE SERIES 2008 BONDS, A LOAN AGREEMENT AND ALL OTHER RELATED INSTRUMENTS INCLUDING, WITHOUT LIMITATION, A TAX COMPLIANCE AGREEMENT; APPOINTING WELLS FARGO BANK, NATIONAL ASSOCIATION AS BOND TRUSTEE; MAKING CERTAIN COVENANTS, AGREEMENTS AND FINDINGS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND PROVIDING FOR AN EFFECTIVE DATE FOR THIS RESOLUTION.

**BE IT RESOLVED BY THE CITY OF LAKE WALES, FLORIDA, THAT:**

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This Resolution, hereafter called "Resolution," is adopted pursuant to the provisions of Chapter 159, Parts II and III, Florida Statutes, and other applicable provisions of law.

**SECTION 2. DEFINITIONS.** Unless the context otherwise requires, the terms used in this Resolution shall have the meanings specified in this section. Any capitalized terms used but not otherwise defined herein shall have the meanings assigned such terms in the Bond Indenture (as defined below). Words importing the singular shall include the plural, words importing the plural shall include the singular, and words importing persons shall include corporations and other entities or associations.

**"2008 Project"** means the facilities of the Borrower described in Section 3.F.(1) of this Resolution and in the Loan Agreement which will be acquired, constructed and equipped within the incorporated limits of the City and will be owned by the Borrower.

**"Act"** means the Constitution and laws of the State of Florida, particularly Chapter 159, Parts II and III, Florida Statutes, and other applicable provisions of law.

**"Bond Counsel"** means the law firm of Nabors, Giblin & Nickerson, P.A., Tampa, Florida or a firm of nationally recognized standing in the field of municipal finance law whose opinions are generally accepted by purchasers of public obligations.

**"Bond Documents"** shall have the meaning ascribed to such term in Section 12 hereof.

**"Bond Indenture"** means the Indenture of Trust to be executed by the City and the Bond Trustee, substantially in the form attached hereto as EXHIBIT D and incorporated herein by reference.

**"Bond Trustee"** means Wells Fargo Bank, National Association, as bond trustee under the Bond Indenture.

**"Borrower"** means Water's Edge of Lake Wales, LLC, a Florida limited liability company, and any and all successors thereto in accordance with the Loan Agreement.

**"City"** means the City of Lake Wales, Florida, a municipal corporation duly organized and validly existing under the laws of the State, or any public entity succeeding to its rights and obligations under the Loan Agreement.

**"City Clerk"** means the City Clerk, or any designee of the City Clerk with authority to attest to the signatures of the Mayor or Vice Mayor of the City.

**"Code"** means the Internal Revenue Code of 1986, as amended from time to time, including, when appropriate, the statutory predecessor thereof, or any applicable corresponding provisions of any future laws of the United States of America relating to federal income taxation, and except as otherwise provided herein or required by the context hereof, includes interpretations thereof contained or set forth in the applicable regulations of the Department of the Treasury (including applicable final or temporary regulations and also including regulations issued pursuant to the statutory predecessor of the Code), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings), and applicable court decisions.

**"County"** means Polk County, Florida, a political subdivision of the State.



**"Limited Offering Memorandum"** means the Limited Offering Memorandum relating to the Series 2008 Bonds, substantially in the form attached hereto as EXHIBIT A and incorporated herein by reference.

**"Loan Agreement"** means the Loan Agreement, to be executed by and between the City and the Borrower substantially in the form attached hereto as EXHIBIT C and incorporated herein by reference.

**"Master Indenture"** means the Master Trust Indenture, dated as of March 1, 2008, between the Borrower and the Master Trustee and all supplements thereto.

**"Master Trustee"** means Wells Fargo Bank, National Association, its successors and assigns.

**"Mortgage"** means the Mortgage and Security Agreement, dated as of March 1, 2008, from the Borrower to the Master Trustee and all supplements thereto.

**"Purchase Agreement"** means the Bond Purchase Agreement to be executed by and among the City, the Underwriter and the Borrower, substantially in the form attached hereto as EXHIBIT B and incorporated herein by reference.

**"Series 2008 Bonds"** means the City's Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008 (or such other series as may be designated by the City), issued in one or more series under the Bond Indenture in the aggregate principal amount of not to exceed \$35,000,000 substantially in the form and with the rates of interest, maturity dates and other details provided for herein and in the Bond Indenture or established in accordance with the terms hereof and thereof, to be authorized and issued by the City, authenticated by the Trustee and delivered under the Bond Indenture.

**"State"** means the State of Florida.

**"Tax Compliance Agreement"** means the Tax Exemption Agreement and Certificate to be executed by the City and the Borrower in connection with the issuance of the Series 2008 Bonds.

**"Underwriter"** means Raymond James & Associates, the underwriter for the Series 2008 Bonds.

**SECTION 3. FINDINGS.** It is hereby ascertained, determined and declared as follows:

A. The City is a municipal corporation duly organized and validly existing under the laws of the State and is authorized by the Act to finance and refinance any capital project, including any "project" for any "health care facilities" as defined in the

Act, including land, rights in land, buildings, machinery and other improvements essential or convenient for the orderly conduct of such "project."

B. Water's Edge of Lake Wales, LLC is a Florida limited liability company, the sole member of which is Florida Christian Homes Communities, LLC (a disregarded entity for tax purposes) the sole member of which is Florida Christian Homes Senior Housing, Inc., a Florida not-for-profit corporation which received a determination letter from the Internal Revenue Service that it is an organization described in Section 501(c)(3) of the Code and not a "private foundation," as such term is defined under Section 509(a) of the Code.

C. The Borrower has heretofore requested the City to assist the Borrower by financing and refinancing the costs of the 2008 Project through the issuance by the City of not exceeding \$35,000,000\_ in aggregate principal amount of its Series 2008 Bonds and the loan to the Borrower of the proceeds from the sale of the Series 2008 Bonds.

D. The City, by resolution duly adopted on November 28, 2007, in accordance with all requirements of law, and after a public hearing duly held at such meeting, upon reasonable public notice, at which hearing members of the public were afforded reasonable opportunity to be heard on all matters pertaining to the location and nature of the 2008 Project, gave preliminary approval for the financing of the costs of the 2008 Project in accordance with Section 147(f) of the Code.

E. The Borrower has represented to the City that it has, after consulting with the Underwriter, determined that market and other conditions are now conducive to proceed to finance the costs of the 2008 Project with the proceeds of the Series 2008 Bonds.

F. Upon consideration of the documents described herein and the information presented to the City at or prior to the adoption of this Resolution, the City has made and does hereby make the following findings and determinations:

(1) The Borrower has shown that the acquisition, construction, equipping and installation of 22 single story duplex villas, a 3-story building containing 63 independent living apartments, a 2-story building containing 30 assisted living units, 16 memory support (dementia) assisted living units, six respite/rehabilitation assisted living units, and related common areas (including a 2-story, approximately 21,000 square foot Community Center) (collectively, the "2008 Project") will provide for the availability of additional senior living housing in the City, provide additional jobs, foster economic growth and promote development of the City, County and the State, and serve other predominantly public purposes as set forth in the Act.

(2) Taking into consideration representations made to the City by the Borrower and based on other criteria established by the Act, as of the date hereof, the Borrower is financially responsible and fully capable and willing to fulfill its obligations under the Loan Agreement, and any other agreements to be made in connection with the issuance of the Series 2008 Bonds, and the use of the Series 2008 Bond proceeds for the 2008 Project, including the obligation to make loan payments or other payments due under the Loan Agreement, or the Bond Indenture in an amount sufficient in the aggregate to pay all of the principal of, interest and redemption premium, if any, on the Series 2008 Bonds, in the amounts and at the times required.

(3) The City and other local agencies are able to cope satisfactorily with the impact of the 2008 Project and are able to provide, or cause to be provided when needed, the public facilities, including utilities and public services, that are necessary for the construction, operation, repair and maintenance of the 2008 Project and on account of any increase in population or other circumstances resulting therefrom.

(4) Adequate provision is made under the Loan Agreement for the payment by the Borrower of the principal of, premium, if any, and interest on the Series 2008 Bonds when and as the same become due, and payment by the Borrower of all other costs in connection with the financing, acquisition, construction, installation, operation, maintenance and administration of the 2008 Project which are not paid out of the proceeds from the sale of the Series 2008 Bonds or otherwise.

(5) The principal of, premium, if any, and interest on the Series 2008 Bonds and all other pecuniary obligations of the City under the Loan Agreement, the Bond Indenture, the Tax Compliance Agreement or otherwise, in connection with the 2008 Project or the Series 2008 Bonds, shall be payable by the City solely from (a) the loan payments and other revenues and proceeds received by the City under the Loan Agreement and the Master Indenture, (b) from the operation, sale, lease or other disposition of the 2008 Project, including proceeds from insurance or condemnation awards and proceeds of any foreclosure or other realization upon the liens or security interests under the Loan Agreement, the Master Indenture, the Mortgage, and the Bond Indenture, and (c) the proceeds of the Series 2008 Bonds and income from the temporary investment of the proceeds of the Series 2008 Bonds or of such other revenues and proceeds, as pledged for such payment to the Bond Trustee under and as provided in the Bond Indenture. Neither the faith and credit nor the taxing power of the City, the County, the State or of any political subdivision or agency thereof is pledged to the payment of the Series 2008 Bonds issuable under the Bond Indenture or of such other pecuniary obligations of the City, and neither the City, the County, the State nor any political subdivision or

agency thereof shall ever be required or obligated to levy ad valorem taxes on any property within their territorial limits to pay the principal of, premium, if any, or interest on such Series 2008 Bonds or other pecuniary obligations or to pay the same from any funds thereof other than such revenues, receipts and proceeds so pledged, and the Series 2008 Bonds shall not constitute a lien upon any property owned by the City, the County or the State or any political subdivision or agency thereof, other than the City's interest in the Loan Agreement and the property rights, receipts, revenues and proceeds pledged therefor under and as provided in the Bond Indenture, Master Indenture, Mortgage and any other agreements securing the Series 2008 Bonds.

(6) A delegated negotiated sale of the Series 2008 Bonds is required and necessary, and is in the best interest of the City, for the following reasons: the Series 2008 Bonds will be special and limited obligations of the City payable solely out of revenues and proceeds derived by the City pursuant to the Loan Agreement and by the Master Trustee or Bond Trustee pursuant to the Master Indenture and the Mortgage, and the Borrower will be obligated for the payment of all costs of the City in connection with the 2008 Project which are not paid out of the Series 2008 Bond proceeds or otherwise; the costs of issuance of the Series 2008 Bonds, which will be borne directly or indirectly by the Borrower, could be greater if the Series 2008 Bonds are sold at public sale by competitive bids than if the Series 2008 Bonds are sold at negotiated sale, and a public sale by competitive bids would cause undue delay in the financing of the 2008 Project; private activity revenue bonds having the characteristics of the Series 2008 Bonds are typically and usually sold at negotiated sale and/or privately placed; the Borrower has indicated that it may be unwilling to proceed with the financing of the 2008 Project unless a negotiated sale of the Series 2008 Bonds is authorized by the City; and authorization of a negotiated sale of the Series 2008 Bonds is necessary in order to serve the purposes of the Act.

(7) All requirements precedent to the adoption of this Resolution, of the Constitution and other laws of the State, including the Act, have been complied with.

(8) The purposes of the Act will be most effectively served by the acquisition, construction and equipping of the 2008 Project by the Borrower as an independent contractor and not as an agent of the City, as provided in the Loan Agreement.

G. The City, the Borrower and the Underwriter will negotiate a sale and limited offering of the Series 2008 Bonds sufficient, with certain other moneys, to finance or reimburse the Borrower for the financing of the 2008 Project pursuant to the provisions hereof and the Purchase Agreement in the form attached hereto as EXHIBIT

B, said Purchase Agreement to be executed by and among the City, the Underwriter and the Borrower in accordance with the terms and provisions hereof. Upon closing and in accordance with Section 218.385, Florida Statutes, the Underwriter will submit to the City a disclosure statement and a truth-in-bonding statement dated the date of closing setting forth any fee, bonus or gratuity paid in connection with the placement of the Series 2008 Bonds, said disclosure statement and truth-in-bonding statement to be substantially in the form attached hereto as EXHIBIT E and incorporated herein by reference.

**SECTION 4. FINANCING OF THE 2008 PROJECT AUTHORIZED.**

The financing by the City of the costs of the 2008 Project in the manner provided herein, in the Loan Agreement and the Bond Indenture is hereby authorized.

**SECTION 5. DELEGATED SALE OF SERIES 2008 BONDS AUTHORIZED; AUTHORIZATION AND DESCRIPTION OF THE SERIES 2008 BONDS.** (A) Subject to the requirements which must be satisfied in accordance with the provisions of Section 5(B) below prior to the issuance of the Series 2008 Bonds, the City hereby authorizes the issuance of one or more series of bonds to be known as the "City of Lake Wales Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008" for the principal purpose of financing and refinancing the costs of the 2008 Project. The Series 2008 Bonds shall be issued only in accordance with the provisions hereof, of the Bond Indenture and of the Master Indenture and all the provisions hereof and of the Bond Indenture shall be applicable thereto.

(B) Subject to full satisfaction of the conditions set forth in this Section 5(B), the City hereby authorizes a delegated negotiated sale of the Series 2008 Bonds to the Underwriter in accordance with the terms of the Purchase Agreement to be dated the date of sale of the Series 2008 Bonds and to be substantially in the form attached hereto as EXHIBIT B, with such changes, amendments, modifications, omissions and additions thereto as shall be approved by the Mayor or Vice-Mayor and the City Clerk in accordance with the provisions of this Section 5(B), the execution thereof being deemed conclusive evidence of the approval of such changes and the full and complete satisfaction of the conditions set forth in this Section 5. The Purchase Agreement shall not be executed by the Mayor or Vice-Mayor until such time as all of the following conditions have been satisfied:

(1) Receipt by the Mayor or Vice-Mayor of a written offer to purchase the Series 2008 Bonds by the Underwriter substantially in the form of the Purchase Agreement, said offer to provide for, among other things, (i) the issuance of not exceeding \$30,000,000 initial aggregate principal amount of Series 2008A Bonds, (ii) the issuance of not exceeding \$5,000,000 initial aggregate principal amount of Series 2008B Bonds, (iii) an underwriting discount (including management fee and all expenses other than counsel fees and expenses) not in

excess of 2.5% of the initial par amount of the Series 2008 Bonds, (iii) a true interest cost with respect to any series of tax-exempt Series 2008 Bonds of not more than 8.5% per annum, (iv) a true interest cost with respect to any series of taxable Series 2008 Bonds of not more than 13.0% per annum, and (v) the maturities of the Series 2008 Bonds with the final maturity no later than December 31, 2048.

(2) The Series 2008 Bonds shall be dated as of the date of their issuance, shall be issued in the form of fully-registered Series 2008 Bonds without coupons in the denomination of \$25,000 and integral multiples of \$5,000 in excess thereof; provided, however, in the event certain conditions described in the Bond Indenture are no longer satisfied, the authorized denominations shall be \$100,000 and integral multiples of \$5,000 in excess thereof, in accordance with the Bond Indenture.

(3) Receipt by the Mayor or Vice-Mayor from the Underwriter of disclosure statements and the truth-in-bonding information complying with Section 218.385, Florida Statutes, substantially in the form attached hereto as EXHIBIT E.

(4) The issuance of the Series 2008 Bonds shall not exceed any debt limitation prescribed by law, and such Series 2008 Bonds, when issued, will be within the limits of all constitutional or statutory debt limitations.

#### **SECTION 6. OPTIONAL AND EXTRAORDINARY REDEMPTION.**

The Series 2008 Bonds are subject to optional and extraordinary redemption in the manner, to the extent, in the amounts and at the times set forth in Article V of the Bond Indenture.

**SECTION 7. APPROVAL OF LIMITED OFFERING MEMORANDUM.** The City does hereby acknowledge the Borrower's distribution and delivery of the Limited Offering Memorandum with respect to the Series 2008 Bonds. The Limited Offering Memorandum shall be in substantially the form of the Limited Offering Memorandum attached as EXHIBIT A hereto with such changes therein as shall be approved by the Borrower in order to reflect the final terms and details of the Series 2008 Bonds. The City does hereby authorize, approve and ratify the sections in the Limited Offering Memorandum concerning the City with respect to the Series 2008 Bonds for use by the Underwriter. The portions of the Limited Offering Memorandum concerning the City may be "deemed final" by the Mayor within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934 upon receipt of a similar certificate from the Borrower.

**SECTION 8. APPOINTMENT OF BOND TRUSTEE; PAYMENT OF THE SERIES 2008 BONDS.** The Series 2008 Bonds shall be payable as to principal and

interest in lawful money of the United States of America at the designated corporate trust office of Wells Fargo Bank, National Association, Columbia, Maryland, as Bond Trustee under the Bond Indenture, and to be executed and delivered pursuant to Section 10 hereof.

**SECTION 9. AUTHORIZATION OF EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.** The Loan Agreement, substantially in the form attached hereto as EXHIBIT C with such corrections, insertions and deletions as may be approved by the Mayor or Vice Mayor and City Clerk, such approval to be evidenced conclusively by their execution thereof, is hereby approved and authorized; the City hereby authorizes and directs the Mayor or Vice Mayor of the City to date and execute and the City Clerk to attest, under the official seal of the City, the Loan Agreement, and to deliver the Loan Agreement to the Borrower; and all of the provisions of the Loan Agreement, when executed and delivered by the City as authorized herein and by the Borrower, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

**SECTION 10. AUTHORIZATION OF EXECUTION AND DELIVERY OF THE BOND INDENTURE.** The Bond Indenture, substantially in the form attached hereto as EXHIBIT D with such changes, corrections, insertions and deletions as may be approved by the Mayor or Vice Mayor and City Clerk, such approval to be evidenced conclusively by their execution thereof, is hereby approved and authorized; the City hereby authorizes and directs the Mayor or Vice Mayor of the City to date and execute and the City Clerk to attest, under the official seal of the City, the Bond Indenture, and deliver the Bond Indenture to the Bond Trustee; and all of the provisions of the Bond Indenture, when executed and delivered by the City as authorized herein, and by the Bond Trustee, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

**SECTION 11. AUTHORIZATION OF EXECUTION OF TAX COMPLIANCE AGREEMENT, OTHER CERTIFICATES AND OTHER INSTRUMENTS.** The Mayor or Vice Mayor and the City Clerk are hereby authorized and directed, either alone or jointly, under the official seal of the City, to execute and deliver certificates of the City certifying such facts as the City's counsel or Bond Counsel shall require in connection with the issuance, sale and delivery of the Series 2008 Bonds, and to execute and deliver such other instruments, including but not limited to, a Tax Compliance Agreement relating to certain requirements set forth in Section 148 of the Code, and such other assignments, bills of sale and financing statements, as shall be necessary or desirable to perform the City's obligations under the Loan Agreement, the Bond Indenture, the Tax Compliance Agreement and the Purchase Agreement and to consummate the transactions hereby authorized.

**SECTION 12. NO PERSONAL LIABILITY.** No representation, statement, covenant, warranty, stipulation, obligation or agreement herein contained, or contained in the Series 2008 Bonds, the Loan Agreement, the Bond Indenture, the Master Indenture, the Mortgage, the Tax Compliance Agreement, the Purchase Agreement, or any certificate or other instrument to be executed on behalf of the City in connection with the issuance of the Series 2008 Bonds (collectively, hereinafter referred to as the "Bond Documents"), shall be deemed to be a representation, statement, covenant, warranty, stipulation, obligation or agreement of any member, officer, employee or agent of the City in his or her individual capacity, and none of the foregoing persons nor any member or officer of the City executing the Bond Documents shall be liable personally thereon or be subject to any personal liability of or accountability by reason of the execution or delivery thereof.

**SECTION 13. NO THIRD PARTY BENEFICIARIES.** Except as otherwise expressly provided herein or in the Bond Documents, nothing in this Resolution, or in the Bond Documents, express or implied, is intended or shall be construed to confer upon any person, firm, corporation or other organization, other than the City, the Borrower, the Bond Trustee, the Master Trustee, the Underwriter and the owners from time to time of the Series 2008 Bonds any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof, or of the Bond Documents, all provisions hereof and thereof being intended to be and being for the sole and exclusive benefit of the City, the Borrower, the Bond Trustee, the Master Trustee, the Underwriter and the owners from time to time of the Series 2008 Bonds.

**SECTION 14. PREREQUISITES PERFORMED.** All acts, conditions and things relating to the passage of this Resolution, to the issuance, sale and delivery of the Series 2008 Bonds, to the execution and delivery of the other Bond Documents, required by the Constitution or other laws of the State, to happen, exist and be performed precedent to the passage hereof, and precedent to the issuance, sale and delivery of the Series 2008 Bonds, to the execution and delivery of the other Bond Documents, have either happened, exist and have been performed as so required or will have happened, will exist and will have been performed prior to such execution and delivery thereof.

**SECTION 15. COMPLIANCE WITH CHAPTER 218, PART III, AND CHAPTER 189, FLORIDA STATUTES.** The City hereby approves and authorizes the completion, and filing with the Division of Bond Finance, Local Bond Monitoring Section, at the expense of the Borrower, of notice of the sale of the Series 2008 Bonds and of Bond Information Form BF 2003, and any other acts as may be necessary to comply with Chapter 218, Part III, and Chapter 189, Florida Statutes.

**SECTION 16. GENERAL AUTHORITY.** The officers, attorneys, engineers or other agents or employees of the City are hereby authorized to do all acts and things required of them by this Resolution and the Bond Documents, and to do all



acts and things which are desirable and consistent with the requirements hereof or of the Bond Documents, for the full, punctual and complete performance of all the terms, covenants and agreements contained herein and in the Bond Documents.

**SECTION 17. THIS RESOLUTION CONSTITUTES A CONTRACT.**

The City covenants and agrees that this Resolution shall constitute a contract between the City and the owners from time to time of the Series 2008 Bonds then outstanding and that all covenants and agreements set forth herein and in the Bond Documents, to be performed by the City shall be for the equal and ratable benefit and security of all owners of outstanding Series 2008 Bonds, and all subsequent owners from time to time of the Series 2008 Bonds, without privilege, priority or distinction as to lien or otherwise of any of the Series 2008 Bonds over any other of the Series 2008 Bonds.

**SECTION 18. LIMITED OBLIGATION.** THE ISSUANCE OF THE SERIES 2008 BONDS SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE CITY, THE COUNTY, THE STATE NOR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER, OR TO LEVY AD VALOREM TAXES ON ANY PROPERTY WITHIN THEIR TERRITORIAL LIMITS TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON SUCH SERIES 2008 BONDS OR OTHER PECUNIARY OBLIGATIONS OR TO PAY THE SAME FROM ANY FUNDS THEREOF OTHER THAN SUCH REVENUES, RECEIPTS AND PROCEEDS SO PLEDGED, AND THE SERIES 2008 BONDS SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OWNED BY THE CITY, THE COUNTY OR THE STATE OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, OTHER THAN THE CITY'S INTEREST IN THE LOAN AGREEMENT AND THE PROPERTY RIGHTS, RECEIPTS, REVENUES AND PROCEEDS PLEDGED THEREFOR UNDER AND AS PROVIDED IN THE BOND INDENTURE AND ANY OTHER AGREEMENTS SECURING THE SERIES 2008 BONDS.

**SECTION 19. SEVERABILITY OF INVALID PROVISIONS.** If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of any of the other provisions hereof or of the Series 2008 Bonds issued under the Bond Indenture.

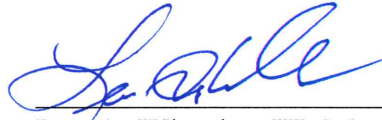
**SECTION 20. REPEALING CLAUSE.** All resolutions or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**SECTION 21. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** this 4th day of March, 2008.

**CITY OF LAKE WALES, FLORIDA**

(SEAL)



\_\_\_\_\_  
Lee A. Wheeler, III, Mayor

ATTEST:



\_\_\_\_\_  
Clara VanBlargan, City Clerk

**EXHIBIT A**

**FORM OF LIMITED OFFERING MEMORANDUM**

~~RESOLUTION  
AND~~

EXHIBITS

**LIMITED OFFERING MEMORANDUM DATED \_\_\_\_\_, 2008**

*In the opinion of Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Bond Counsel, interest on the Series 2008A Bonds is, except as set forth under "TAX MATTERS" herein, excludable from gross income for federal income taxation purposes under existing statutes, regulations, published rulings and judicial decisions and is not subject to the alternative minimum tax on individuals. See the caption "TAX MATTERS" herein for a description of Bond Counsel's opinion, including a discussion of the alternative minimum tax consequences for corporations and other federal tax consequences. Bond Counsel is further of the opinion that the Series 2008A Bonds and the interest thereon are exempt from taxation under the laws of the State of Florida, except as to estate taxes and taxes imposed by Chapter 220, Florida Statutes, on interest, income and profits on debt obligations owned by corporations, as defined in said Chapter 220.*



**CITY OF LAKE WALES, FLORIDA  
RETIREMENT FACILITY REVENUE BONDS  
(WATER'S EDGE OF LAKE WALES, LLC PROJECT)  
SERIES 2008A**

**CITY OF LAKE WALES, FLORIDA  
TAXABLE RETIREMENT FACILITY  
REVENUE BONDS  
(WATER'S EDGE OF LAKE WALES, LLC PROJECT)  
SERIES 2008B**

Dated: Date of Issuance

Due: September 1, as shown below

The Series 2008 Bonds are issued to finance the acquisition, construction, equipping and placing in use and operation of a multifamily rental housing facility for seniors (the "Project") to be owned and operated by Water's Edge of Lake Wales, LLC (the "Borrower").

The Series 2008 Bonds are issuable only as fully registered bonds initially in denominations of [\$25,000 or any integral multiple of \$5,000 in excess thereof]. All of the Series 2008 Bonds initially will be maintained under a book-entry system under which The Depository Trust Company ("DTC"), New York, New York will act as securities depository. Purchases of the Series 2008 Bonds will be in book-entry form only. Interest on the Series 2008 Bonds from their date of issuance is payable on September 1, 2008, and semiannually thereafter on each March 1 and September 1. So long as the Series 2008 Bonds are maintained under a book-entry system, payments of the principal of and premium, if any, and interest on the Series 2008 Bonds will be made when due by Wells Fargo Bank, N.A. (the "Bond Trustee") to DTC in accordance with Indenture of Trust (the "Bond Indenture") between the City of Lake Wales, Florida (the "City") and the Bond Trustee, and the Bond Trustee will have no obligation to make any payments to any beneficial owner of any Series 2008 Bonds. See "The Series 2008 Bonds -- Book-Entry Only System."

The Series 2008 Bonds are being issued by the City under and pursuant to (i) Chapter 166, Florida Statutes, Part II, Chapter 159, Florida Statutes, and other applicable provisions of law and (ii) the Bond Indenture.

The payment obligations of the Obligor under the Loan Agreement will be evidenced by two promissory notes of the Obligor, issued under and entitled to the benefit and security of a Master Trust Indenture, as supplemented by Supplemental Master Trust Indenture Number 1, each dated as of March 1, 2008, and each between Wells Fargo Bank, N.A., as master trustee (the "Master Trustee") and the Obligor (collectively, the "Master Indenture"). The promissory notes related to each series of the Series 2008 Bonds will be payable equally, ratably and on parity with any future Obligations (as defined in the Master Indenture) issued under the Master Indenture from time to time. The source of payment and security for the Series 2008 Bonds are more fully described in this Official Statement.

The Series 2008 Bonds are limited obligations of the City. Neither the State of Florida (the "State") nor any other political subdivision thereof nor the City shall be obligated to pay the Series 2008 Bonds or the interest thereon except from the revenues and moneys pledged therefor, and neither the faith and credit nor the taxing power of the State, of any other political subdivision thereof or of the City is pledged to the payment of the principal of or the interest on the Series 2008 Bonds.

**THE SERIES 2008 BONDS INVOLVE A HIGH DEGREE OF RISK. NO PROSPECTIVE PURCHASER OF THE SERIES 2008 BONDS SHOULD MAKE A DECISION TO PURCHASE ANY SERIES 2008 BONDS WITHOUT FIRST READING AND CONSIDERING IN FULL THE SECTION ENTITLED "CERTAIN BONDHOLDERS' RISKS."**

*The Series 2008 Bonds are subject to redemption and purchase prior to maturity as described herein under "The Series 2008 Bonds -- Redemption and Purchase Provisions."*

**Series 2008A Bonds**

\$ \_\_\_\_\_ % Term Bonds due September 1, 20\_\_ - Price \_\_\_\_ - Yield \_\_\_\_ % - CUSIP: \_\_\_\_\_

**Series 2008B Bonds**

\$ \_\_\_\_\_ % Term Bonds due September 1, 20\_\_ - Price \_\_\_\_ - Yield \_\_\_\_ % - CUSIP: \_\_\_\_\_

The cover page of this Limited Offering Memorandum contains certain information for quick reference only. It is not a complete summary of the Series 2008 Bonds. Investors should read the entire Limited Offering Memorandum to obtain information essential to the making of an informed investment decision.

The Series 2008 Bonds are offered, subject to prior sale, when, as and if issued by the City and accepted by the Underwriter, subject to the approval of their validity by Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Bond Counsel, the approval of certain legal matters by Bryant Miller Olive, counsel to the City, Leonard, O'Brien, Spencer, Gale & Sayre, Ltd., counsel to the Borrower, and McKennon Shelton & Henn LLP, counsel to the Underwriter, and to certain other conditions. It is anticipated that the Series 2008 Bonds will be available for delivery through the facilities of DTC on or about March \_\_, 2008.

**THE SERIES 2008 BONDS ARE BEING OFFERED ONLY TO "ACCREDITED INVESTORS," AS DEFINED IN RULE 501(a) PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND TO "QUALIFIED INSTITUTIONAL BUYERS," AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT.**

**RAYMOND JAMES**

No dealer, broker, salesman or other person has been authorized to give any information or to make any representation other than those contained in this Limited Offering Memorandum in connection with the offering described herein, and, if given or made, such other information or representation must not be relied upon as having been authorized. This Limited Offering Memorandum does not constitute an offer to sell or the solicitation of an offer to buy any securities other than Series 2008 Bonds offered hereby, nor shall there be any such offer or solicitation of the Series 2008 Bonds in any jurisdiction in which it is unlawful for such person to make such offer or solicitation. Neither the delivery of this Limited Offering Memorandum nor the sale of any of the Series 2008 Bonds implies that the information herein is correct as of any date subsequent to the date thereof.

The information contained herein has been obtained from the City, the Borrower and other sources believed to be reliable. The Underwriter has provided only the following sentence for inclusion in this Limited Offering Memorandum: “The Underwriter has reviewed the information in this Limited Offering Memorandum in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.” The information contained herein is subject to change after the date of this Limited Offering Memorandum, and this Limited Offering Memorandum speaks only as of its date.

CUSIP numbers on the cover page of this Limited Offering Memorandum are copyright by the American Bankers Association. CUSIP numbers are provided by Standard & Poor’s, CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc., and the Underwriter does not take any responsibility for the accuracy thereof. CUSIP numbers are not intended to create a database and do not serve in any way as a substitute for the CUSIP Service Bureau. The City is not responsible for the use of CUSIP numbers in this Limited Offering Memorandum nor for any representation made as to their correctness. CUSIP numbers are provided in this Limited Offering Memorandum solely for the convenience of the readers.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2008 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

This Limited Offering Memorandum is not to be construed as a contract or agreement between the City and the purchasers or holders of any of the Series 2008 Bonds.

All quotations from and summaries and explanations of provisions of laws and documents herein do not purport to be complete and reference is made to such laws and documents for full and complete statements of their provisions. Any statements made in this Limited Offering Memorandum involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Limited Offering Memorandum nor any sale of the Series 2008 Bonds shall under any circumstances create any implication that there has been no change in the affairs of the City or the Borrower since the date hereof.

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## LIMITED OFFERING MEMORANDUM

relating to

\$ \_\_\_\_\_  
**CITY OF LAKE WALES, FLORIDA**  
**RETIREMENT FACILITY REVENUE BONDS**  
**(WATER'S EDGE OF LAKE WALES, LLC PROJECT)**  
**SERIES 2008A**

\$ \_\_\_\_\_  
**CITY OF LAKE WALES, FLORIDA**  
**TAXABLE RETIREMENT FACILITY**  
**REVENUE BONDS**  
**(WATER'S EDGE OF LAKE WALES, LLC PROJECT)**  
**SERIES 2008B**

### INTRODUCTORY STATEMENT

This Limited Offering Memorandum, the cover page and appendices set forth certain information for use in connection with the issuance by the City of Lake Wales, Florida (the "City"), a municipal corporation duly organized and validly existing under the laws of the State of Florida (the "State"), of its \$ \_\_\_\_\_ Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008A (the "Series 2008A Bonds") and its \$ \_\_\_\_\_ Taxable Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B (the "Series 2008B Bonds" and together with the Series 2008A Bonds, the "Series 2008 Bonds"). The Series 2008 Bonds are issued under and pursuant to (i) Chapter 166, Florida Statutes, Part II, Chapter 159, Florida Statutes, and other applicable provisions of law and (ii) an Indenture of Trust (the "Bond Indenture") dated as of \_\_\_\_\_, 2008 between the City and Wells Fargo Bank, N.A., as trustee (the "Bond Trustee"). For the definitions of certain other words and terms used in this Limited Offering Memorandum and not otherwise defined herein, see "Definitions and Excerpted Provisions of Certain Principal Legal Documents" in Appendix C.

### The Borrower

The Series 2008 Bonds are being issued at the request of Water's Edge of Lake Wales, LLC (the "Borrower") in order to, among other things, finance the costs of the acquisition, construction, equipping and placing in use and operation of a multifamily rental independent living facility for seniors, as further described below (the "Project") to be owned and operated by the Borrower. *The Borrower was formed for the purpose of constructing and operating of the Project and has no prior operating experience.* The Borrower is a limited liability company organized under the laws of the State of Florida.

## **The Project**

The Project will consist of the construction of: (i) a 22 single story duplex villas; (ii) a three-story building containing 63 independent living apartments; (iii) a two-story building containing 30 assisted living units; (iv) 16 memory support (dementia) assisted living units; (v) six respite/rehabilitation assisted living units; and (vi) related common areas including a two-story, approximately 21,000 square foot community center. For detailed information concerning the Borrower and the Project, see Appendix A.

## **Feasibility Study**

Moore Stephens Lovelace, P.A. (the “Feasibility Consultant”) has prepared a Financial Feasibility Study dated \_\_\_\_\_, 2008 (the “Feasibility Study”) in connection with the issuance of the Series 2008 Bonds in order to evaluate the ability of the Borrower to meet operating expenses, working capital needs and other financial requirements, including the debt service requirements associated with the Series 2008 Bonds during the five year period ending \_\_\_\_\_, 20\_\_\_. The Feasibility Study, which appears as Appendix B to this Limited Offering Memorandum, is based on certain assumptions stated therein and should be read in its entirety.

## **Bondholder’s Risks**

*The Series 2008 Bonds involve substantial risks and each prospective investor should consider the information under the caption “Certain Bondholders’ Risks” to determine the suitability of investing in the Series 2008 Bonds.*

**THE SERIES 2008 BONDS ARE BEING OFFERED ONLY TO “ACCREDITED INVESTORS,” AS DEFINED IN RULE 501(a) PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND TO “QUALIFIED INSTITUTIONAL BUYERS,” AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT.**

***THE SERIES 2008 BONDS INVOLVE A HIGH DEGREE OF RISK. NO PROSPECTIVE PURCHASER OF THE SERIES 2008 BONDS SHOULD MAKE A DECISION TO PURCHASE ANY SERIES 2008 BONDS WITHOUT FIRST READING AND CONSIDERING IN FULL THE SECTION ENTITLED “CERTAIN BONDHOLDERS’ RISKS.”***

## ESTIMATED SOURCES AND USES OF FUNDS

The estimated uses and the sources of funds are as follows:

### Sources of funds:

Series 2008 Bonds .....  
Equity contribution.....  
Total sources of funds.....

### Uses of funds:

#### Deposit to Project Fund:

Cost of construction.....

Development fee..... (1)

Land acquisition .....

Capitalized interest ..... (2)

Design and other direct construction costs .....

Furniture and equipment.....

Marketing .....

Indirect construction costs and contingency.....

Total construction costs and contingency.....

Deposit to Operating Reserve Fund .....

Deposit to Working Capital Fund .....

Deposit to Renewal and Replacement Fund.....

Costs of issuance ..... (3)

Total uses of funds.....

- 
- (1) One-third of the Development fee will be paid upon the issuance of the Series 2008 Bonds; one-third will be paid during the course of construction of the Project based on the percentage of completion; and the final one-third of the Development fee will be paid upon the issuance of a certificate of occupancy for the Project.
  - (2) Interest on the Series 2008 Bonds from the date of their delivery to \_\_\_\_\_, 200\_.
  - (3) Includes Underwriter's discount, certain fees and expenses of the Feasibility Consultant, Bond Counsel, legal counsel to the City, the Borrower and the Underwriter, and the financial advisor to the City, as well as costs of title insurance, printing costs, fees and expenses of the Bond Trustee and Master Trustee and other miscellaneous expenses.

## PLAN OF FINANCING

The proceeds of the Series 2008 Bonds, together with an equity contribution from Lake Wales Retirement Center, Inc., a member of the Borrower, will be used to (i) pay the costs of the Project, (ii) pay the interest accruing on the Series 2008 Bonds from the date of their delivery to \_\_\_\_\_, 200\_, (iii) pay certain start-up costs of the Project, (iv) fund an Operating Reserve Fund and a Renewal and Replacement Fund and (v) pay the Underwriter's compensation and other administrative, legal, financing and miscellaneous expenses related to the issuance of the Series 2008 Bonds. See "Estimated Sources of and Uses of Funds."

The Series 2008 Bonds will be issued under and will be equally and ratably secured under the Bond Indenture, pursuant to which the City will assign and pledge to the Bond Trustee a



promissory note relating to each series of the Series 2008 Bonds (the "2008 Notes"), certain rights of the City under the hereinafter described Loan Agreement relating to only the Series 2008 Bonds (the "Loan Agreement") and other property described herein. The Borrower has agreed to make loan payments sufficient, among other things, to pay in full when due all principal and purchase price of, if any, premium, if any, and interest on the respective series of Series 2008 Bonds and the administrative fees of the Bond Trustee, and, to make payments as required to restore any deficiencies in the separate accounts of the debt service reserve funds established with respect to the respective series of Series 2008 Bonds. See "Security and Sources of Payment for the Series 2008 Bonds -- The Loan Agreement" herein.

The obligations of the Borrower to repay the loans from the City will be evidenced by the 2008 Notes of the Borrower, issued under and entitled to the benefit and security of a Master Trust Indenture, as supplemented by Supplemental Master Trust Indenture Number 1, each dated as of March \_\_, 2008, and each between the Master Trustee and the Borrower (collectively, the "Master Indenture"). See "Security and Sources of Payment for the Series 2008 Bonds -- The Master Indenture." Currently, only the Borrower and the Master Trustee are parties to the Master Indenture, and the Borrower is the only Obligated Group Member. Each 2008 Note will be secured on a parity basis with any other Obligations hereafter issued under the Master Indenture, by a lien on and security interest in the Mortgaged Property granted to the Master Trustee pursuant to a Mortgage and Security Agreement, dated as of March \_\_, 2008, executed by the Borrower and delivered to Wells Fargo Bank, N.A., in its capacity as Master Trustee under the Master Indenture (the "Mortgage") and a security interest in the Gross Revenues of the Obligated Group and the Funds established under the Master Indenture.

### **CERTAIN BONDHOLDERS' RISKS**

INVESTMENT IN THE SERIES 2008 BONDS INVOLVES A HIGH DEGREE OF RISK. EACH PROSPECTIVE PURCHASER OF SERIES 2008 BONDS SHOULD CAREFULLY EXAMINE THIS LIMITED OFFERING MEMORANDUM AND HIS OR HER FINANCIAL CONDITION AND OBJECTIVES IN ORDER TO MAKE A JUDGMENT AS TO WHETHER THE SERIES 2008 BONDS ARE AN APPROPRIATE INVESTMENT.

The Series 2008 Bonds are special and limited obligations of the City, payable solely from and secured exclusively by the funds pledged thereto, including the payments to be made by the Borrower pursuant to the Master Indenture. Future revenues and expenses of the Borrower are subject to conditions which may change in the future to an extent that cannot be determined at this time.

The paragraphs below discuss certain Bondholders' risks, but are not intended to be a complete enumeration of all risks associated with the Borrower, the Project or the purchase or holding of the Series 2008 Bonds.

#### **General**

No representation can be made or assurance given that revenues will be realized by the Borrower in amounts sufficient to make the payments necessary to meet the obligations of the

Borrower, including its obligations under the Loan Agreement. Future revenues and expenses of the Borrower and the Project are subject to, among other things, the capabilities of the management of the Borrower and future economic conditions and other conditions which are unpredictable, and which may affect revenues and the ability of the Borrower to make payments of principal of and interest on the Series 2008 Bonds and other obligations of the Borrower and the Project. Such conditions may include an inability to generate rental fees or to control expenses, including utility costs, in a period of inflation and difficulties in increasing rental and service fees.

### **Obligated Group**

The Obligated Group under and as defined in the Master Indenture initially is composed solely of the Borrower, but the Master Indenture provides that other entities may be admitted to the Obligated Group from time to time and that Members of the Obligated Group may withdraw from the Obligated Group upon the satisfaction of certain conditions. See “Withdrawal of Obligated Group Members” in Appendix C. Thus, there is no assurance that any person that may become a Member of the Obligated Group will remain a part of the Obligated Group. The covenants included in the Master Indenture apply only to Members of the Obligated Group.

### **Security for the Series 2008 Bonds**

#### ***Security Interest in Gross Revenues***

The Master Trustee’s security interest in the Gross Revenues is subject to, among other things, Permitted Encumbrances and the following:

- (i) any statutory liens, including any such liens or rights arising in favor of the City and the Master Trustee;
- (ii) rights arising in favor of the United States of America or any agency thereof;
- (iii) prohibitions against assignment contained in state or federal statutes and the absence of an express provision permitting assignment of receivables due under contracts with any third party payors;
- (iv) constructive trusts, equitable liens or other rights impressed or conferred by any state or federal court in the exercise of its equitable jurisdiction;
- (v) state and federal insolvency or bankruptcy laws affecting Gross Revenues earned by the Borrower within the statutorily prescribed preference period prior to any effectual institution of bankruptcy proceedings by or against the Borrower and thereafter;
- (vi) rights of third parties in any Gross Revenues, including Gross Revenues converted to cash, not in the possession of the Master Trustee; and

(vii) the requirement that appropriate financing and continuation statements be filed in accordance with the Uniform Commercial Code as in effect from time to time.

In addition, the security interest in the Gross Revenues may not extend to any revenues generated from the use and operation of the Borrower's facilities after any person obtains possession of such property, whether by voluntary transfer, foreclosure under a mortgage or other security agreement or enforcement of a statutory or judicially created lien.

### ***Lien on Mortgaged Property***

The obligation of the Borrower to make payments under the Loan Agreement with respect to the Series 2008 Bonds is secured by the Mortgage. The Mortgage is subject to Permitted Encumbrances as defined therein and is subordinate to liens for general property taxes, special taxes and assessments. In addition, the Loan Agreement permits the Borrower to dispose of assets and to pledge, mortgage or grant a security interest in revenues, property and other assets of the Borrower to secure other debt of the Borrower, subject to certain limitations stated therein. See "Definitions and Excerpted Provisions of Certain Principal Legal Documents" attached hereto as Appendix C. Such liens, as well as any statutory liens, such as liens for enforcement of tax and environmental laws and any enforceable mortgage, security interest or other lien created in violation of the Loan Agreement and the Mortgage may give the holders of the liens priority in payment over the Series 2008 Bonds from the property so encumbered in the event of the enforcement thereof. In addition, the existence of any such liens could have an adverse effect on the treatment of holders of the Series 2008 Bonds in any bankruptcy proceeding. See "Bankruptcy" below.

While governmental taxes, assessments and charges are common claims against property, there are other, less common claims that may affect the value and marketability of property. One of the most serious is a claim related to the release, presence or handling of hazardous substances on property. The Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as "CERCLA" or the "Superfund Act," is the most well known and widely applicable of these laws. Under many of these laws, the owner is obligated to remedy a hazardous substance condition on property, whether or not the owner had or has anything to do with the creation or handling of the hazardous substance. If any part of the Mortgaged Property is affected by a hazardous substance, the marketability and value of the property may be reduced by the cost of remedying the condition.

If any Event of Default were to occur under the Loan Agreement or the Mortgage, there can be no assurance that the amount received upon any foreclosure and sale of the Mortgaged Property would be sufficient to pay the principal of and interest on the outstanding Bonds.

### **Limitation on Enforceability of Remedies**

In addition to the limitations on enforceability described below under "Bankruptcy," the practical realization of value from the property subject to the Mortgage upon any default and realization of any rights under the Master Indenture, the Loan Agreement, the Bond Indenture and the Mortgage upon a default by the Borrower will depend upon the exercise of various

remedies specified therein. These remedies may require judicial action which is often subject to discretion and delay. Under existing law, including particularly the United States Bankruptcy Code (the "Bankruptcy Code"), certain of the remedies specified in the Master Indenture, the Loan Agreement, the Bond Indenture and the Mortgage may not be readily available or may be limited. For example, a court may decide not to order the specific performance of the covenants contained in the Master Indenture, the Loan Agreement, the Bond Indenture and the Mortgage. Accordingly, the ability of the Master Trustee to exercise remedies under the Master Indenture, the Loan Agreement, the Bond Indenture and the Mortgage upon an Event of Default could be impaired by the need for judicial or regulatory approval.

### **Start-Up Facility – No History of Operations**

The Project is a start-up facility which is being constructed with the proceeds of the Series 2008 Bonds and certain other amounts and has no operating history. The Borrower is a newly-formed entity with no operational history. Management's financial forecast included in the Feasibility Study attached as Appendix B forecasts that the Borrower will have sufficient funds to pay all principal and interest owing with respect to the Series 2008 Bonds. There is no assurance that the events and circumstances forecasted in the Feasibility Study will occur or that the financial forecasts will be achieved.

### **Failure to Rent Up and Maintain Occupancy**

The economic viability of the Project depends on, among other things, a relatively steady level of income from rental and service fees. No assurance can be given that the initial occupancy of the Project will take place as quickly as assumed by the Borrower. Various factors may adversely affect the marketing of the Project which could affect the overall occupancy of the Project including, without limitation, any difficulty arising from general conditions affecting the sale of residential real estate that prospective residents may encounter selling their homes in order to raise necessary funds to pay rental and service fees under lease agreements with the Borrower units in the Project ("Residency Agreements").

In addition, occupancy of the Project (and, accordingly, the Borrower's revenues) could be adversely affected by a decline in the economic conditions of the service area of the Project. Adverse economic conditions in the service area could decrease the number of individuals who are able to pay the rental fees charged to residents of the Project.

### **Concentrated Market; Limitation on Eligibility of Residents**

The occupancy rates in the Project may be adversely affected by regional and local economic conditions, competitive conditions, applicable local laws and regulations and general real estate market conditions, including the supply and proximity of senior living communities in the area of the Project. See the Feasibility Study which is attached as Appendix B and should be read in its entirety.

## **Competition**

The senior housing industry is highly competitive. The Borrower is expected to compete with a variety of other providers of senior housing, some of which have greater financial and other resources and may be more established. The Borrower will face competition from similar facilities operating and under construction in its market area, from other housing facilities for older adults and from existing facilities offering custodial, intermediate and skilled nursing care. It may face additional competition in the future as a result of the construction of new, or the renovation or expansion of existing, housing and nursing care facilities for older adults in the area served by the Borrower. In addition, few barriers to entry into the senior housing industry exist, increasing the potential for new senior housing providers to compete with the Borrower.

See ["Marketing of the Project -- Competition"] in Appendix A and the Feasibility Study in Appendix B.

## **Personnel**

The senior housing industry has at times experienced a shortage of qualified personnel. The Borrower will be competing with other senior housing providers and with retirement providers for both professional and non-professional employees. There can be no assurance that continued shortages in the future will not affect its ability to attract and maintain an adequate staff of qualified personnel. A lack of qualified personnel could result in significant increases in labor costs or otherwise adversely affect the operating results of the Borrower.

## **The Nature of the Income of the Residents**

A large percentage of the monthly income of the residents of the Project will be fixed income derived from pensions and social security. The United States Congress ("Congress") may determine not to maintain retirement benefit programs at current levels or approve cost of living increases for these programs. In addition, some residents may be liquidating assets in order to pay the rental and service fees of the Project. If, due to inflation or otherwise, substantial increases in rental and service fees are required to cover increases in operating costs, wages, benefits and other expenses, residents may have difficulty paying or may be unable to pay such increased rental and service fees.

## **Sale of Homes**

It is anticipated that many future residents of the Project will come from a personal residence. Many of these individuals may sell their current homes prior to occupancy to meet financial obligations under their respective Residency Agreements. If prospective residents encounter difficulties in selling their homes due to local or national economic conditions affecting the sale of residential real estate or otherwise, such prospective residents may not have sufficient funds to pay rental and service fees or other obligations under their Residency Agreements, thereby causing a delay in marketing vacated apartment units. Any such delay could have an adverse impact on the revenues of the Borrower and the ability of the Borrower to pay debt service on the Series 2008 Bonds.

## **Environmental Risks**

There are potential risks relating to liabilities for environmental hazards with respect to the ownership of any real property. If hazardous substances are found to be located on property, the owner of such property may be held liable for costs and other liabilities related to the removal of such substances, which costs and liabilities could exceed the value of the property. The Borrower has no reason to believe that the site on which the Project Risks related to Construction Facilities are to be located has environmental problems of a material nature. However, there can be no assurances that the site is free of environmental concerns.

## **Risks Related to Construction of the Project**

The Project is subject to the risk of delays due to a variety of factors, including, among others, delays in obtaining the necessary permits, licenses and other governmental approvals, site difficulties, labor disputes, delays in delivery and shortage of materials, weather conditions, fire and other casualties and default by the Borrower, the Construction Manager or subcontractors. If completion of the Project is delayed beyond the estimated construction period, receipt of revenues projected from the operation of the Project will be delayed and the ability of the Borrower to make required payments may be adversely affected. Such a delay could adversely affect the ability of the Borrower to meet the debt service requirements of the Series 2008 Bonds and the operating expenses of the Project.

Management of the Borrower believes that the proceeds of the Series 2008 Bonds, together with other funds of the Borrower, will be sufficient to finance the costs of the Project. The Construction Management Agreement obligates the Construction Manager to complete the Project for a guaranteed maximum price. The cost of the Project may be increased, however, if there are change orders. Further, the cost of construction of the Project may be affected by other factors beyond the control of the Borrower, the Construction Manager or any other contractor constructing any portion of the Project, including, but not limited to, labor disputes, delays in delivery and shortage of materials, site difficulties, adverse weather conditions, subcontractor defaults, fire and casualty and unknown contingencies. See "The Project -- Construction Management Agreement" in Appendix A.

The Construction Management Agreement requires that the Construction Manager provide payment and performance bonds. However, there can be no assurance that the obligation of the surety under such bonds can be enforced without costly and time-consuming litigation.

## **Organized Resident Activity**

The Borrower may, from time to time, be subject to pressure from organized groups of residents seeking, among other things, to raise the level of services or to maintain the level of rental and service fees or other charges without increase. While such pressure from small groups of residents is not unusual, no assurance can be given that such pressure will not escalate into more serious organized activity such as a general rent strike. Moreover, management of the Borrower may be subject to conflicting pressures from different groups of residents, some of whom may seek an increase in the level of services while others wish to hold down rental and service fees and other charges. In such event, no assurance can be given that management of the

Borrower would be able satisfactorily to meet the needs of both groups. To the extent that the management of the Borrower is unable to do so, the number of residents who choose not to renew their Residency Agreements may increase.

### **Unique Nature of the Project**

The Project will not be practically suited to alternative uses. As a result, the realization of revenues from the sale or leasing (upon foreclosure or otherwise) of the Project might thus be adversely affected.

### **Rights of Residents**

In the event that the Master Trustee or Bond Trustee seek to enforce any of the remedies provided by the Master Indenture, the Loan Agreement, the Bond Indenture and the Mortgage upon the occurrence of a default thereunder, the claims of the Master Trustee and Bond Trustee may compete with claims of the residents of the Project who have fully complied with all the terms and conditions of their Residency Agreements and it is impossible to predict any judicial resolution of such competing claims.

### **Fluctuation of Investment Earnings**

The Borrower's nonoperating revenues are expected to come from investment earnings on the investment of available funds. The amount of such investment earnings will fluctuate with changes in prevailing market conditions.

### **Uncertainty of Investment Income on Bond Proceeds**

The investment earnings of, and accumulations in, certain funds and accounts established by the Bond Indenture and Master Indenture have been estimated and are based on assumed earnings rates as indicated in the Feasibility Study. While these assumptions are believed to be reasonable in view of the rates of return presently available, there is no assurance that similar interest rates will be available on such securities in the future, nor is there any assurance that the potential accumulations shown will be realized.

### **Bankruptcy**

The ability of the City or the Master Trustee to exercise rights under the Master Indenture, the Loan Agreement, the Mortgage and the Bond Indenture may be limited by bankruptcy, insolvency, reorganization or other laws or equitable principles related to or affecting the enforcement of creditors' rights. See "Security and Sources of Payment for the Series 2008 Bonds -- Enforceability."

### **Insurance and Legal Proceedings**

The provision of personal and senior housing services entails an inherent risk of liability. In recent years, participants in the senior living and retirement care services industry have become subject to an increasing number of lawsuits alleging negligence, malpractice or related

causes of action, many of which involve large claims and result in significant legal defense costs. The Borrower carries property and general liability insurance and professional liability insurance in amounts deemed adequate by management and consistent with other comparable institutions. See “Insurance” in Appendix A. However, there can be no assurance that any current or future claims will not exceed applicable insurance coverage. A claim against the Borrower not covered by, or in excess of, the Borrower’s insurance could have a material adverse effect upon the Borrower.

In addition, the Borrower’s insurance policies must be renewed annually. Because the increased litigation in the senior housing and retirement care business has resulted in increased insurance premiums and increased difficulty in obtaining insurance at reasonable rates, there can be no assurance that insurance coverage will continue to be available to the Borrower at reasonable premiums, or at all.

In its role as an owner and operator of real property, the Borrower may be subject to liability for investigating and remediating any hazardous substances that have come to be located on its real property, including any such substances that may have migrated off its real property. In addition, the Borrower’s operations include the handling, use, storage and disposal of hazardous, infectious and toxic materials and wastes. Such handling, use or release by the Borrower may produce risks of damage to individuals, property or the environment; interruption of operations or increased costs; legal liability, damages, injunctions or fines; or investigations, administrative proceedings, penalties or other government agency actions. There can be no assurance that the Borrower will not encounter such risks in the future, and such risks may result in material adverse consequences to the operations or financial condition of the Borrower. The Borrower is not aware of any environmental liability with respect to any of its properties that it believes would have a material adverse effect on the Borrower’s business, financial condition, or results of operations. The Borrower believes that its operations and facilities are in compliance in all material respects with all federal, state and local laws, ordinances, and regulations regarding hazardous or toxic substances or petroleum products.

The Borrower currently is not a party to any legal proceeding that it believes would have a material adverse effect on its business, financial condition or results of operations.

## **Internal Revenue Code Compliance**

### ***Tax-Exempt Status of Interest on the Series 2008 Bonds***

The Internal Revenue Code of 1986, as amended (the “Code”), imposes a number of requirements that must be satisfied for interest on state and local obligations, such as the Series 2008 Bonds, to be excludable from gross income for federal income tax purposes. These requirements include limitations on the use of proceeds of the Series 2008 Bonds and the facilities financed or refinanced with such proceeds, limitations on the investment of amounts deemed to be proceeds of the Series 2008 Bonds prior to expenditure, a requirement that certain investment earnings on amounts deemed to be proceeds of the Series 2008 Bonds be paid periodically to the United States of America and a requirement that the City file an information report with the Internal Revenue Service (the “IRS”).



The City and the Borrower have made certain covenants regarding actions required to maintain the excludability from gross income for federal income tax purposes of interest on the Series 2008 Bonds. Failure to comply with the requirements stated in the Code and related regulations, rulings and policies may result in the treatment of interest on the Series 2008 Bonds as taxable, retroactively to the date of issuance.

The IRS has increased the number of audits of tax-exempt bonds in the charitable organization sector in recent years. The Series 2008 Bonds may be subject to audits by the IRS from time to time. No ruling with respect to the tax-exempt status of the Series 2008 Bonds has been or will be sought from the IRS, and the opinion of Bond Counsel as to the excludability from gross income of the interest on the Series 2008 Bonds for federal income tax purposes is not binding on the IRS or the courts. See "Tax Matters." In addition, if the Series 2008 Bonds were to be audited, the market for and the market value of the Series 2008 Bonds could be adversely affected during the pendency of the examination and thereafter, even if the outcome of the audit were to be favorable.

### ***Tax-Exempt Status of the Sole Member***

The tax-exempt status of the Series 2008 Bonds presently depends upon the maintenance by Florida Christian Homes Senior Housing, Inc., the Sole Member of the Borrower (the "Sole Member"), of its status as an organization described in Section 501(c)(3) of the Code. In addition, if the Sole Member were to lose its tax-exempt status, its property and its revenues could become subject to federal, state and local income taxation. Loss of the tax-exempt status of the Sole Member also could result in loss of the tax-exempt status of other debt issued on behalf of the Borrower, and defaults in covenants regarding the Series 2008 Bonds and any other tax-exempt debt would likely result. For these reasons, loss of the tax-exempt status of the Sole Member could have a material adverse effect on the financial condition of the Borrower or the Sole Member.

The maintenance of the federal tax-exempt status of an organization is contingent on compliance with general rules promulgated in the Code and related regulations regarding the organization and operation of tax-exempt entities, including their operation for charitable and educational purposes and their avoidance of transactions which may cause their earnings or assets to inure to the benefit of private individuals. As these general principles were developed primarily for public charities which do not conduct large-scale technical operations and business activities, they often do not adequately address the myriad of operations and transactions entered into by modern health care organizations.

One of the tools available to the IRS to discipline a tax-exempt entity for private inurement or unlawful private benefit is revocation of the entity's tax-exempt status. Although the IRS has not often revoked the tax-exempt status of an organization, it could do so in the future.

### ***Local Property Tax Exemption***

In recent years, state, county and local taxing authorities have been undertaking audits and reviews of the operations of tax-exempt facilities with respect to their real property tax

exemptions. In some cases, particularly where such authorities are dissatisfied with the amount of services provided to indigents, the real property tax exemption of such facilities has been questioned. The real property used for tax-exempt purposes of the Borrower is currently exempt from real property taxation.

#### **Public Charity Status of Florida Christian Homes Senior Housing, Inc.**

Pursuant to a letter dated May 3, 2004 from the Internal Revenue Service, the Sole Member will be treated as a public charity described in Section 509(a)(2) of the Code for an advance ruling period of 60 months beginning January 1, 2005. Within 90 days after the end of such 60 month period, the Sole Member must establish to the satisfaction of the Internal Revenue Service that it has qualified as an organization which meets the requirements of paragraph (1), (2), or (3) of Section 509(a) of the Code for the 60 month period. Pursuant to the Internal Revenue Service letter, if the Sole Member fails to establish such fact, the Sole Member will be classified as a private foundation as of the first day of the first taxable year of the 60 month period.

#### **Additional Bonds and Additional Debt**

The Bond Indenture permits the issuance of Additional Bonds and the Master Indenture permits the Borrower to incur additional indebtedness, including, under certain circumstances, debt secured by a lien on the Borrower's property that is prior to the liens securing the Series 2008 Bonds or that may be equally and ratably secured with the Series 2008 Bonds. Such Additional Bonds and additional indebtedness may dilute the security for the Series 2008 Bonds.

#### **Future Results May Differ from Forecasted Results**

The financial forecasts included in the Feasibility Study are based on certain assumptions made by the management of the Borrower. As stated in the financial forecast, there usually will be differences between the forecasted and actual results, because events and circumstances frequently do not occur as expected and those differences may be material. In addition, such financial forecast covers only the five fiscal years ending \_\_\_\_\_, 20\_\_, and consequently does not cover the entire period during which the Series 2008 Bonds may be outstanding. *The Feasibility Study should be read in its entirety.* See Appendix B.

#### **No Rating; Secondary Market for the Series 2008 Bonds**

No application has been made for a credit rating for the Series 2008 Bonds. The absence of a rating may adversely affect the market for the Series 2008 Bonds. There can be no assurance that there will be a secondary market for the Series 2008 Bonds and there may from time to time be no market for them. The Series 2008 Bonds have not been registered under the Securities Act of 1933, as amended. Any purchaser of the Series 2008 Bonds must be purchasing such Series 2008 Bonds for investment and not with a view towards distribution and should consider such Series 2008 Bonds to be long-term investments in which funds are committed to maturity.

## **Parity Debt**

The Master Indenture permits the Obligated Group to incur Additional Indebtedness which may be equally and ratably secured with the 2008 Notes, including, but not limited to, Additional Obligations. See Definitions and Excerpted Provisions of Certain Principal Legal Documents –“Additional Indebtedness” in Appendix C. Any such additional parity indebtedness would be entitled to share ratably with the holder of the 2008 Notes in any moneys realized from the exercise of remedies in the event of a default under the Master Indenture, and in the proceeds of certain insurance and condemnation awards.

## **Prepayment Risks**

The Series 2008 Bonds are subject to redemption, without premium, in advance of their stated maturities under certain circumstances. See “The Series 2008 Bonds -- Redemption and Purchase Provisions.” Upon the occurrence of certain Events of Default, the payment of the principal of and interest on the Series 2008 Bonds may be accelerated. See the “Definitions and Excerpted Provisions of Certain Principal Legal Documents” attached hereto as Appendix C. Thus, there can be no assurance that the Series 2008 Bonds will remain outstanding until their stated maturities.

## **Hedging Transactions**

The Borrower from time to time may enter into hedging arrangements to hedge the interest payable or manage interest cost on Indebtedness, assets or any other derivative arrangements. Changes in the market value of such agreements could have a negative impact upon the Borrower’s operating results and financial condition, and such impact could be material. Any future hedging agreement may be subject to early termination upon the occurrence of certain events. If either the Borrower or the counterparty terminates any hedge agreement entered into in the future when such agreement has a negative value to the Borrower, the Borrower could be obligated to make a substantial termination payment, which could materially adversely affect the financial condition of the Borrower.

## **Control of Rights and Remedies**

Under the Bond Indenture, the Bondholder Representative will be deemed to be the holder of all of the outstanding Series 2008 Bonds, except for the purpose of receiving payment of the principal of and interest and premium, if any, on the Series 2008 Bonds and except as described below. Accordingly, without the consent of the Bondholders, any provision of the Master Indenture, the Loan Agreement, the Bond Indenture or the Mortgage may be amended or waived, and property securing the obligations of the Borrower under the Master Indenture, the Loan Agreement and the Mortgage may be released from the liens created by the Master Indenture, the Loan Agreement and the Mortgage, with the consent of the Bondholder Representative.

*With the consent of the Holders of 66-2/3% of the Outstanding Bonds during the continuance of an Event of Default (a) the maturity of any Bond may be extended, (b) the principal amount of any Bond or the redemption premium or the rate of interest on any Bond*

*may be reduced, (c) a lien upon or a pledge of revenues ranking prior to or on a parity with the lien or pledge created by the Master Indenture and the Mortgage may be created, (d) a preference or priority of any Bond or Bonds over any others may be created, (e) the aggregate principal amount of the Bonds required to consent to supplemental indentures, amendments to the Loan Agreement or amendments to the Mortgage may be reduced and (f) the aggregate principal amount of the Bonds required to waive an Event of Default may be reduced.*

### **Other Possible Risk Factors**

The occurrence of any of the following events, or other unanticipated events, could adversely affect the financial position of the Borrower or results of operations of the Project:

- (1) establishment of mandatory governmental wage, rent or price controls;
- (2) unionization, employee strikes and other adverse labor actions that could result in a substantial increase in expenditures without a corresponding increase in revenues;
- (3) adoption of other federal, state or local legislation or regulations having an adverse effect on the future operating or financial performance of the Borrower;
- (4) a decline in the population, a change in the age composition of the population or a decline in the economic condition of the Borrower's market area;
- (5) inability to control increases in operating costs, including salaries, wages and fringe benefits, supplies and other expenses, given an inability to obtain corresponding increases in revenues from residents whose incomes will largely be fixed;
- (6) suspension or revocation of or failure to renew any license necessary to operate the Project or any portion thereof; and
- (7) the occurrence of natural disasters, including hurricanes, floods, tornadoes and earthquakes, or the occurrence of criminal or terrorist acts or other calamities, which could damage the facilities of the Borrower, interrupt utility service to its facilities or otherwise impair the operations of the Borrower and the generation of revenues from its facilities.

Regulatory and other changes resulting from the factors mentioned above, among others, or the occurrence of other unanticipated events, could have a material adverse effect on the operations or the financial position of the Borrower.

## **SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2008 BONDS**

### **Limited Obligation**

The Series 2008 Bonds and the interest thereon are limited obligations of the City payable solely from and secured exclusively by certain payments to be made by the Borrower under the Master Indenture and the Loan Agreement and from certain other funds held by the Bond Trustee

under the Bond Indenture (except the Rebate Fund) and not from any other fund or source of the City.

THE ISSUER, POLK COUNTY, FLORIDA, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATE OF FLORIDA, SHALL NOT BE LIABLE OR OBLIGATED (GENERALLY, SPECIALLY, MORALLY OR OTHERWISE) TO PAY THE PRINCIPAL OF THIS BOND OR THE PREMIUM, IF ANY, OR INTEREST HEREON EXCEPT, WITH RESPECT TO THE ISSUER, SOLELY FROM THE SOURCES IDENTIFIED IN THE BOND INDENTURE AND LOAN AGREEMENT, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, POLK COUNTY, FLORIDA, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS.

### **Security for the 2008 Notes**

#### ***General***

The 2008 Notes are unconditional general obligations of the Borrower and any future Members of the Members of the Obligated Group, and will remain in full force and effect until all of the Series 2008 Bonds secured by such 2008 Note and the interest thereon have been paid or provision for the payment thereof has been made in accordance with the Bond Indenture. The 2008 Notes require the Borrower and any future Members of the Obligated Group to make payments in such amounts and at such times as shall be sufficient to provide for the payment of the principal of and the premium, if any, and interest on outstanding the Series 2008 Bonds secured by such 2008 Note when due.

#### ***Obligated Group***

The Master Indenture provides that other entities may be admitted to the Obligated Group from time to time upon the satisfaction of certain conditions. Each Member of the Obligated Group Member, as co-obligor and not as guarantor, jointly and severally covenants to pay the principal of, and premium, if any, and interest on the 2008 Notes and any other outstanding Obligations and to perform any and all other agreements and obligations of the Borrower and any other Member of the Obligated Group under the Master Indenture, subject to the right of any Member of the Obligated Group Member to withdraw from the Obligated Group under certain circumstances. See "Definitions and Excerpted Provisions of Certain Principal Legal Documents -- Withdrawal of Obligated Group Members" in Appendix C. The Borrower shall not withdraw or resign as Obligated Group Representative until another Obligated Group Representative has been appointed and said appointee has accepted its duties in writing.

#### ***Security Interest in Gross Revenues***

The 2008 Notes will constitute a joint and several obligations of each Obligated Group Member, and will be secured on a parity basis with any other Obligations hereafter issued under the Master Indenture by a lien on the trust estate pledged thereunder, which includes the Gross Revenues of the Obligated Group. The "Gross Revenues" include all [receipts, revenues,

accounts receivable, rentals, income, insurance proceeds (including, without limitation, all Medicaid, Medicare and other third party payments), condemnation awards, Life Lease Deposits and other moneys received by or on behalf of any Obligated Group Member, including (without limitation) revenues derived from (a) the ownership, operation or leasing of any portion of the Facilities (including, without limitation, fees payable by or on behalf of residents of the Facilities) and all rights to receive the same (other than the right to receive Medicaid and Medicare payments), whether in the form of accounts, general intangibles or other rights, and the proceeds of such accounts, general intangibles and other rights, whether now existing or hereafter coming into existence or whether now owned or held or hereafter acquired, and (b) gifts, grants, bequests, donations and contributions heretofore or hereafter made that are legally available to meet any of the obligations of the Obligated Group Member incurred in the financing, operation, maintenance or repair of any portion of the Facilities; provided, however, that there shall be excluded from Gross Revenues (i) all such items, whether now owned or hereafter acquired by the Obligated Group Members, which by their terms or by reason of applicable law cannot be granted, assigned or pledged hereunder or which would become void or voidable if granted, assigned or pledged hereunder by the Obligated Group Members, or which cannot be granted, pledged or assigned hereunder without the consent of other parties whose consent is not secured, or without subjecting the Master Trustee to a liability not otherwise contemplated by the provisions hereof, or which otherwise may not be, or are not, hereby lawfully and effectively granted, pledged and assigned by the Obligated Group Members, (ii) any amounts received by an Obligated Group Member as a billing agent for another entity, except for fees received for serving as billing agent, (iii) gifts, grants, bequests, donations and contributions to an Obligated Group Member heretofore or hereafter made, and the income and gains derived therefrom, which are specifically restricted by the donor or grantor to a particular purpose which is inconsistent with their use of payments required under the Master Indenture, (iv) any moneys received by any Obligated Group Member from prospective residents or commercial tenants in order to pay for customized improvements to those Independent Living Units or other areas of the Facilities to be occupied or leased to such residents or tenants, (v) all deposits made pursuant to Residency Agreements to be held in escrow until construction of the Facilities is completed, a certificate of occupancy has been issued and appropriate licenses, if required, have been issued, and (vi) all deposits and/or advance payments made in connection with any leases of the Independent Living Units and received prior to receipt of such certificate and licenses.]

The lien on Gross Revenues is subject to Permitted Encumbrances and the right of the Borrower to dispose of property as described in the Master Indenture. See “Definitions and Excerpted Provisions of Certain Legal Documents – Sale or Lease of Property” in Appendix C.

### ***Parity Debt***

The Master Indenture permits the issuance of additional Indebtedness secured equally and ratably on parity with the 2008 Notes, including, but not limited to, Additional Obligations. See “Definitions and Excerpted Provisions of Certain Principal Legal Documents – Additional Indebtedness” in Appendix C.

### ***Rate Covenant***

Commencing with the earlier of (i) the achievement of Stable Occupancy (as defined

below) and (ii) March \_\_, 2011, the Borrower must calculate the Historical Debt Service Coverage Ratio for each twelve month period ending [March 31], [June 30], [September 30], and [December 31]. In the event that the Historical Debt Service Coverage Ratio of the Obligated Group for any such Fiscal Year is less than 1.25:1 for two consecutive fiscal quarters after Stable Occupancy, the Obligated Group is required to retain a Consultant within 30 days following the calculation described herein to make recommendations with respect to the rates, fees and charges of the Obligated Group's methods of operation and other factors affecting its financial condition in order to increase such Historical Debt Service Coverage Ratio to at least 1.25:1 for the next calculation period. Each Obligated Group Member is required to follow the recommendations of the Consultant applicable to it to the extent feasible (as determined in the reasonable judgment of the Governing Body of such Member) and to the extent that such recommendations are consistent with the Borrower's status as an organization described in Section 501(c)(3) of the Code and permitted by law.

"Stable Occupancy" as defined in the Master Indenture means (i) with respect to the Units financed with the proceeds of the 2008 Bonds and included in the 2008 Project, the date on which the total percentage of the units occupied is equal to or greater than 93%, calculated as of the last day of any fiscal quarter, and (ii) with respect to any Project financed with Additional Indebtedness for which the Master Trustee was furnished a Consultant's report pursuant to the Master Indenture (or, if no Consultant's report was required by the Master Indenture, an Officer's Certificate), either (A) the percentage of occupied units in that Project at the level reflected as substantially at the sustainable capacity for which such Project was designed or "stabilized occupancy" for that Project in the Consultant's report or the Officer's Certificate or (B) the definition of "Stable Occupancy" for such Project contained in the Supplement for such Additional Indebtedness.

Notwithstanding any other provisions of the Master Indenture, failure of the Obligated Group to achieve the required Historical Debt Service Coverage Ratio for any Fiscal Year shall not constitute an event of default under the Master Indenture if the Obligated Group takes all action necessary to comply with the procedures set forth above for preparing a report and adopting a plan and follows each recommendation contained in such report to the extent feasible (as determined by the Governing Body of the Obligated Group Representative) and permitted by law; provided however, the failure of the Obligated Group to achieve a Debt Service Coverage Ratio for any Fiscal Year of at least 1.00:1 shall constitute an event of default under the Master Indenture.

### **Operating Reserve Fund**

An Operating Reserve Fund will be funded in the amount of \$500,000 from proceeds of the Series 2008 Bonds. Amounts on deposit in the Operating Reserve Fund shall be disbursed by the Master Trustee to the Borrower from time to time to be applied to pay the operating expenses of the Project, including the debt service on the Series 2008 Bonds. Any amount withdrawn from the Operating Reserve Fund must be replenished in 12 equal monthly installments.

## **Mortgage**

Under the Mortgage, as security for the payments required to be made under the Loan Agreement, the Borrower grants a mortgage on certain real property and a security interest in all personal property of the Borrower (collectively, the “Mortgaged Property”). The real property subject to the Mortgage includes the approximately 40 acre site of the Project in Lake Wales, Florida, the Project and the other improvements on the site. See “The Project” in Appendix A.

The liens created by the Mortgage are subject to Permitted Encumbrances and to the right of the Borrower to obtain a partial release of the Mortgage and to dispose of assets under certain conditions. See “Sale or Lease of Property” in Appendix C.

## **Bond Indenture**

Pursuant to the Bond Indenture, the City pledges and assigns to the Bond Trustee as security for the payment of the Series 2008 Bonds all right, title and interest of the City in and to, among other things, (i) all of the City’s right, title and interest in and to any note delivered by the Obligor to the City pursuant to the Loan Agreement or the Master Indenture to secure Bonds; (ii) all of the City’s right, title and interest in and to the Loan Agreement (subject to certain exceptions), together with all powers, privileges, options and other benefits of the City contained in the Loan Agreement; (iii) amounts on deposit from time to time in the Bond Fund, Construction Fund, and Cost of Issuance Fund, but excluding the Rebate Fund, subject to the provisions of the Bond Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein; (iv) any and all property of every kind or description which may from time to time hereafter be sold, transferred, conveyed, assigned, hypothecated, endorsed, deposited, pledged, mortgaged, granted or delivered to, or deposited with the Bond Trustee as additional security by the City. The Borrower has consented to such assignment.

## **Loan Agreement**

The Loan Agreement is a general obligation of the Borrower and will remain in full force and effect until all of the Series 2008 Bonds and the interest thereon have been paid or provision for the payment thereof has been made in accordance with the Bond Indenture and all other obligations thereunder have been satisfied. The Loan Agreement requires the Borrower to make payments in amounts sufficient to provide for the payment of the principal of and interest on the Series 2008 Bonds when due. Pursuant to the Bond Indenture, the payments required by the Loan Agreement with respect to any Series 2008 Bonds are assigned by the City to the Bond Trustee. See “Definitions and Excerpted Provisions of Certain Principal Legal Documents” in Appendix C.

## **Enforceability**

The Master Indenture, the Bond Indenture, the Loan Agreement, the Mortgage and the Series 2008 Bonds are subject to bankruptcy, insolvency, moratorium, reorganization and other state and federal laws affecting the enforcement of creditors’ rights and to general principles of equity. A claim for payment of the principal of or interest on the Series 2008 Bonds could be made subject to any statutes that may be constitutionally enacted by Congress or the Florida



legislature affecting the time and manner of payment or imposing other constraints upon enforcement.

The Bankruptcy Code permits a bankruptcy court to modify the rights of a secured creditor. The potential effects of the bankruptcy of the Borrower could be to delay substantially the enforcement of remedies otherwise available to the Master Trustee and to allow the bankruptcy court, under certain circumstances (i) to substitute other assets of the Borrower for collateral under the Master Indenture and the Mortgage, (ii) to sell all or part of the collateral under the Master Indenture and the Mortgage without application of the proceeds to the payment of Bonds, (iii) to subordinate the Master Indenture and the Mortgage to liens securing borrowings approved by the bankruptcy court, (iv) to permit the Borrower to cure defaults and reinstate the Master Indenture and the Mortgage, (v) to compel release or termination of the Master Indenture or the Mortgage by payment of an amount determined by the bankruptcy court to be the value of the collateral pledged by the Borrower thereunder (even though less than the total amount of Bonds Outstanding), or (vi) to modify the terms of or payments due under the Master Indenture and the Mortgage. For additional detail, reference is made to the Bankruptcy Code, 11 U.S.C. §101 *et seq.* See also “Certain Bondholders’ Risks.”

## **THE SERIES 2008 BONDS**

### **General**

The Series 2008 Bonds are dated as of their date of issuance, will bear interest from their date of issuance at the rate set forth on the cover page of this Limited Offering Memorandum, payable on September 1, 2008, and semiannually thereafter on each March 1 and September 1 and, subject to the redemption provisions set forth below, will mature on the date and in the amount set forth on the cover page of this Limited Offering Memorandum.

The Series 2008 Bonds are issued only as fully registered bonds in denominations of (i) [\$25,000 and any integral multiple of \$5,000 in excess thereof while owned by investors for whom Hamlin Capital Management, LLC (“Hamlin”) serves as investment advisor and (ii) \$100,000 and any integral multiple of \$5,000 in excess thereof in any other case]. The Series 2008 Bonds initially shall be maintained under a book-entry system. Beneficial Owners shall have no right to receive physical possession of the Series 2008 Bonds and payments of the principal and redemption price of and interest on the Series 2008 Bonds will be made as described below under “Book-Entry Only System.”

If the book-entry system is discontinued, interest on the Series 2008 Bonds will be payable by check mailed by the Bond Trustee to the persons in whose names the Series 2008 Bonds are registered as of the Regular Record Date for each Interest Payment Date (or such other day as shall be established by the Bond Trustee as described under “\_\_\_\_\_” in Appendix C) at the address shown on the registration books maintained by the Bond Trustee, which is registrar and paying agent for the Series 2008 Bonds and the principal or redemption price of the Series 2008 Bonds will be payable only upon presentation and surrender of such Bonds at the designated corporate trust office of the Bond Trustee.

## Redemption and Purchase Provisions of Series 2008A Bonds

### *Optional Redemption or Purchase*

Series 2008A Bonds are subject to optional redemption or purchase prior to maturity at the option of the Borrower on and after September 1, 2016 in whole or in part and if in part, in inverse order of mandatory sinking fund installments, and by lot within a maturity [in denominations of \$25,000 or any integral multiple of \$5,000 in excess thereof] by the City, acting at the direction of the Borrower, on September 1, 2016 and on any Business Day thereafter, at the redemption prices (expressed as percentages of the principal amount of Series 2008A Bonds to be redeemed) set forth in the following table plus accrued interest to the date set for redemption:

<u>Redemption or Purchase Dates</u>	<u>Redemption or Purchase Prices</u>
September 1, 2016 to August 31, 2017	102%
September 1, 2017 to August 31, 2018	101
September 1, 2018 and thereafter	100

### *Mandatory Sinking Fund Redemption*

The Series 2008A Bonds are subject to mandatory sinking fund redemption prior to maturity, in part, in accordance with the mandatory sinking fund redemption, at 100% of the principal amount thereof plus accrued interest to the redemption date, in the following principal amounts (which include the principal amount which will be outstanding on the date of maturity) and on September 1 of the years set forth below:

<u>Year</u>	<u>Sinking Fund Installment</u>	<u>Year</u>	<u>Sinking Fund Installment</u>
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\*Final maturity

The average life of the Series 2008A Bonds is approximately \_\_\_\_ years.

At the option of the Borrower, it may (i) deliver to the Bond Trustee for cancellation Series 2008A Bonds or portions thereof maturing on September 1, 20\_\_ or September 1, 20\_\_, as the case may be, in an aggregate principal amount desired by the Borrower or (ii) specify a principal amount of Series 2008A Bonds or portions thereof maturing on September 1, 20\_\_ or September 1, 20\_\_, as the case may be, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Bond Trustee at the request of the Borrower and not theretofore applied as a credit against any sinking fund redemption obligation. Each such Series 2008A Bond or portion thereof so delivered or previously redeemed shall be credited by the Bond Trustee at 100% of the principal amount thereof against the obligation of the City to redeem Series 2008A Bonds on such sinking fund redemption date. Any excess shall be credited against the next sinking fund redemption obligation to redeem Series 2008A Bonds.

#### ***Optional Redemption from Life Lease Deposits***

The Series 2008A Bonds are subject to optional redemption in whole or in part at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date on the first Business Day of each [March 1, June 1, September 1 and December 1], to the extent monies are on deposit in the Life Lease Deposit Redemption Account of the Bond Fund. See "Definitions and Excerpted Provisions of Certain Principal Legal Documents – Life Lease Deposit Fund" in Appendix C.

#### ***Optional Redemption from Excess Cash Flow***

(a) The 2008A Bonds are subject to mandatory optional redemption, semiannually, [in integral multiples of \$5,000 on \_\_\_\_\_], in order of the next succeeding mandatory sinking fund installments, from Excess Cash Flow deposited in the Special Redemption Account of the Bond Fund as required by the Master Indenture.

The Master Indenture provides that on or after Stable Occupancy has been achieved, any Excess Cash Flow shall be paid by the Obligated Group to the Bond Trustee for deposit into the Special Redemption Account of the Bond Fund. The Master Indenture further provides that the Bond Trustee shall use such monies to redeem Series 2008A Bonds annually within 60 days following the receipt by the Borrower of its audited financial statements. The Obligated Group is required to make such deposits until such time as the Outstanding Long Term Debt is reduced to an amount equal to the product of (i) the number of apartment units in the 2008A Project, multiplied by (2) an amount equal to \$\_\_\_\_\_. Such deposits are only required to be made under the terms of the Master Indenture if (a) the Obligated Group Members have greater than \_\_\_\_ Days Cash on Hand, (b) the amount on deposit in the Operating Reserve Account is not less than the Operating Reserve Fund Requirement, and (c) the amount on deposit in the Renewal and Replacement Fund is not less than \$\_\_\_\_\_.

"Excess Cash Flow" means, for any period of determination thereof, any amount in excess of the Income Available for Debt Service for the period less the ratable portion of Maximum Annual Debt Service for the period [but excluding (i) any profits or losses that would

be regarded as extraordinary items, (ii) gain or loss on the extinguishment of Indebtedness, (iii) contributions, (iv) proceeds of Bonds and any other Indebtedness permitted by the Loan Agreement, (v) proceeds of insurance policies, other than policies for use and occupancy or business interruption insurance maintained by or for the benefit of the Borrower, (vi) the proceeds of any sale, transfer or other disposition of the Project by the Borrower, and (vii) any condemnation or any other damage award received by or owing to the Borrower and derived from the Project.] For purposes of any redemption of 2008A Bonds from Excess Cash Flow, Maximum Annual Debt Service shall include any mandatory sinking fund redemption amount.

### ***Special Mandatory Redemption***

(b) The Series 2008A Bonds are subject to mandatory redemption in whole or in part on any date for which timely notice of redemption can be given by the Bond Trustee following the Completion Date at a redemption price equal to the aggregate principal amount of the Series 2008A Bonds to be redeemed plus accrued interest to the redemption date, without premium, to the extent Surplus Construction Fund Moneys are transferred to the Principal Account of the Bond Fund.

(c) The Series 2008A Bonds are subject to mandatory redemption in whole on any date for which timely notice of redemption can be given by the Bond Trustee following a Determination of Taxability at a redemption price equal to 103% of the aggregate principal amount of the Series 2008A Bonds to be redeemed plus accrued interest to the redemption date.

### ***Extraordinary Optional Redemption***

The Series 2008A Bonds are subject to optional redemption at the direction of the Borrower prior to their scheduled maturities, in whole or in part at a redemption price equal to the principal amount thereof plus accrued interest from the most recent interest payment date to the redemption date on any date following the occurrence of any of the following events:

(a) in case of damage or destruction to, or condemnation of, any property, plant, and equipment of any Obligated Group Member, to the extent that the net proceeds of insurance or condemnation award exceed the greater of (a) 3% of Book Value or, at the option of the Obligated Group Representative, the Current Value, of the Property, Plant and Equipment of the Obligated Group, or (b) \$1,000,000 plus an amount equal to \$1,000,000 multiplied by a percentage equal to the aggregate percentage increase or decrease in the Construction Index from its level as of January 1, 2008 (the "Threshold Amount") and the Borrower has determined not to use such net proceeds or award to repair, rebuild or replace such property, plant, and equipment; or

(b) as a result of any changes in the Constitution or laws of the State of Florida or of the United States of America or of any legislative, executive, or administrative action (whether state or federal) or of any final decree, judgment, or order of any court or administrative body (whether state or federal), the obligations of the Borrower under the Loan Agreement have become, as established by an Opinion of Counsel, void or unenforceable in each case in any

material respect in accordance with the intent and purpose of the parties as expressed in the Loan Agreement.

### ***Selection of Bonds to Be Redeemed***

Except for any mandatory redemption described above under “Mandatory Sinking Fund Redemption,” in the event that less than all of the Series 2008A Bonds are to be redeemed, the Borrower may select the particular maturities of such series to be redeemed. If less than all Bonds of a single maturity are to be redeemed, they shall be selected by the Securities Depository or by lot in such manner as the Bond Trustee may determine. If a Bond is of a denomination larger than the minimum Authorized Denomination, a portion of such Bond may be redeemed, but Bonds shall be redeemed only in the principal amount of an Authorized Denomination and no Bond may be redeemed in part if the principal amount to be Outstanding following such partial redemption is not an Authorized Denomination.

### ***Notice of Redemption***

If Series 2008A Bonds are called for redemption as described above, notice of such redemption (including when only a portion of the Series 2008A Bonds is to be redeemed, the series and numbers of such Series 2008A Bonds or the maturities thereof) shall be mailed by the Bond Trustee, not less than thirty (30) days nor more than sixty (60) days before the redemption date by certified, registered or first class mail, to [the Bondholder Representative and] the registered owners of any Series 2008A Bonds which are to be redeemed, at their last addresses appearing upon the registration records maintained by the Bond Trustee hereunder. [No notice of redemption need be given if the Holders of all Series 2008A Bonds called for redemption waive notice thereof in writing and such waiver is filed with the Trustee.]

With respect to any optional redemption of the Series 2008A Bonds for which the Bond Trustee is to issue a notice of redemption as described above, the Bond Trustee is authorized under the Bond Indenture to issue a conditional notice of redemption, making the redemption of any Series 2008A Bonds conditional on the occurrence of such matters occurring on or before the date scheduled for redemption as shall be specified by the Borrower prior to the delivery of the conditional notice of redemption.

### **Redemption and Purchase Provisions of Series 2008B Bonds**

[TO COME]

### **Book-Entry Only System**

The information in this section has been obtained from sources that the City, the Borrower and the Underwriter believe to be reliable, but neither the City, the Borrower nor the Underwriter take any responsibility for the accuracy thereof.

### ***The Depository Trust Company***

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Series 2008 Bonds. The Series 2008 Bonds will be issued as fully-registered

securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2008 Bond certificate will be issued for each of the Series 2008 Bonds, in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2.2 million issues of United States and non-United States equity, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both United States and non-United States securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation, and Emerging Markets Clearing Corporation (NSCC, FICC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both United States and non-United States securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org) and [www.dtcc.com](http://www.dtcc.com).

### ***Ownership of Series 2008 Bonds***

Purchases of the Series 2008 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2008 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2008 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2008 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2008 Bonds, except in the event that use of the book-entry system for the Series 2008 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2008 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2008 Bonds with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2008 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2008 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2008 Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Series 2008 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the security documents. For example, Beneficial Owners of Series 2008 Bonds may wish to ascertain that the nominee holding the Series 2008 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners, in the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them. Redemption notices shall be sent to DTC. If less than all of the Series 2008 Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed. Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Series 2008 Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2008 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

#### ***Payments on and Redemption of Series 2008 Bonds***

Redemption proceeds, distributions, and dividend payments on the Series 2008 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from the City or the Bond Trustee on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, agent, or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of City or the Bond Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

*Neither the City nor the Bond Trustee nor the Underwriter nor the Borrower can give any assurances that DTC or the Participants will distribute payments of the principal or Redemption Price of and interest on the Series 2008 Bonds paid to DTC or its nominee, as the registered owner of the Series 2008 Bonds, or any redemption, purchase or other notices, to the Beneficial Owners or that they will do so on a timely basis or that DTC will serve and act in the manner described in this Limited Offering Memorandum.*

### ***Discontinuance of Book-Entry Only System***

DTC may discontinue providing its services as securities depository with respect to the Series 2008 Bonds at any time by giving reasonable notice to the City and the Bond Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Series 2008 Bonds are required to be printed and delivered. The City may, pursuant to the procedures of DTC, decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Series 2008 Bonds will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the City believes to be reliable, but the City takes no responsibility for the accuracy thereof.

### **Registration and Exchange of Bonds**

So long as the Series 2008 Bonds are maintained under a book-entry system, transfers of ownership interests in the Series 2008 Bonds will be made as described above under "Book-Entry Only System." If the book-entry only system is discontinued, any Series 2008 Bond may be exchanged for an equal aggregate principal amount of Series 2008 Bonds of the same maturity and bearing interest at the same rate and of other authorized denominations, and the transfer of any Series 2008 Bond may be registered on the Bond Register, upon presentation and surrender of such Bond at the principal corporate trust office of the Bond Trustee, together with a written instrument of transfer duly executed by the registered owner or his attorney duly authorized in writing. The City may require the person requesting any such exchange or transfer to reimburse them for any tax or other governmental charge that may be imposed in connection therewith, other than exchanges upon partial redemption not involving any transfer. Neither the City nor the Bond Trustee shall be required to register the transfer or exchange of any Series 2008 Bond during the 15 days next preceding the date of the first publication or mailing of notice of redemption. The City and the Bond Trustee shall not be required to make any transfer or exchange of any Series 2008 Bonds called for redemption.

### **Acceleration**

Upon the occurrence of certain events, the due date for the payment of the principal amount of the Series 2008 Bonds may be accelerated. See "Definitions and Excerpted Provisions of Certain Principal Legal Documents – Acceleration of Maturity, Recission and Annulment" in Appendix C.



## ANNUAL DEBT SERVICE REQUIREMENTS OF SERIES 2008 BONDS

The following table sets forth for each fiscal year ended [December 31]: (i) the principal due on the Series 2008 Bonds (whether at maturity or by mandatory redemption); (ii) the interest due on the Series 2008 Bonds; and (iii) the total debt service requirements of the Series 2008 Bonds.

<u>Year</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
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(1) Sinking Fund Installments

\* Final maturity

## THE CITY

The City is located in Polk County, Florida and is a municipal corporation duly organized and validly existing under the laws of the State of Florida. It is the mission of the Lake Wales City Government to provide for the safety, health, quality of life and general welfare of its citizens.

The City has a commission/manager form of government. Five city commissioners are elected to serve four-year terms. City commissioners are elected by the citizens at-large but must reside in the area represented by the seat to which they are elected.

The present members of the City Commission and the expiration of their terms are set forth below:

<u>Name</u>	<u>Expiration of Term</u>
Lee Alex Wheeler (Mayor/Commissioner)	May 1, 2010
Kathy Manry (Commissioner)	May 1, 2009
Terrye Y. Howell (Commissioner)	May 1, 2009
Jack Van Sickle (Commissioner)	May 1, 2011
Jean Kincaid Scott (Commissioner)	May 1, 2008

The office of the City is located at 201 W. Central Avenue, Lake Wales, Florida 33853 and its phone number is (863) 678-4182.

The City will have no responsibility with respect to the collection, transfer or payment of any moneys derived from the Borrower.

Although the City has consented to the use of this Limited Offering Memorandum, the City is a conduit issuer with respect to the Series 2008 Bonds and has not prepared or participated in the preparation of this Limited Offering Memorandum and is not responsible for the statements made herein except for the information under the captioned "The City" and "Litigation" and the City will not be responsible for the offering, sale or distribution of the Series 2008 Bonds.

Neither the State, the County nor any other political subdivision of the State is liable for the payment of the principal of, premium, if any, or interest on the Series 2008 Bonds. The City's obligation to pay the Series 2008 Bonds is limited to certain revenues.

At the time of delivery of the Series 2008 Bonds, the City will, among other things, assign all of its rights under the Loan Agreement (except certain reserved rights) to the Bond Trustee which, on behalf of the Bondholders, will exercise all of the City's rights thereunder.

## **FEASIBILITY STUDY**

Moore Stephens Lovelace, P.A. prepared and reported on the Feasibility Study which is attached hereto as Appendix B in connection with the issuance of the Series 2008 Bonds. The Feasibility Study sets forth financial statement forecasts for the Borrower's five fiscal years ending \_\_\_\_\_, 20\_\_\_. These forecasts are based on assumptions that cannot be assured. The Feasibility Study should be read in its entirety, including the assumptions of future events on which the forecasts are based, which have been provided by, or have been reviewed with and approved by, the Borrower. See Appendix B.

The report of the Feasibility Consultant on the Feasibility Study concludes that (i) the underlying assumptions on which the Feasibility Study is based provide a reasonable basis for management's forecast; however, there will usually be differences between the forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material; and (ii) the financial forecast indicates that sufficient funds could be generated to meet the Borrower's operating expenses, working capital needs and other financial requirements, including the debt service requirements associated with the Series 2008 Bonds, during the forecast period. However, the report further states that the achievement of any financial forecast is dependent upon future events, the occurrence of which cannot be assured.

## **UNDERWRITING**

The Series 2008 Bonds are being purchased by Raymond James & Associates, Inc. (the "Underwriter"). The Underwriter has agreed to purchase the Series 2008 Bonds at an aggregate discount of \$\_\_\_\_\_ from the initial offering price set forth on the cover page of this Limited Offering Memorandum. The bond purchase agreement provides that the Underwriter will purchase all the Series 2008 Bonds, if any are purchased, and contains the Borrower's agreement to indemnify the Underwriter and the City against losses, claims, damages and liabilities arising out of certain incorrect statements or information contained in this Limited Offering Memorandum.

The initial offering price set forth on the cover of this Limited Offering Memorandum may be changed from time to time by the Underwriter.

The Underwriter may offer and sell the Series 2008 Bonds to certain dealers (including dealers depositing the Series 2008 Bonds into investment trusts, certain of which may be sponsored or managed by the Underwriter) and others at prices lower than the offering price set forth on the cover page hereof.

## **NO RATINGS**

No ratings have been applied for or received in connection with the issuance of the Series 2008 Bonds.

## TAX MATTERS

**Opinion.** On the date of initial delivery of the Series 2008A Bonds, Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Bond Counsel, will render its opinion in the form attached hereto as Appendix D to the effect that, in accordance with statutes, regulations, published rulings and court decisions existing on the date thereof ("Existing Law"), (1) interest on the Series 2008A Bonds for federal income tax purposes will be excludable from the "gross income" of the holders thereof, and (2) such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations although it should be noted that in the case of corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings for purposes of computing such alternative minimum tax imposed on such corporations. Except as stated above, Bond Counsel will express no opinion as to any other federal, state or local tax consequences of the purchases, ownership or disposition of the Series 2008A Bonds. See "Proposed Form of Opinion of Bond Counsel" in Appendix D hereto.

In rendering its opinion, Bond Counsel will rely upon (a) the opinions of Leonard, O'Brien, Spencer, Gale & Sayre, Ltd., counsel to the Obligor, relating to the qualification of the Obligor as an organization described in Section 501(c)(3) of the Code, (b) information furnished by the Obligor, and particularly written representations of officers and agents of the Obligor with respect to certain material facts that are solely within their knowledge relating to the use of the proceeds of the Series 2008A Bonds, and (c) covenants of the City and the Obligor with respect to arbitrage, the application of the proceeds to be received from the issuance and sale of the Series 2008A Bonds and certain other matters. Failure of the City or the Obligor to comply with these representations or covenants could cause the interest on the Series 2008A Bonds to become includable in gross income retroactively to the date of issuance of the Series 2008A Bonds.

The Code and the regulations promulgated thereunder contain a number of requirements that must be satisfied subsequent to the issuance of the Series 2008A Bonds in order for interest on the Series 2008A Bonds to be, and to remain, excludable from gross income for federal income tax purposes. Failure to comply with such requirements may cause interest on the Series 2008A Bonds to be included in gross income retroactively to the date of issuance of the Series 2008A Bonds. The opinion of Bond Counsel is conditioned on compliance by the City and the Obligor with such requirements, and Bond Counsel has not been retained to monitor compliance with these requirements subsequent to the issuance of the Series 2008A Bonds.

Bond Counsel's opinion represents its legal judgment based upon its review of Existing Law and the reliance on the aforementioned information, representations and covenants. Bond Counsel's opinion is not a guarantee of a result. Existing Law is subject to change by the Congress and to subsequent judicial and administrative interpretation by the courts and the Department of the Treasury. There can be no assurance that Existing Law or the interpretation thereof will not be changed in a manner which would adversely affect the tax treatment of the purchase, ownership or disposition of the Series 2008A Bonds.

**[Tax Treatment of Original Issue Discount.** Bond Counsel is further of the opinion that the difference between the principal amount of the Series 2008A Bonds maturing in the years 20\_\_ and 20\_\_ (collectively the "Discount Bonds") and the initial offering price to the public

(excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of such Discount Bonds of the same maturity was sold constitutes original issue discount which is excluded from gross income for federal income tax purposes to the same extent as interest on the Series 2008A Bonds. Further, such original issue discount accrues actuarially on a constant interest rate basis over the term of each Discount Bond and the basis of each Discount Bond acquired at such initial offering price by an initial purchaser thereof will be increased by the amount of such accrued original issue discount. The accrual of original issue discount may be taken into account as an increase in the amount of tax-exempt income for purposes of determining various other tax consequences of owning the Discount Bonds, even though there will not be a corresponding cash payment. Owners of the Discount Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Discount Bonds.]

**[Tax Treatment of Original Issue Premium.** The difference between the principal amount of the Series 2008A Bonds maturing in the years 20\_\_ and 20\_\_ (collectively, the "Premium Bonds") and the initial offering price to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of such Premium Bonds of the same maturity was sold constitutes to an initial purchaser amortizable bond premium which is not deductible from gross income for federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest rate basis to the first optional call date for each Premium Bond. For purposes of determining gain or loss on the sale or other disposition of a Premium Bond, an initial purchaser who acquires such obligation in the initial offering to the public at the initial offering price is required to decrease such purchaser's adjusted basis in such Premium Bond annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning such Premium Bonds. Owners of the Premium Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Premium Bonds.]

**Collateral Federal Income Tax Consequences.** Prospective purchasers of the Series 2008A Bonds should be aware that ownership of Series 2008A Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry the Series 2008A Bonds. Prospective purchasers of the Series 2008A Bonds should also be aware that ownership of the Series 2008A Bonds may result in adverse tax consequences under the laws of various states. Bond Counsel has not expressed an opinion regarding the collateral federal income tax consequences that may arise with respect to the Series 2008A Bonds. Further, Bond Counsel has expressed no opinion regarding the state tax consequences that may arise with respect to the Series 2008A Bonds. Prospective purchasers of the Series 2008A Bonds should consult their tax advisors as to the collateral federal income tax consequences and state tax consequences to them of owning the Series 2008A Bonds.

INVESTORS, INCLUDING THOSE WHO ARE SUBJECT TO SPECIAL PROVISIONS OF THE CODE, SHOULD CONSULT THEIR OWN TAX ADVISORS AS TO THE TAX TREATMENT WHICH MAY BE ANTICIPATED TO RESULT FROM THE PURCHASE, OWNERSHIP AND DISPOSITION OF TAX-EXEMPT OBLIGATIONS BEFORE DETERMINING WHETHER TO PURCHASE THE SERIES 2008A BONDS.

***State and Local Taxes.*** The Series 2008A Bonds and the interest thereon are exempt from taxation under the laws of the State of Florida, except as to estate taxes and taxes imposed by Chapter 220, Florida Statutes, on interest, income and profits on debt obligations owned by corporations, as defined in said Chapter 220.

[Insert Discussion of Taxable Bonds]

## LEGAL MATTERS

Legal matters incident to the authorization, issuance and sale of the Series 2008 Bonds are subject to the unqualified approval of the Bond Counsel. Nabors, Giblin & Nickerson, P.A., Tampa, Florida, has acted in the capacity as Bond Counsel for the purpose of rendering an opinion with respect to the authorization, issuance, delivery, legality and validity of the Series 2008 Bonds and for the purpose of rendering an opinion on the exclusion of the interest on the Series 2008 Bonds from gross income for federal income tax purposes and certain other tax matters. Such firm has not been requested to examine, and has not investigated or verified, any statements, records, material or matters relating to the financial condition or capabilities of the Obligor or its affiliates, and has not assumed responsibility for the preparation of this Official Statement, except that, in its capacity as Bond Counsel, such firm has reviewed the information in this Official Statement under the captions "The City," "Security and Sources of Payment for the Series 2008 Bonds," "The Series 2008 Bonds," and "Tax Matters," and in Appendix C – "Definitions and Excerpted Provisions of Certain Principal Documents."

Certain legal matters will be passed upon for the Issuer by Bryant Miller Olive, for the Underwriter by McKennon Shelton & Henn LLP, and for the Borrower by Leonard, O'Brien, Spencer, Gale & Sayre, none of whom are passing upon the validity of the Series 2008 Bonds.

The various legal opinions to be delivered concurrently with the delivery of the Series 2008 Bonds express the professional judgment of the attorneys rendering the opinions as to the legal issues explicitly addressed therein. In rendering a legal opinion, the attorney does not become an insurer or guarantor of the expression of professional judgment, of the transaction opined upon, or of the future performance of the parties to the transaction, nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

## LITIGATION

There is currently no litigation of any nature to which the City is a party pending in any court in the City, or, to the knowledge of the City, pending in any other jurisdiction or otherwise

threatened against it to restrain or enjoin the issuance, sale, execution or delivery of the Series 2008 Bonds or in any way contesting or affecting the validity of the Series 2008 Bonds or any proceedings taken with respect to the issuance or sale thereof, or in any way contesting or affecting the validity of or application of any moneys or the security provided for the Series 2008 Bonds or the existence or powers of the City in connection with the operation, construction and equipping of the Project.

There is currently no litigation of any nature to which the Borrower is a party pending or, to the knowledge of the Borrower, threatened against it to restrain or enjoin the issuance, sale, execution or delivery of the Series 2008 Bonds or in any way contesting or affecting the validity of the Series 2008 Bonds or any proceedings taken with respect to the issuance or sale thereof, or in any way contesting or affecting the validity of or application of any moneys or the security provided for the Series 2008 Bonds or the existence or powers of the Borrower in connection with the operation, construction and equipping of the Project or which, in the opinion of management, would adversely affect the financial condition or operation of the Project or materially alter the security therefor or the ability of the Borrower to perform its obligations under the Loan Agreement.

### **FEASIBILITY CONSULTANT**

The Feasibility Study included in this Limited Offering Memorandum as Appendix B has been prepared and reported on by Moore Stephens Lovelace, P.A., independent certified public accountants, and is based on historical data and assumptions as to future events furnished by the Borrower. As indicated in its report, certain assumptions may not occur and unanticipated events and circumstances may occur. Therefore, the actual results achieved during the forecast period may vary materially from those forecasted.

### **RELATIONSHIPS**

*[Insert any relationships]*

### **CONTINUING DISCLOSURE**

In accordance with Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission, the Borrower has undertaken for the benefit of the holders of the Series 2008 Bonds to provide certain financial information or operating data and audited financial statements, and to provide notices of the occurrence of certain material events in accordance with the Continuing Disclosure Agreement. A copy of the form of Continuing Disclosure Agreement is included in this Limited Offering Memorandum as Appendix E.

### **DISCLOSURE REQUIRED BY FLORIDA BLUE SKY REGULATIONS**

Pursuant to Section 517.051, Florida Statutes, as amended, no person may directly or

indirectly offer or sell securities of the City except by an offering circular containing full and fair disclosure of all defaults as to principal or interest on its obligations since December 31, 1975, as provided by rule of the Florida Department of Financial Services (the "Department"). Pursuant to Rule 69W-400.003, Florida Administrative Code, the Department has required the disclosure of the amounts and types of defaults, any legal proceedings resulting from such defaults, whether a trustee or receiver has been appointed over the assets of the City, and certain additional financial information, unless the City believes in good faith that such information would not be considered material by a reasonable investor.

As described herein, the City has the power to issue bonds for the purpose of financing other projects for other borrowers which are payable from the revenues of the particular project or borrower. Revenue bonds issued by the City for other projects may be in default as to principal and interest. The source of payment, however, for any such defaulted bond is separate and distinct from the source of payment for the Series 2008 Bonds and, therefore, any default on such bonds would not, in the judgment of the City, be considered material by a potential purchaser of the Series 2008 Bonds.

The Obligated Group has not defaulted in any payment of principal or interest after December 31, 1975.

#### **MISCELLANEOUS**

The references herein to the Master Indenture, the Bond Indenture, the Loan Agreement, the Mortgage and other materials are brief outlines of certain provisions thereof. Such outlines do not purport to be complete and, for full and complete statements of such provisions, reference is made to such instruments, documents and other materials, copies of which are on file at the offices of the City.

The information contained in this Limited Offering Memorandum has been compiled or prepared from information obtained from the Borrower and official and other sources deemed to be reliable and, while not guaranteed as to completeness or accuracy, is believed to be correct as of this date. Any statements involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact.

The attached Appendices are integral parts of this Limited Offering Memorandum and should be read in their entirety together with all of the foregoing information.

The Borrower, represented by certain of its officers, administrative staff and counsel, has reviewed the information contained herein which relates to the Borrower. The Sole Member has authorized certain officers of the Borrower to approve this Limited Offering Memorandum.



The execution and delivery of this Limited Offering Memorandum by the Chairman of the City and the Chairman of the Borrower have been duly authorized by the City and the Borrower, respectively.

**WATER'S EDGE OF LAKE WALES, LLC**

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

Name:

Title:

**APPENDIX A**

**WATER'S EDGE OF LAKE WALES, LLC**



## **WATER'S EDGE OF LAKE WALES, LLC**

### **Introduction**

Water's Edge of Lake Wales, LLC was formed to own and operate a not-for-profit senior housing community known as "Waters Edge of Lake Wales." Construction of Waters Edge of Lake Wales (the "Community") is scheduled to begin in \_\_\_\_\_, 2008 on approximately 40 acres of land in Lake Wales, Florida.

Water's Edge of Lake Wales, LLC is wholly owned by its managing member, Florida Christian Homes Communities, LLC. Pursuant to Water's Edge of Lake Wales, LLC's Operating Agreement five managers will oversee the day to day operations of the Community. Under the Operating Agreement, Florida Christian Homes Communities, LLC appoints three of the five managers and Lake Wales Retirement Center Inc. appoints the remaining two managers of Water's Edge of Lake Wales, LLC.

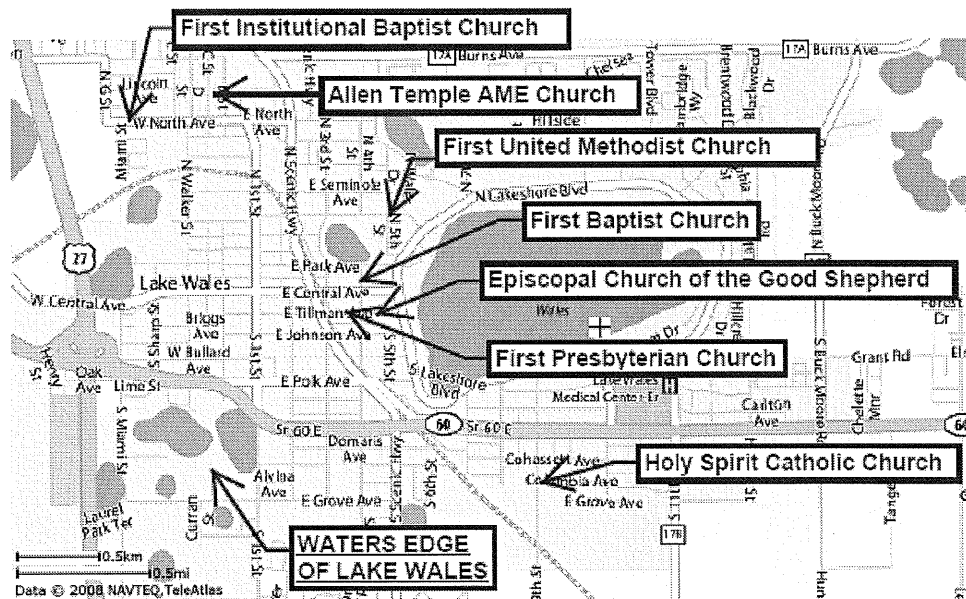
#### *Lake Wales Retirement Center Inc.*

Lake Wales Retirement Center Inc. ("LWRC") is a Florida not-for-profit corporation incorporated on January 6, 1997. LWRC was formed by members of the congregations of seven churches in Lake Wales and the surrounding communities, in order to provide a senior living community to meet the needs of residents in the area. The combined congregations represented in excess of 4,000 member individuals and households. The churches who participated in the formation of the corporation are the following:

- Allen Temple AME Church
- Episcopal Church of the Good Shepherd
- First Baptist Church
- First Institutional Baptist Church
- First Presbyterian Church
- First United Methodist Church
- Holy Spirit Catholic Church

The following map illustrates the proximity of the churches to the site of the Water's Edge of Lake Wales campus.

### Location of Sponsoring Churches



Source:  
Yahoo  
Maps

*Florida  
Christian  
Homes  
Community,  
LLC*

Florida Christian Homes Communities, LLC. is a sister company to Florida Christian Homes Senior Housing, Inc. which is a Minnesota not-for-profit 501(c)(3) corporation organized exclusively for charitable purposes, including making distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code and (i) to establish and provide for elderly persons and handicapped persons, on a nonprofit basis, housing, assisted living, skilled nursing care, medical care, therapy, home care, meal delivery and other programs, facilities and services specifically designed to meet their primary needs for housing, health care, supervision, nourishment and financial security, and to meet some combination of the physical, emotional, recreational, social, religious and similar needs of elderly persons and handicapped persons and contribute to their health, security and happiness in longer living; (ii) to form relationships with other providers of healthcare, medical care and related services and to integrate such services, on a nonprofit basis, to elderly and handicapped persons across a broad continuum of care; (iii) to sponsor, encourage, promote, advance and otherwise assist with the provision and improvement of housing, health care, medical care and related services of every kind to elderly persons and handicapped persons and other individuals in need thereof; and (iv) to aid, assist, and contribute to the support of organizations which are organized and operated exclusively for one or more purposes described in Sections 170(c)(2) and 501(c)(3) of the Code and are exempt from federal income taxes under Section 501(a) of the Code as organizations described in Section 501(c)(3) of the Code.

#### Management of Water's Edge of Lake Wales, LLC

The Board of Directors of Water's Edge of Lake Wales, LLC is currently comprised of the following individuals:

*Don Westerhoff, Chairperson, Chief Executive Officer and Chief Manager*

Mr. Westerhoff is currently chairman of Insurance Services of Bradenton Inc. d/b/a Financial Services of Bradenton, which was founded in 1986. Following graduation from college, Mr. Westerhoff worked with both General Motors and Chrysler Corporation, assisting in the establishment of the Mopar division of Chrysler Corporation in 1968. In 1969, Mr. Westerhoff founded Jobbers Supply Co. of Milwaukee, establishing the distribution of Mopar Auto Parts in Wisconsin and Northern Illinois on behalf of Chrysler. In 1973, Mr. Westerhoff left Chrysler Corporation and formed The Underwriters Quality Service, a brokerage firm marketing various financial products through brokers and insurance agents in Wisconsin and Northern Illinois. In 1982, Mr. Westerhoff sold this business to The Ray Laub Group of Milwaukee and moved to Bradenton, Florida.

In 1986, Mr. Westerhoff formed Insurance Services of Bradenton Inc. which ultimately began operating under the name Financial Services of Bradenton. For the past 20 years, the firm has offered financial, estate and retirement planning to a broad range of clients and has continued to grow in its scope of services and clients.

Mr. Westerhoff has served on numerous not-for-profit boards including the following: the Board of Calvary Baptist Church in St. Paul, Minnesota; the Board of Elmbrook Church of Milwaukee, Wisconsin; the Board of Manatee Religious Services, Bradenton, Florida; numerous boards of Bethel Baptist, serving as chairman of the Board of Deacons, chairman of the Board of Trustees, and chairman of Bethel Baptist; the Board of the Florida Caribbean Baptist Conference, serving as chairman as well as moderator of its annual conferences; the Board of the Baptist General Conference of America, an association of over 1,000 churches throughout the United States, serving as chairman; the Board of Lakebridge Condominium Association, serving as Vice President; and the Board of Service Insurance Company, Bradenton, Florida

*Lyle Trease, Manager and Member*

Mr. Trease is President and founder of Trease Consulting Associates and is nationally recognized in the design and construction industry. Since 1982, Mr. Trease has consulted with firms in 37 states on matters pertaining to management, ownership and transition, mergers and acquisitions, marketing and market positioning and strategic planning and operations. He also previously served as an aide to Governor Frank Morrison of Nebraska for five years. During Mr. Trease's tenure with a large design firm, he assisted in the organization of housing authorities and facilitated the development of HUD Senior Living Projects in several Midwestern communities. Outside of his professional activities, Mr. Trease is a founding member of the Society for Marketing Professional Services ("SMPS"). He has served four terms on the National Board of SMPS and was named an SMPS "fellow" in its 1992 honor class.

Mr. Trease is a member of the Independent Consultants Association and is listed in the International Who's Who of Entrepreneurs. Mr. Trease is a member of the Deacon Board of

Idlewild Baptist Church and served on the building committee which recently developed a new \$85 million campus for Idlewild Baptist Church.

Mr. Trease attended Wayne State College in Nebraska and the Nebraska School of Business. He took additional graduate courses at LE University.

*Mark Eklo, Manager and Member*

Mr. Eklo is a native of Minnesota who has 24 years of diverse property development, residential construction and business management experience. In 1978, Mr. Eklo started his first construction company with two partners in Woodbury. The business grew to a level where over 80 homes were being constructed annually, primarily on land that was also being developed by the growing company Riverwood Homes. Mr. Eklo was responsible for all phases of development including land development, construction supervision, the company's finances and marketing efforts of Riverwood Homes. In 1984, Mr. Eklo sold the organization to his partners and began developing a new company, which ultimately became Bent Creek Woods, Inc. Bent Creek Woods focused on developing large parcels of property for resale and continues to develop and market its own line of custom homes in the \$300,000+ range.

Since 1996, Mr. Eklo has focused a major portion of his efforts in the development, marketing and construction of senior housing projects. Mr. Eklo and Ron King started Senior Housing Construction, Inc. which developed and built senior rental town homes, independent apartments and assisted living facilities. They also formed two project specific 501(c)(3) organizations to promote affordably priced not-for-profit senior communities with a non-denominational Christian emphasis. The first of these was Florida Christian Homes Senior Housing, Inc.

Mr. Eklo and Mr. King joined forces with Dennis Doyle, Chairman of the Board of Welsh Companies from Minneapolis and they established Welsh Senior Homes Development Company, LLC. The business plan for Welsh Senior Homes Development Company, LLC was to develop multiple not-for-profit rental senior housing communities primarily throughout Florida in association with local not-for-profit sponsors in association with Florida Christian Homes Senior Housing, Inc. They also brought in Dr. William White with Health Initiatives to provide a unique wellness program which he had especially developed for senior residents in retirement communities. The first project completed was Water's Edge of Bradenton Condominium Villas.

The second phase of Water's Edge of Bradenton was financed through the use of tax exempt bond financing. The project called the LakeHouse, included 109 unit independent living apartments and common and activity areas. Following the completion of the Water's Edge of Bradenton financing, Mr. Eklo established Life Wellness Communities Development Company, LLC along with Jack Bowersox to continue the business plan to develop not-for-profit senior housing communities.

Mr. Eklo has 50% ownership in Life Wellness Communities Development Company, LLC. Life Wellness Communities Development Company LLC has a contract with Water's Edge of Lake Wales, LLC to provide the development services for Water's Edge of Lake Wales. Mr. Eklo also has 25% ownership in Sweet Grass Company, LLC which has a contract with Water's Edge of Lake Wales, LLC, to provide the Construction Management services for Water's Edge of Lake Wales. The Operating Agreement for Water's Edge of Lake Wales LLC contains a conflicts of interest policy which prohibits board members with any actual or possible conflict of interest from voting on any transaction or arrangement involving the possible or actual conflict of interest.

*Ellis Hunt, Manager and Member*

Retire Owner of Hunt Brother Citrus.

[MORE DETAIL TO COME]

*[Dick Chandley], Manager and Member*

Metallurgical Engineer.

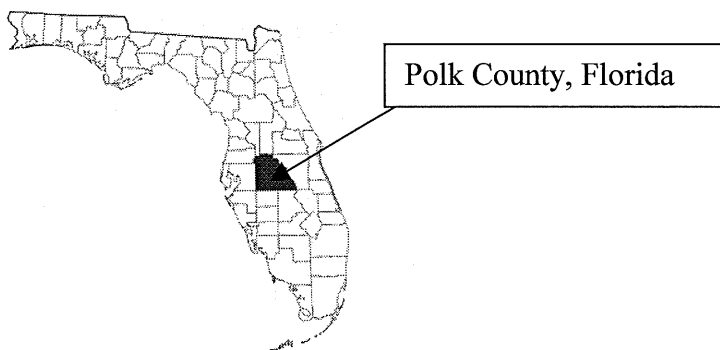
[MORE DETAIL TO COME]

## THE PROJECT

Water's Edge of Lake Wales is being developed in order to establish a 137-unit senior housing community that provides a variety of independent living arrangements and offers a continuum of wellness and assistance in living programs. Water's Edge of Lake Wales will provide housing and other services on a rental and fee for service basis and will target couples or individual residents that have middle to upper-middle class income.

### Location

The Community will be located in Lake Wales, Florida which is located in Polk County.



The population of the City of Lake Wales is growing at a much greater rate than in the rest of Florida or the United States. The following charts show the estimated household and population growth in Lake Wales since 2000 as compared to the State of Florida and the United States.

<u>Population Growth</u>	<u>Lake Wales, FL</u>	<u>Florida</u>	<u>United States</u>
Growth 2007-2012	15.17%	9.46%	4.41%
Growth 2000-2007	30.41%	14.88%	6.52%

Source: Claritas Inc., 2007

<u>Households Growth</u>	<u>City of Lake Wales</u>	<u>State of Florida</u>	<u>United States</u>
Growth 2007-2012	15.37%	9.71%	4.66%
Growth 2000-2007	30.32%	15.32%	7.2%

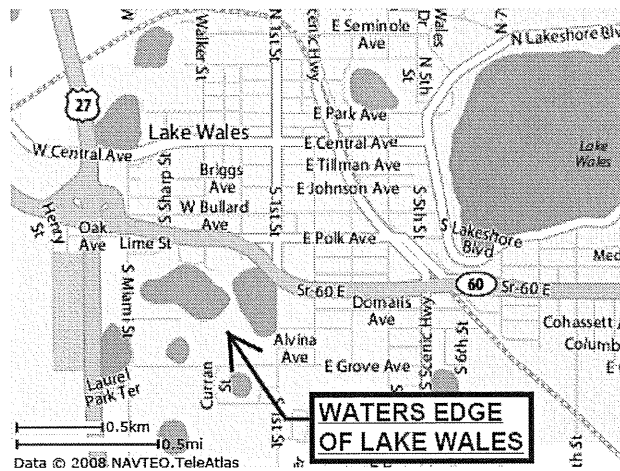
Source: Claritas Inc., 2007

For information regarding the primary market area of the Community, see Schedule VIII-B in the Market and Feasibility Study attached to this Limited Offering Memorandum as Appendix B.

The facility will be built on approximately 40 acres of land west of First Street, just to the



south of Twin Lake and north of Grove Street and adjacent to the Publix shopping complex in Lake Wales, Florida.



### Independent Living Facilities

The Community will contain independent living facilities including 22 single-story duplex villas and a three-story structure containing 63 independent living apartments (the "Tower"). The villas will have two car garages. The apartments will have either patios or balconies, 9'6" ceilings and open kitchens, dining areas and living rooms to give a "Great Room" effect. The unit mix for the villas and the apartments is as follows:

#### Independent Living Villas

<b>Suite Type</b>	<b>Number</b>	<b>Sq. Ft.</b>
Two Bedroom Unit	9	1235
Two Bedroom Deluxe Unit	9	1417
Two Bedroom Two Bath + Den	9	1812

#### Independent Living Apartments

<b>Suite Type</b>	<b>Number</b>	<b>Sq. Ft.</b>
Alcove Unit	9	490
One Bedroom Unit	18	550
One Bedroom Deluxe	9	650
One Bedroom w/Den	9	750
Two Bedroom Unit	9	900
Two Bedroom Two Bath + Den	9	1100

Residents of the villas and the apartments will be able to choose from a menu of optional services including meals, housekeeping, and home health. Additional activities and pastoral care and the wellness program will also be provided. The independent living villas and the apartment amenities will include:

- Oven and glass top range and microwave oven
- Ceiling fans
- Frost-free refrigerator with ice-maker
- Garbage disposal
- Dishwasher
- Washer and dryer in unit
- Screened lanai
- Carpeting, tile and window treatments
- Individually controlled heating and air-conditioning units
- Secure care emergency call system
- Walk in showers
- Grab bars
- Cable and telephone hookups

### Town Center

The central focus of Community will be the Town Center, which will be primarily utilized by residents of both the Villas and the Tower. The Town Center will be attached to the Tower on one side and the assisted living facilities (described below) on the other. The Town Center will also be available to the assisted living residents and the community at large for specific scheduled events.

The Town Center houses the Community's wellness program and contains a state of the art fitness center which will be overseen by Melbourne, Florida based Ageless IDEAS. This innovative and comprehensive geriatric wellness program will be directed by a team of professionals that include leading contributors from the fields of public health, neuropsychology, exercise physiology, physical therapy and medicine.

The Town Center will include the following spaces and activities:

- Large fitness center with trained staff
- Outdoor swimming pool
- Café/library
- Education/Assembly/Religious Center
- Discovery corridor with computer labs
- Beauty/barber shop
- General store
- Social gathering space
- Main dining room
- Dining room entry parlor
- Central commercial kitchen
- Arts and crafts/activity room
- Individual mail boxes
- Entry lobby with waiting area
- Administrative offices
- Club room
- Library/lounge

### Assisted Living Program

A two-story structure that will be attached to the Town Center will house the full service

assisted living program. A full staff of professionals will provide services and programs to residents including social services, pastoral care, recreational programs, meals, assistance with daily activities, and limited healthcare as allowed under state licensure programs. All services will be available 24 hours a day to residents who require it. Staff will respond to emergencies 24 hours a day. Residents will have a specialized nurse call system for summoning help. Residents will enjoy three meals a day in the dining room and will be able to choose from a variety of social and recreational programs on a daily basis.

The units in the assisted living program will be divided into two services levels including licensed assisted living and special care dementia units. For persons faced with the challenges of memory loss, special care units will also be available to provide a specialized memory care unit designed and staffed to meet the needs of such clients. A specialized wander guard system will enhance safety, while tailored activities and care plans will enhance quality of life while respecting the dignity of the individual. These units will include the following:

#### Licensed Assisted Living Units

<u>Suite Type</u>	<u>Number</u>	<u>Sq. Ft.</u>
Alcove Unit	20	480
One Bedroom Unit	10	560

#### Special Care Dementia Units

<u>Suite Type</u>	<u>Number</u>	<u>Sq. Ft.</u>
Alcove Units	16	430

Within the assisted living licensed area of the structure there will be six units set aside to serve individuals that may need special services for rehabilitation from surgical procedures in a hospital or rehabilitation from a stroke or fall. The individuals may come from the senior housing facility of the community at large. The required staff will also provide services in the wellness center to residents on a daily basis. These six units will also be available for short stays for individuals that need assistance and may be provided care by a spouse or individual in their own living arrangement. From time to time the spouse or individual care giver may need a respite for a short period from the provision of personal assistance and care. The following units will be available for the individual needing assistance for a short period to provide the respite for the care giver in addition to rehabilitation services.

#### Rehab/Respite Special Care Units

<u>Suite Type</u>	<u>Number</u>	<u>Sq. Ft.</u>
Studio Units	6	360

## **Construction Management Services**

Water's Edge of Lake Wales, LLC has entered into an agreement for the construction of Water's Edge of Lake Wales with Sweet Grass Company, LLC. Sweet Grass Company, LLC is a full service construction management company based in Apollo Beach, Florida. The individual experience in the construction industry of the key members of Sweet Grass Company averages in excess of 30 years. This experience has included all types of construction including communication centers, commercial, retail, office, corrections, and residential including apartments, condominiums and senior housing,

The senior housing experience includes 10 senior housing projects for which Sweet Grass Company, LLC served as the construction manager and also as the developer. The majority of such senior housing projects are located in Minnesota and are owned and operated by Presbyterian Homes of Minnesota. Presbyterian Homes of Minnesota is one of the largest not-for-profit owner operators of senior housing communities in the country with 40 projects. The other senior housing projects were located in Florida. The resumes of the key members of Sweet Grass Company, LLC are as follows:

### *Rob Hartman CGC, PMP, RCDD*

Rob Hartman's has had a very diverse career, beginning with the United States Navy as a Nuclear Engineer aboard the USS Woodrow Wilson Special Projects submarine and the USS Louisville Fast Attack Submarine. After serving in the Navy and leading the decommissioning efforts of the USS Woodrow Wilson Rob was employed by Allied Signal Aerospace. During his employment at Allied Signal Aerospace he designed, built and retrofitted Aircraft Carrier Communication Centers for Air Craft Carriers including: Kennedy, Nimitz, Eisenhower, Roosevelt, Lincoln, and the Washington. He later led the construction effort to build a 129,000 sq. ft C4I Communications Center in Capodichino, Italy and the NATO Center located in Camp Lejeune, North Carolina. He was then recruited by Southern Steel Company to construct Private, State, and Federal prisons. In four years Mr. Hartman was responsible for the construction effort for two privately owned maximum security prisons, four State of Texas maximum security prisons and two Federal Department of Criminal Justice Supermax prisons. He was then recruited by Wal-Mart Stores, Inc. to run their Information Systems Construction and Facilities team. Mr. Hartman was tasked with leading the construction effort for Wal-Mart Stores, Inc. and Sam's Club responsible for the construction of 30 Wal-Mart Stores a month, an average of eight Sam's Clubs a month, and two distribution centers a month. In addition to Mr. Hartman's retail construction involvement he also built the world's largest privately owned data center and a 395,000 sq. ft. office complex for the Information Systems Department.

Subsequently, Mr. Hartman moved to Apollo Beach Florida and opened Sweet Grass Company, LLC with partners Mark Eklo and Dan Russ. They have successfully developed and built Harbor Pointe Business Center, BellaSol Condominiums, and Water's Edge of Bradenton Independent Living Facility.

*Mark Eklo*

Mr. Eklo is a member of the board of Water's Edge of Lake Wales, LLC and his resume is detailed above under "Introduction -- Management of Water's Edge of Lake Wales, LLC."

*Tom Loughlin*

The on-site project management for the Water's Edge of Lake Wales project is directed by Tom Loughlin who has enjoyed a 32-year career of supervising commercial construction. Tom served as a building inspector in Jacksonville, Florida and continues to be a Licensed Florida Building Inspector III – BN3473 and a Licensed Florida Plans Examiner – PX1698. He is also a Certified Flood Plane Manager.

Combined and selected project experience of Sweet Grass Company, LLC and/or its key members includes the following:

**ECHO RIDGE**

Presbyterian Homes  
Oakdale, Minnesota  
110 Unit independent living

**INVER GROVE HEIGHTS**

Presbyterian Homes  
Inver Grove Heights, Minnesota  
67 town homes & town center  
90 Units of independent living  
86 Units of assisted living

**STONECREST**

Presbyterian Homes  
Woodbury, Minnesota  
77 Units independent apartments

**SUMMER WOOD OF CHANHASSEN**

Presbyterian Homes  
Chanhassen, Minnesota  
90 Units independent living  
71 Units assisted living & retail

**WATER'S EDGE OF BRADENTON**

Villa condominiums  
Bradenton, Florida  
104 Units independent living

**BELLASOL CONDOS**

Residential Condominiums  
Apollo Beach, Florida  
81 Units 200,000 Sq. Ft.  
\$35,000,000.

**WAL-MART DISTRIBUTION CENTERS**

18 Locations, United States  
1,400,000 Sq. Ft. ea.  
\$18,000,000 ea.

**INFORMATION SYSTEMS DIVISION  
BUILDING**

Bentonville, Arkansas  
395,000 Sq. Ft.  
\$22,000,000.

**DATA CENTER**

Jane, Missouri  
100,000Sq. Ft.  
\$165,000,000.

**PAMLICO COUNTY PRISON**

Pamlico, North Carolina  
489 Bed Facility  
\$153,000,000.

**TDCJ HIGH SECURITY FACILITY**

Lamesa, Texas  
700 Bed Facility  
\$135,000,000.

**TDCJ HIGH SECURITY FACILITY**

Amarillo, Texas  
700 Bed Facility  
\$135,000,000.

**US PENITENTIARY AND FPC**

Pennington Gap, Virginia  
365 Bed Facility  
\$142,500,000.

**NAVAL C41 COMMUNICATIONS  
COMPLEX**

Capodichino, Italy  
129,000 Sq. Ft.  
\$41,000,000.

**CAMP LEJEUNE NATO CENTER**

Camp Lejeune, North Carolina  
450,000 Sq. Ft. Renovation  
\$27,000,000.

**Architect**

Genesis Architecture ("Genesis") has been contracted to provide the Architectural Services for the Community. Genesis has provided the design of all aspects of the Community including the villas, the individual living apartments and all of the common and activity areas and the assisted living units. Genesis is also responsible for the development of the construction documents and for the coordination of all of the engineering disciplines including Structural Engineering, Electrical Engineering, Mechanical Engineering, Plumbing Engineering and Life Safety. Genesis' related experience includes:

- Water's Edge of Bradenton Town Center, Bradenton, Florida
- Water's Edge of Bradenton Lake House, Bradenton, Florida
- Water's Edge of Viera, Viera, Florida
- The Lodges at Elkhorn Creek, Big Sky, Montana
- Bella Sol, Apollo Beach, Florida

**Schedule**

Construction on the Project is scheduled to begin in \_\_\_\_\_, 2008 and to be completed by \_\_\_\_\_, 2010.

**Approvals and Permits**

The Borrower believes that all required permits have been obtained or will be obtained in sufficient time to permit construction of the Project to proceed in accordance with the construction schedule. [Water, sewer and electric utilities are currently available at the site of the Project.]

## **RESIDENCY AGREEMENTS**

### **General**

The Borrower will enter into a Residency Agreement (“Residency Agreement”) with each resident which sets forth the responsibilities of both the Borrower and the resident and under which the resident is provided with an independent living unit (a “Residential Unit”) and certain services. The Project will be operated under a fee-for-service agreement pursuant to which health services are not included in the monthly rental/service fee.

For the right to occupy and use a Residential Unit and receive the services provided at the Community, the resident of each Residential Unit is required to pay a refundable security deposit equal to the sum of [two months’ rent] for the particular Residential Unit selected for rental. After this security deposit has been paid, a Security Reservation Form is completed. A resident may terminate this reservation at any time prior to occupancy. All security deposits (minus administrative costs) will be refunded within 45 days of written notification. A Residency Agreement is entered into between the resident and the Borrower upon the day of occupancy.

### **Qualifications for Residency**

Each prospective resident of a Residential Unit in the Project must be at least 62 years of age, be able to live safely and independently, be able to meet his or her own basic needs on a daily basis and demonstrate the ability to pay the monthly rental/service fee required under the Residency Agreement and other required living expenses. Each prospective resident must certify as to his or her health prior to acceptance in the Project and abide by the rules and regulations of the Project on an ongoing basis.

Residents of the independent living units are charged a monthly fee that is based upon the size of the residence. Residents of independent living units also pay a monthly fee according to the type and size of the unit. The monthly fee has a guaranteed 85% refund feature. The refund will be paid to the departing resident or their estate from the proceeds of the resale of their unit or a similar unit.

The monthly fees for the various unit types are as follows:

### Independent Living Villas

<u>Suite Type</u>	<u>Number</u>	<u>Sq. Ft.</u>	<u>Monthly Fee</u>
Two Bedroom Unit	9	1235	\$2,050
Two Bedroom Deluxe Unit	9	1417	2,250
Two Bedroom Two Bath + Den	9	1812	2,900

### Independent Living Apartments

<u>Suite Type</u>	<u>Number</u>	<u>Sq. Ft.</u>	<u>Monthly Fee</u>
Alcove Unit	9	490	\$1,750
One Bedroom Unit	18	550	1,950
One Bedroom Deluxe	9	650	2,350
One Bedroom w/Den	9	750	2,800
Two Bedroom Unit	9	900	3,350
Two Bedroom Two Bath + Den	9	1100	3,900

### Licensed Assisted Living Units

<u>Suite Type</u>	<u>Number</u>	<u>Sq. Ft.</u>	<u>Monthly Fee</u>
Alcove Unit	20	480	\$3,050
One Bedroom Unit	10	560	3,540

### Special Care Dementia Units

<u>Suite Type</u>	<u>Number</u>	<u>Sq. Ft.</u>	<u>Monthly Fee</u>
Alcove Units	16	430	\$4,300

### Rehab/Respite Special Care Units

<u>Suite Type</u>	<u>Number</u>	<u>Sq. Ft.</u>	<u>Monthly Fee</u>
Studio Units	6	360	\$4,050

Payment of a monthly fee will entitle the resident to the use of an independent living unit and the following services and amenities:

- A pre-defined number of meals monthly;
- Housekeeping;
- All utilities including telephone and cable;
- Building and ground maintenance;
- Flat linen services;
- Social, recreational, educational, cultural and health and wellness programs;
- Scheduled local transportation; and
- 24-hour security



## **Termination of Residency Agreement**

The termination of the Resident Agreement may occur in the following situations:

- (i) By mutual consent at any time between the resident and the Borrower;
- (ii) Immediately without prior notice by management of the Borrower if the Residential Unit or the Project or a substantial portion thereof is destroyed or damaged in such a manner as to make the Residential Unit or the Project unfit for habitation;
- (iii) Upon at least ten (10) days' written notice by management of the Borrower to a resident in the case of the resident's default in meeting the terms of the Residency Agreement (including the Continued Stay Criteria listed in Attachment B of a Residency Agreement), or if the resident fails to abide by the rules, regulations or policies of the management of the Borrower;
- (iv) 30 days following the death of the resident, or, in the case of co-resident, the last resident of the unit; and
- (v) Upon 30 days' notice by a resident or legal guardian thereof for any reason.

## **DEVELOPMENT SERVICES**

Life Wellness Communities Company, LLC ("LWC") is providing the development services under a contract with Water's Edge of Lake Wales, LLC. As described above, LWC was established by Mark Eklo and Jack Bowersox to continue the business plan to develop not-for-profit senior housing communities described in Mr. Eklo's resume above under "Introduction -- Management of Water's Edge of Lake Wales, LLC. [DETAIL EXPERIENCE OF LWC]

The Development Agreement between LWC and Water's Edge of Lake Wales, LLC states that LWC will provide consulting services in the planning, development, design, financing and construction of the Project. Under the terms of the Development Agreement, LWC will receive a fee of \$1,180,091.00 which will be payable as follows: (i) one-third of the fee will be payable upon the issuance of the Series 2008 Bonds, (ii) one-third of the fee will be payable in 12 equal monthly installments during the construction period of the project, and (iii) the final one-third of the fee will be payable at the time the certificates of occupancy are issued for the Project.

## **MARKETING AND MANAGEMENT OF THE PROJECT**

### **Marketing**

Water's Edge of Lake Wales, LLC and Legacy Senior Management, LLC, a Florida limited liability company ("Legacy") have entered into a management agreement (the "Management Agreement") under which, Legacy is responsible for conducting a comprehensive pre-opening marketing and rent-up program that will include overall direction and supervision of all facets of marketing and lease up of the Project. Legacy is a senior management and consulting firm that only services the senior living and senior care industries, and offers a full range of administrative, marketing, management and support services for CCRCs, congregate housing for the elderly, assisted living, nursing homes, home health agencies and pharmacy. Legacy's team of senior living executives has a combined experience that exceeds 100 years.

Specific marketing tasks to be completed during the pre-opening period (12 months) include, but are not limited to the following:

- Providing oversight and direction of entire marketing sales process;
- Developing and implementing strategic marketing plan;
- Assisting in the development of all programs, services and amenities to be offered at the Tower;
- Assisting or providing input with project design and development as appropriate or upon request;
- Developing, overseeing and managing the pre-opening marketing budget inclusive of media, all creative, collateral development, public relations, advertising, creative branding and image development;
- Managing and reporting the marketing progress to the Borrower and the Board of Directors;
- Moderating and directing the development of the leads tracking system;
- Providing oversight, coaching and training to the Project's marketing team;
- Developing and directing a community outreach program;
- Directing and supporting all special events such as ground breaking, open houses and depositor receptions; and
- Conducting an orderly resident move-in process.

### Competition

Within the primary market area for the Project, there are two independent living rental communities that are considered competitors and which have a total of 300 independent living units and 130 assisted living units. For more information regarding the Community's competition in the marketplace, see "Competitive Senior Housing Communities" in the Market and Financial Feasibility Study attached to this Limited Offering Memorandum as Appendix B.

### **Management**

Legacy will also be responsible for managing the Project, including all operational and financial activities. Pursuant to the Management Agreement, Legacy will be responsible for planning, hiring, supervising and directing the management of the Borrower, supervising all professional and support staff, developing personnel policies and various salary and staffing related guidelines, implementing an employee benefit program and an accounting system, managing the billing and collection of monthly rental service fees, employee payrolls, supervision and maintenance of the accounting system, as well as supervising and preparing an annual operating budget, capital budget and cash flow projections and establishing and monitoring appropriate bank accounts and working capital for the Borrower. Legacy will oversee the day-to-day operations of the Project Facilities, including marketing, administration, dining services, activities, environmental services, security, housekeeping, human resources and business office. Senior management of Legacy is required under the Management Agreement recruit and hire an Executive Director of the Project and such Executive Director shall be and remain an employee of Legacy for the term of the Management Agreement. The initial term of the Management Agreement will continue until March 1, 2011. Fifty percent (50%) of the fees of Legacy are subordinate to the payment of debt service on the Series 2008 Bonds and payable only if funds are available.

### **Management and Marketing Key Staff Members**

Legacy personnel involved in marketing and management of the Project currently include the following key individuals:

#### Richard Lewis, MHA & LNHA, President

Mr. Lewis has more than thirty years experience in senior management positions of for-profit and not-for-profit long-term care and retirement centers. Mr. Lewis has extensive experience in overseeing the turnaround and start-up of senior housing communities. Mr. Lewis was instrumental in the development and implementation of an off-shore insurance corporation that specifically provides medical malpractice insurance to Florida's nursing home communities. He is a member of Florida Homes and Services for the Aging and American Association of Homes and Services for the Aging, is currently serving the Florida Association of Homes and Services for the Aging ("FAHSA") as chair of District Five. Mr. Lewis has also served as a member of various public policy and professional development committees.

Julie Fernandez, Vice President Operations and Marketing

Julie Fernandez has more than 25 years of leadership experience and is an accomplished healthcare administrator and marketer. Mrs. Fernandez has been highly successful in the start-up of new senior housing communities as well as the turnaround of existing communities. Mrs. Fernandez served on the University of Central Florida Gerontology Community Advisory Committee and on the Board of Directors of the Alzheimer Resource Center of Orlando, FL where she was Board President for three years. She has also served as a sustaining member of the Rotary club of Oviedo, serving as a board member for three years. She is a Certified Dementia Practitioner through the National Council of Certified Dementia Practitioners as well as a Certified Fitness Instructor in Exercises for Older Adults. Mrs. Fernandez attended Northern Essex Community College where she received her associate's degree in Accounting and then earned her bachelors in Health Care Administration from the University of Central Florida.

Shelley Esden, Operations Consultant

Ms. Esden has over 15 years experience in senior housing operations and in the long-term care regulatory arena. Prior to joining Legacy, Ms. Esden served as Regional Director of Operations for Summerville Senior Living. Her experience includes development and operations, turnaround management of acquisitions and overall management and operations for 13 assisted living and independent living communities located throughout the State of Florida. Prior to joining Summerville Senior Living, Florida Governor Chiles appointed Ms. Esden as the 1995 White House Conference on Aging Coordinator while she was serving as the Advocacy Coordinator for the Department of Elder Affairs. She also served as the Assistant Director of the Commission on Long Term Care. Ms. Esden is a member of FAHSA and the Florida Assisted Living Association ("FALA") and serves on the Education and Legislative Committees for FALA. She also serves on the Steering Committee for the Florida Chapter of the Society for the Advancement of Gerontological Environments.

## **INSURANCE**

The Corporation maintains insurance coverage in such amounts and against such risks as are typical for comparable facilities.

## **FUTURE PLANS**

[LIST ANY]

## **APPENDIX B**

### **FINANCIAL FEASIBILITY STUDY**



**WATER'S EDGE OF LAKE WALES, LLC**  
(Water's Edge of Lake Wales Project)

**MARKET AND FINANCIAL  
FEASIBILITY STUDY**

February \_\_\_\_, 2008

## **C O N T E N T S**

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## INDEPENDENT ACCOUNTANTS' REPORT

Board of Directors  
Water's Edge of Lake Wales, LLC  
Largo, Florida

We have prepared a financial feasibility study of the plans of Water's Edge of Lake Wales, LLC (the "Corporation"), a Florida single member limited liability company, to undertake the construction, ownership, and operation of a new senior housing community called Water's Edge of Lake Wales (the "Project"), fund certain cash reserves, a portion of the land costs, and to pay certain expenses of financing and development. The Corporation was formed for the purpose of constructing and operating the Project.

The Corporation's current plans call for the Project to consist of the following unit types:

	Total
Independent Congregate Apartments	63
Independent Living Villas	22
Assisted Living Units	30
Special Care Units	16
Respite and Rehab Units	6
	137

The Project will be located on a site with approximately 40 acres of undeveloped, vacant land in the City of Lake Wales, Florida.

The sole managing member of the Corporation is Florida Christian Homes Senior Housing, Inc., a Minnesota not-for-profit 501(c)(3) corporation established in 1995. Florida Christian Homes Senior Housing, Inc. (the "Managing Member") is organized exclusively for charitable purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under 501(c)(3) of the Internal Revenue Code of 1954. A group of seven (7) churches located in Polk County, Florida, is serving as sponsor for the Project (the "Sponsorship Group").



Board of Directors  
Water's Edge of Lake Wales, LLC

The Corporation has retained Life Wellness Communities, LLC (the "Developer") as the development consultant for the Project. The Corporation also engaged Legacy Senior Management, LLC (the "Manager") to manage the Project for an initial term of \_\_\_\_\_ (\_\_\_\_) years. The Manager has agreed to provide administration, day-to-day management, coordinate marketing and admissions to the Project, and provide accounting and administrative support.

Water's Edge of Lake Wales, LLC (the "Corporation"), Florida Christian Homes Senior Housing, Inc. (the "Managing Member"), Life Wellness Communities, LLC (the "Developer") and Legacy Senior Management, LLC (the "Manager") are collectively referred to as "Management".

According to Management, construction is scheduled to begin in March, 2008. Management anticipates that the Project will be available for occupancy in \_\_\_\_\_, 2010. According to Management, stabilized occupancy (93%) would occur in \_\_\_\_\_, 2012.

This study was undertaken to evaluate the Corporation's ability to generate sufficient funds to meet its operating expenses, working capital needs, and other financial requirements, including the debt service requirements of the proposed tax-exempt \$25,425,000 Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008A (the "Series 2008A Bonds") and the taxable \$775,000 Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B (the "Series 2008B Bonds"). Collectively, the Series 2008A Bonds and Series 2008B Bonds will be the "Series 2008 Bonds." The Series 2008 Bonds, together with a \$1,500,000 equity will be utilized as follows:

- ◇ Finance the costs of acquisition, construction, equipping, placing in use, and operation of the Project;
- ◇ Pay certain expenses incurred in connection with the issuance of the Series 2008 Bonds;
- ◇ Fund the Debt Service Reserve Fund and Operating Reserve Fund;
- ◇ Fund the Capitalized interest account; and
- ◇ Fund working capital.

As provided by the Corporation's underwriter, Raymond James and Associates (the "Underwriter"), the City of Lake Wales, Florida (the "Issuer") will issue the non-rated, tax-exempt Series 2008A Bonds in the amount of \$25,425,000, with a coupon rate of 7.25% and a term of 38 years and the non-rated, taxable Series 2008B Bonds in the amount of \$775,000, with a coupon rate of 11.00% and a term of 7 years. Interest on the Series 2008 Bonds would be payable semi-annually, beginning September 1, 2008. Annual principal payments will be made beginning September 1, 2011 and ending September 1, 2046.

Closing on the financing is expected to occur on or about \_\_\_\_\_, 2008, and construction is expected to take approximately 12 months.

Board of Directors  
Water's Edge of Lake Wales, LLC

Our procedures included analysis of:

- ◇ Management's objectives, timing, and financing;
- ◇ Future demand for the independent living, assisted living and special care services to be offered at the Project, including consideration of:
  - ◆ Economic and demographic characteristics of the Primary Market Area;
  - ◆ Locations, capacities, and competitive information pertaining to other existing and planned senior housing facilities in the Primary Market Area; and
  - ◆ Marketing plans of Management.
- ◇ The Project's construction and equipment costs, debt service requirements, and estimated financing costs;
- ◇ Anticipated monthly service fees to be paid by the Project's residents;
- ◇ Staffing requirements, salaries and wages, related fringe benefits, and other operating expense considerations; and
- ◇ Sources of other operating and non-operating revenue.

We also participated in gathering other information, assisted Management in identifying and formulating assumptions, and assembled the accompanying financial forecast based upon those assumptions.

The accompanying financial forecast for the five years ending December 31, 2012 is based on assumptions that were provided by, or reviewed with and approved by Management. The financial forecast for the development and construction period and the first four years of operations includes the following schedules:

Schedule I	Forecasted Balance Sheets
Schedule II	Forecasted Statements of Operations and Changes in Net Deficit;
Schedule III	Forecasted Statements of Cash Flows;
Schedule IV	Forecasted Schedule of Debt Service Coverage;
Schedule V	Forecasted Schedule of Debt Service Coverage (Before 50% of Management Fees);
Schedule VI	Forecasted Schedule of Days' Cash on Hand;
Schedule VII	Forecasted Schedule of Assets Whose Use is Limited; and
Schedules VIII-A through VIII-C	Summary of Significant Forecast Assumptions and Significant Accounting Policies.

We have examined the financial forecast. Management is responsible for the forecast. Our responsibility is to express an opinion on the forecast based on our examination. Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included such procedures as we considered necessary to evaluate both the assumptions used by Management and the preparation and presentation of the forecast. We believe that our examination provides a reasonable basis for our opinion.

Board of Directors  
Water's Edge of Lake Wales, LLC

Legislation and regulations at all levels of government have affected, and may continue to affect, revenue and expenses of senior housing communities. The financial forecast is based on legislation and regulations currently in effect. If future legislation or regulations related to the operations of the Project are enacted, such legislation or regulations could have a material effect on future operations. There is no assurance, should legislation or regulations be enacted and such legislation or regulations were adverse, that the Project could make changes to its cost structure and that the changes would be sufficient to assure the timely payment of principal and interest on the Series 2008 Bonds.

The assumed interest rate, principal payments, and other financing assumptions are described in the section entitled "Summary of Significant Forecast Assumptions and Significant Accounting Policies". If actual interest rate, principal payments, or funding requirements are different from those assumed, the amount of the Series 2008 Bonds, as well as the associated debt service requirements, would need to be adjusted accordingly from those indicated in the forecast.

Management has prepared \_\_\_\_\_ sensitivity analyses on its financial forecast. We have not examined these sensitivity analyses.

Sensitivity Analysis I, presented in Table \_\_\_\_, is provided by Management \_\_\_\_\_

Sensitivity Analysis II, presented in Table \_\_\_\_, is provided by Management \_\_\_\_\_

Sensitivity Analysis III, presented in Table \_\_\_\_, is provided by Management \_\_\_\_\_

Our conclusions regarding this study are presented below.

- ◇ In our opinion, the accompanying financial forecast is presented in conformity with applicable guidelines for presentation of a financial forecast established by the American Institute of Certified Public Accountants.
- ◇ In our opinion, the underlying assumptions provide a reasonable basis for Management's forecast. However, there will usually be differences between the forecasted and actual results because events and circumstances frequently do not occur as expected, and those differences may be material.
- ◇ The accompanying financial forecast indicates that sufficient funds could be generated to meet the Project's annual operating expenses, working capital needs, and other financial requirements, including the debt service coverage requirements associated with the proposed Series 2008 Bonds during the forecast period. However, the achievement of any financial forecast is dependent upon future events, the occurrence of which cannot be assured.

Board of Directors  
Water's Edge of Lake Wales, LLC

The terms of our engagement are such that we have no responsibility to update this report for events and circumstances occurring after the date of this report.

**MOORE STEPHENS LOVELACE, P.A.**

Certified Public Accountants

Clearwater, Florida  
\_\_\_\_\_, 2008

**WATER'S EDGE OF LAKE WALES, LLC**  
**FORECASTED BALANCE SHEETS**  
**As of December 31,**  
**(\$ in Thousands)**

**ASSETS**

	Construction	2009	2010	2011	2012	2013
<b>CURRENT ASSETS</b>						
Cash and cash equivalents	\$ 1,880	\$ 3,067	\$ 4,526	\$ 1,472	\$ 2,261	\$ 3,213
Accounts receivable, net	-	122	213	222	231	240
Assets whose use is limited - current portion	1,964	475	475	435	435	435
<b>TOTAL CURRENT ASSETS</b>	<b>3,844</b>	<b>3,664</b>	<b>5,214</b>	<b>2,129</b>	<b>2,927</b>	<b>3,888</b>
<b>ASSETS WHOSE USE IS LIMITED</b>	<b>1,000</b>	<b>1,000</b>	<b>1,000</b>	<b>1,000</b>	<b>1,000</b>	<b>1,000</b>
<b>PROPERTY AND EQUIPMENT, NET</b>	<b>21,581</b>	<b>21,084</b>	<b>20,413</b>	<b>19,751</b>	<b>19,087</b>	<b>18,430</b>
<b>BOND ISSUANCE COSTS, NET</b>	<b>1,275</b>	<b>1,243</b>	<b>1,201</b>	<b>1,158</b>	<b>1,116</b>	<b>1,073</b>
<b>TOTAL ASSETS</b>	<b>\$ 27,700</b>	<b>\$ 26,991</b>	<b>\$ 27,828</b>	<b>\$ 24,038</b>	<b>\$ 24,130</b>	<b>\$ 24,391</b>

**LIABILITIES AND NET DEFICIT**

<b>CURRENT LIABILITIES</b>						
Accounts payable	\$ -	\$ 55	\$ 96	\$ 105	\$ 110	\$ 111
Accrued interest	-	475	475	435	435	435
Current maturity of bonds payable	-	-	3,800	115	125	135
<b>TOTAL CURRENT LIABILITIES</b>	<b>-</b>	<b>530</b>	<b>4,371</b>	<b>655</b>	<b>670</b>	<b>681</b>
Bonds payable, less current portion	26,200	26,200	22,400	22,285	22,160	22,025
Refundable fees	-	811	2,434	2,478	2,524	2,572
<b>TOTAL LIABILITIES</b>	<b>26,200</b>	<b>27,541</b>	<b>29,205</b>	<b>25,418</b>	<b>25,354</b>	<b>25,278</b>
<b>NET DEFICIT</b>	<b>1,500</b>	<b>(550)</b>	<b>(1,377)</b>	<b>(1,380)</b>	<b>(1,224)</b>	<b>(887)</b>
<b>TOTAL LIABILITIES AND NET DEFICIT</b>	<b>\$ 27,700</b>	<b>\$ 26,991</b>	<b>\$ 27,828</b>	<b>\$ 24,038</b>	<b>\$ 24,130</b>	<b>\$ 24,391</b>

DRAFT - FOR DISCUSSION PURPOSES ONLY.  
See accompanying Accountants' Report and Summary of  
Significant Forecast Assumptions and Significant Accounting Policies.

**WATER'S EDGE OF LAKE WALES, LLC**  
**FORECASTED STATEMENTS OF OPERATIONS AND CHANGES IN NET DEFICIT**  
**As of December 31,**  
**(\$ in Thousands)**

	2009	2010	2011	2012	2013
<b>REVENUE AND OTHER SUPPORT</b>					
Service fee income	\$ 818	\$ 2,248	\$ 2,714	\$ 2,823	\$ 2,936
Assisted living	558	2,049	2,495	2,595	2,698
Second person fees	34	95	113	117	118
Resale proceeds	-	-	35	36	38
Community fees	166	154	26	94	98
Home health rental	32	42	43	45	46
Other revenue	21	58	66	66	65
<b>TOTAL REVENUE AND OTHER SUPPORT</b>	<b>1,629</b>	<b>4,646</b>	<b>5,492</b>	<b>5,776</b>	<b>5,999</b>
<b>EXPENSES</b>					
Administrative	281	378	389	401	413
Activities	104	154	159	164	169
Maintenance	276	451	479	493	508
Utilities	44	62	64	66	68
Dining services	343	566	622	640	625
Security	91	119	122	126	130
Management fees	81	232	275	289	300
Housekeeping	65	96	99	102	105
Marketing	235	270	307	316	325
Assisted living services	480	713	734	756	779
<b>TOTAL EXPENSES</b>	<b>2,000</b>	<b>3,041</b>	<b>3,250</b>	<b>3,353</b>	<b>3,422</b>
<b>INTEREST INCOME (EXPENSE)</b>					
Interest income	136	132	112	83	104
Interest expense	(1,266)	(1,831)	(1,622)	(1,613)	(1,604)
<b>NET INTEREST INCOME (EXPENSE)</b>	<b>(1,130)</b>	<b>(1,699)</b>	<b>(1,510)</b>	<b>(1,530)</b>	<b>(1,500)</b>
<b>OPERATING INCOME</b>	<b>(1,501)</b>	<b>(94)</b>	<b>732</b>	<b>893</b>	<b>1,077</b>
<b>DEPRECIATION AND AMORTIZATION</b>	<b>549</b>	<b>733</b>	<b>735</b>	<b>737</b>	<b>740</b>
<b>CHANGE IN NET DEFICIT</b>	<b>(2,050)</b>	<b>(827)</b>	<b>(3)</b>	<b>156</b>	<b>337</b>
<b>NET DEFICIT - BEGINNING OF YEAR</b>	<b>-</b>	<b>(2,050)</b>	<b>(2,877)</b>	<b>(2,880)</b>	<b>(2,724)</b>
<b>NET DEFICIT - END OF YEAR</b>	<b>\$ (2,050)</b>	<b>\$ (2,877)</b>	<b>\$ (2,880)</b>	<b>\$ (2,724)</b>	<b>\$ (2,387)</b>

DRAFT - FOR DISCUSSION PURPOSES ONLY.  
See accompanying Accountants' Report and Summary of  
Significant Forecast Assumptions and Significant Accounting Policies.

**WATER'S EDGE OF LAKE WALES, LLC**  
**FORECASTED STATEMENTS OF CASH FLOW**  
**As of December 31,**  
**(\$ in Thousands)**

	Construction	2009	2010	2011	2012	2013
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>						
Change in net deficit		\$ (2,050)	\$ (827)	\$ (3)	\$ 156	\$ 337
Adjustments to reconcile change in net deficit to net cash provided by operating activities:						
Depreciation and amortization		549	733	735	737	740
Increase in current liabilities		530	41	(30)	4	1
Increase in current assets		(122)	(91)	(9)	(9)	(9)
Total adjustments		957	683	696	732	732
<b>NET CASH PROVIDED BY (USED IN) OPERATING ACTIVITIES</b>		(1,093)	(144)	693	888	1,069
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>						
Acquisition of property and equipment	(21,581)	(20)	(20)	(30)	(30)	(40)
(Increase) decrease in assets whose use is limited	(2,964)	1,489	-	40	-	-
<b>NET CASH USED IN INVESTING ACTIVITIES</b>	(24,545)	1,469	(20)	10	(30)	(40)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>						
Proceeds from the issuance of Series 2007 bonds	26,200	-	-	-	-	-
Repayment of Series 2007 bonds	-	-	-	(3,800)	(115)	(125)
Proceeds from advance fees	811	1,623	241	251	261	
Refunds of advance fees	-	-	(197)	(205)	(213)	
Increase in bond issuance costs	(1,275)	-	-	-	-	-
Equity	1,500	-	-	-	-	-
<b>NET CASH USED IN FINANCING ACTIVITIES</b>	26,425	811	1,623	(3,756.0)	(69)	(77.0)
<b>INCREASE IN NET CASH</b>	1,880	1,187	1,459	(3,053)	789	952
<b>CASH AND CASH EQUIVALENTS - BEGINNING OF PERIOD</b>	-	1,880	3,067	4,526	1,472	2,261
<b>CASH AND CASH EQUIVALENTS - END OF PERIOD</b>	\$ 1,880	\$ 3,067	\$ 4,526	\$ 1,472	\$ 2,261	\$ 3,213

DRAFT - FOR DISCUSSION PURPOSES ONLY.  
See accompanying Accountants' Report and Summary of  
Significant Forecast Assumptions and Significant Accounting Policies.

**WATER'S EDGE OF LAKE WALES, LLC**  
**FORECASTED SCHEDULE OF DEBT SERVICE COVERAGE**  
**As of December 31,**  
**(\$ in Thousands)**

	<b>2012</b>	<b>2013</b>
Change in net deficit	\$ 156	\$ 337
Add:		
Depreciation and amortization	737	740
Interest expense	1,613	1,604
Funds available for debt service	\$ 2,506	\$ 2,681
Maximum annual debt service	\$ 1,900	\$ 1,900
<b>Maximum annual debt service coverage</b>	<b>1.32</b>	<b>1.41</b>

DRAFT - FOR DISCUSSION PURPOSES ONLY.  
See accompanying Accountants' Report and Summary of  
Significant Forecast Assumptions and Significant Accounting Policies.



**WATER'S EDGE OF LAKE WALES, LLC**  
**FORECASTED SCHEDULE OF DEBT SERVICE COVERAGE**  
**(BEFORE 50% OF MANAGEMENT FEES)**  
**As of December 31,**  
**(\$ in Thousands)**

	2012	2013
Change in net deficit	\$ 156	\$ 337
Add:		
50% Management Fees	145	150
Depreciation and amortization	737	740
Interest expense	1,613	1,604
Funds available for debt service	\$ 2,651	\$ 2,831
Maximum annual debt service	\$ 1,900	\$ 1,900
<b>Maximum annual debt service coverage</b>	1.40	1.49

DRAFT - FOR DISCUSSION PURPOSES ONLY.  
See accompanying Accountants' Report and Summary of  
Significant Forecast Assumptions and Significant Accounting Policies.

**WATER'S EDGE OF LAKE WALES, LLC**  
**FORECASTED SCHEDULE OF DAYS' CASH ON HAND**  
**As of December 31,**  
**(\$ in Thousands)**

	2009	2010	2011	2012	2013
Total operating expenses before depreciation and amortization	\$ 3,266	\$ 4,872	\$ 4,872	\$ 4,966	\$ 5,026
Days in year	366	366	365	365	366
Daily operating expense	\$ 9	\$ 13	\$ 13	\$ 14	\$ 14
Cash and cash equivalents	\$ 4,526	\$ 1,472	\$ 2,261	\$ 3,213	\$ 4,323
<b>Days' cash on hand</b>	<b>507</b>	<b>111</b>	<b>169</b>	<b>236</b>	<b>315</b>

DRAFT - FOR DISCUSSION PURPOSES ONLY.  
See accompanying Accountants' Report and Summary of  
Significant Forecast Assumptions and Significant Accounting Policies.

**WATER'S EDGE OF LAKE WALES, LLC**  
**FORECASTED SCHEDULE OF ASSETS WHOSE USE IS LIMITED**  
**For the Years Ending June 30,**  
**(\$ in Thousands)**

	<b>Construction</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Debt service reserve fund	\$ 500	\$ 500	\$ 500	\$ 500	\$ 500	\$ 500
Principal and interest fund	-	475	475	435	435	435
Capitalized interest fund	1,964	-	-	-	-	-
Restricted fund	500	500	500	500	500	500
Total	2,964	1,475	1,475	1,435	1,435	1,435
Less current portion	1,964	475	475	435	435	435
Long term portion	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000

DRAFT - FOR DISCUSSION PURPOSES ONLY.  
See accompanying Accountants' Report and Summary of  
Significant Forecast Assumptions and Significant Accounting Policies.

## SUMMARY OF SIGNIFICANT FORECAST ASSUMPTIONS AND SIGNIFICANT ACCOUNTING POLICIES

This financial forecast presents, to the best knowledge and belief of management of Water's Edge of Lake Wales, LLC (the "Corporation"), Florida Christian Homes Senior Housing, Inc. (the "Managing Member"), Life Wellness Communities, LLC (the "Developer"), and Legacy Senior Management, LLC (the "Manager"), collectively referred to as "Management", the Corporation's expected financial position, results of operations and cash flows as and for each of the years in the five-year period ending December 31, 2012. Accordingly, the forecast reflects Management's judgment as of \_\_\_\_\_, 2008, the date of this forecast, of the expected conditions and their expected course of action.

The assumptions disclosed herein are those that Management believes are significant to the forecast. However, there will usually be differences between forecasted and actual results because events and circumstances frequently do not occur as expected, and those differences may be material.

### Background Information

#### *Corporate Organization*

The Corporation is a single member limited liability Florida corporation that was organized on \_\_\_\_\_ for the purpose of constructing, owning and operating a rental-based senior living unit community consisting of 63 independent congregate apartments, 22 independent living villas, 30 assisted living units, 16 special care units and 6 respite and rehab units in Lake Wales, Florida (the "Project"). The Corporation is governed by a Board of Directors (the "Board"), currently consisting of \_\_\_\_\_ persons serving \_\_\_\_\_ (\_\_\_\_\_) year terms. Members of the Board do not receive compensation for their services. The initial directors were selected by Florida Christian Homes Senior Housing, Inc. and accepted by \_\_\_\_\_. The Board of Directors meets at least \_\_\_\_\_ times per year including its annual meeting. The Board of Directors is authorized to establish committees on an as-needed basis.

#### *Managing Member*

The Corporation has one Managing Member, Florida Christian Homes Senior Housing, Inc. Florida Christian Homes Senior Housing, Inc. (the "Managing Member") is a Minnesota not-for-profit 501(c)(3) corporation. The Managing Member is organized exclusively for charitable purposes, including making distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) and:

1. To establish and provide for elderly persons (age 62 and older) and handicapped seniors, on a nonprofit basis, housing, assisted living, skilled nursing care, medical care, therapy, home care, meal delivery, and other programs, facilities, and services specifically designed to meet their primary needs for housing, healthcare, supervision, nourishment, and financial security, and to meet some combination of the physical, emotional, recreational, social, religious, and similar needs of elderly persons and

handicapped seniors and contribute to their health, security, and happiness in longer living;

2. To form relationships with other providers of healthcare, medical care, and related services and to integrate such services, on a nonprofit basis, to elderly and handicapped persons across a broad continuum of care;
3. To sponsor, encourage, promote, advance, and otherwise assist with the provision and improvement of housing, healthcare, medical care, and related services of every kind to elderly persons and handicapped persons and other individuals in need thereof; and
4. To aid, assist, and contribute to the support of organizations which are organized and operated exclusively for one or more purposes described in Sections 170(c)(2) and 501(c)(3) of the Internal Revenue Code and are exempt from federal income taxes under Section 501(a) of the Internal Revenue Code as organizations described in Section 501(c)(3) of the Internal Revenue Code.

### ***Sponsorship Group***

A group of seven (7) churches located within Polk County is serving as sponsor for the Project (the "Sponsorship Group"). The Sponsorship Group is made up of members of the following community congregates:

1. Allen Temple AME Church
2. Episcopal Church of the Good Sheperd
3. First Baptist Church
4. First Institutional Baptist Church
5. First Presbyterian Church
6. First United Methodist Church
7. Holy Spirit Catholic Church

### ***Construction Management Agreement***

The Corporation has entered into a Guaranteed Maximum Price Construction Contract ("GMP Contract"), dated \_\_\_\_\_, with \_\_\_\_\_, an organization organized and existing under the laws of the State of \_\_\_\_\_ (the "Construction Manager"), to construct the Project. The Construction Manager is authorized to conduct business in the State of Florida. In the GMP Contract, the Construction Manager has agreed to provide certain management services and to complete the construction and site work for the Project for a guaranteed maximum price not in excess of approximately \$ \_\_\_\_\_. The term of the GMP Contract requires that the Project be substantial completed within \_\_\_\_\_ calendar days. If the Project is not substantially completed within the defined time-frame, the Construction Manager shall be liable to the Corporation for liquidated damages of \$ \_\_\_\_\_ per day.

Although it is expected that the Construction Manager's work will be completed at or below the GMP Contract, it is possible that the cost of construction could be adjusted to a level in excess of the GMP Contract. The GMP Contract may be increased or decreased by written change orders authorized by the Borrower or the Construction Manager could be entitled to an increase in the

GMP Contract under certain circumstances, such as unexpected subsurface conditions, delays and other unanticipated circumstances. In addition, the costs of construction may increase to an amount in excess of the GMP Contract as the result of certain insured casualties or suspension of the work due to certain governmental actions.

A payment and performance bond in an amount equal to the GMP Contract will be provided by the Construction Manager with respect to the Project.

***Development Agreement***

The Corporation entered into a Development Agreement with Life Wellness Communities, LLC (the "Developer") dated \_\_\_\_\_. The Developer would provide defined consulting services in the field of senior housing in the areas of planning, development, design, financing, and construction of the Project. The term of the Development Agreement will commence with the effective date of the contract and continue through obtaining occupancy permits from local and state governmental officials and determining and making final payments to contractors and vendors for the Project.

The Development Fee will be a fixed amount of approximately \$\_\_\_\_\_. The Development Fee will be payable as follows:

1. \$\_\_\_\_\_ will be paid to the Developer at the time of the closing of the financing of the Project.
2. \$\_\_\_\_\_ will be paid monthly in amounts equal to the change in the percentage of completion of the Project construction during the month immediately proceeding the month a payment is due.
3. \$\_\_\_\_\_ will be paid at the time certificates of occupancy are issued for the Project.

***Construction Monitor Agreement***

The Corporation has entered into a Project Representative Services Agreement with an independent construction monitor to serve as a representative for the Series 2008 bondholders. The construction monitor will be compensated by the bondholders on a time and expense fee basis.

***Management Agreement***

Unless the Corporation shall have obtained the prior written consent of the Bondholder Representative, (i) the Corporation shall engage an independent management company to conduct the operations of the Project, and (ii) fifty percent (50%) of the total management fee payable in any fiscal year shall be subordinate in right of payment to all other sums payable under the Loan Agreement and the Mortgage. Upon the occurrence of the Event of Default under the Loan Agreement, the independent management company may be removed at the discretion of the Bondholder Representative.

The Corporation has entered into a Management Agreement (the "Management Agreement") with Legacy Senior Management, LLC (the "Manager") on \_\_\_\_\_, under which Manager would serve as the manager of the Project and would provide day-to-day supervision and management of the Project. Pursuant to the terms of the Management Agreement, the Manager would be required to provide all management services necessary to operate the Project, including but not limited to, financial management, purchasing, public relations, recruitment of personnel and supervision of the day-to-day operations and programs of the Project.

The duties of the Manager under the Management Agreement include assisting the Project with, among other things, recruiting, hiring, firing, training, and supervision of all operating and service personnel on the Corporation's payroll; overseeing negotiations with any labor union lawfully entitled to represent the employees of the Project; representing the Corporation with respect to negotiating, executing, terminating, and administering professional service contracts; preparing capital expenditures and operating budgets; preparing monthly unaudited financial statements; maintaining accounts payable and receivable; supervising receipt and collection of all funds connected with the Project; maintaining bank accounts related to the Project; preparing all forms and reports required by any federal, state, or local government; supervising the purchasing of all food, supplies, equipment, and materials related to operation of the Project; taking appropriate steps to protect and/or litigate to final judgment in any appropriate court any violation, order, rule or regulation affecting the Project; providing the Project with all of the management services and techniques, if applicable, which it employs in operating other agencies which it manages which may be applicable to and beneficial to the Project; providing all services to insure that appropriate governmental requirements are met; obtaining and maintaining all licenses and permits; providing recommendations regarding maintenance, repair, or replacement of equipment; and arranging for appropriate insurance for the Project.

The Project's executive director, assistant executive director (if any), or administrator and marketing director shall be employees of the Manager and the aggregate compensation, including fringe benefits paid with respect to such employees, shall be at the expense of the Corporation.

The Management Agreement became effective on \_\_\_\_\_ and shall remain in full force and effective for a \_\_\_\_\_ (\_\_\_\_) year term, unless terminated in accordance with terms in the contract, and shall, thereafter, be extended for two (2) successive three (3) year terms. All terms and conditions of this Management Agreement shall continue in full force and effect during any extension periods except that the management fee payable to the Manager shall be subject to mutual agreement. In no event will the management fee during any renewal period be less than the management fee payable in the prior term of the Management Agreement. Either party may terminate the Management Agreement, with or without cause, upon the conclusion of any term of the Management Agreement by giving at least \_\_\_\_\_ (\_\_\_\_) days prior written notice to the other party.

As compensation for services to be rendered pursuant to the Management Agreement, the Corporation would pay the Manager as follows:

1. Before the issuance of the Series 2008 Bonds, the Corporation shall pay to the Manager a monthly management fee of \$\_\_\_\_\_.

2. After the issuance of the Series 2008 Bonds, but prior to the opening of the Project, the Corporation shall pay to the Manager a monthly management fee of \$\_\_\_\_\_.
3. After opening the Project, the Corporation will pay the Manager a flat management fee of \$\_\_\_\_\_ per month plus \_\_\_\_\_% of the total monthly revenues in excess of \$\_\_\_\_\_ except that the monthly fee will not exceed \$\_\_\_\_\_.

Total management fees during the forecast period are estimated as follows:

Year Ending	Management Fees
12/31/2008	
12/31/2009	
12/31/2010	
12/31/2011	
12/31/2012	

In addition to the management fees, the Manager would be entitled to reimbursable costs and expenses including all out of pocket costs for the salary and fringe benefits payable to the administrator and any other personnel of the Manager who are permanently assigned in a staff position or who are temporarily filling a normally budgeted staff position at the Project and any other costs approved by the Corporation in writing.

In accordance with the indenture and other financing documents related to the Series 2008 Bonds, fifty percent (50%) of management fees payable pursuant to the Management Agreement would be wholly subordinate to payments on the Series 2008 Bonds.

### ***Site Description***

The Project site, consisting of approximately 40 acres, is located at the southwest corner of State Route 60 and First Street in Lake Wales, Florida and is currently undeveloped, vacant land (the "Site"). Geographically, the Site is located in southeast Polk County in the City of Lake Wales. The location will have direct access to State Route 60, a major east/west thoroughfare and is just east of US 27, a major north/south artery. The immediate area is bordered by mixed residential and commercial development. The following maps show the Site and its location in connection with its independent living competitors (page \_\_\_\_\_), assisted living/special care competitors (page \_\_\_\_\_) and the State of Florida (page \_\_\_\_\_).

The Community will be located across the street from a shopping center and approximately three (3) miles from Lake Wales Medical Center. The Community is approximately five (5) miles from Bok Tower and Eagle Lake Mall, fifteen (15) miles from Cypress Gardens, and forty-five miles (45) from Orlando.



***The Project***

The Project is planned to be a 137 unit senior housing community with a full selection of services and life styles. The Project will be built on land West of First Street, just to the South of Twin Lake and North of Grove Street and adjacent to the Publix shopping complex in Lake Wales, Florida.

**Villas and Independent Living Apartments**

The community will consist of 22 single story duplex villas with two car garages. A central three story structure will contain 63 Independent Living Apartments with patios or balconies, 9' - 6" ceilings and open kitchens, dining areas and living rooms to give a "Great Room" effect. are designed to have ample closet space with additional storage space also available.

When completed, the configuration of the independent congregate apartments and independent living villas will be as follows:

**Table \_\_\_\_**  
**Independent Living Unit Mix, Fees, and Square Footage**

Unit Type	Number of Units	Percentage	Monthly Fee	Unit Square Footage
<i>Independent Congregate Apartments.</i>				
Studio	9	14.3%	\$1,750	490
One Bedroom	18	28.5%	\$1,950	550
One Bedroom Deluxe	9	14.3%	\$2,350	650
One Bedroom w/Den	9	14.3%	\$2,800	750
Two Bedroom	9	14.3%	\$3,350	900
Two Bedroom, Two Bath w/Den	9	14.3%	\$3,900	1,100
Subtotal	63	100.0%		
<i>Independent Living Villas</i>				
One Bedroom Deluxe	5	22.7%	\$2,050	1,235
Two Bedroom	12	54.6%	\$2,250	1,417
Two Bedroom, Two Bath w/Den	5	22.7%	\$2,900	1,812
Subtotal	22	100.0%		
<b>Total Independent Living</b>	<b>85</b>			

The independent living apartment and independent living villa amenities are as follows:

- ◇ Oven and glass top range and microwave oven;
- ◇ Ceiling fans;
- ◇ Frost-free refrigerator with ice-maker;
- ◇ Garbage disposal;
- ◇ Dishwasher;

- ◇ Washer and dryer in the unit;
- ◇ Screened lanai;
- ◇ Carpeting, tile, and window treatments;
- ◇ Individually controlled heating and air-conditioning units;
- ◇ Secure care emergency call system;
- ◇ Walk in showers;
- ◇ Grab bars; and
- ◇ Cable and telephone jacks.

#### Community Center

In addition to the administration office space, central kitchen and dining rooms, the two story community center will contain a state-of-the-art wellness program designed specifically for seniors. The community center will also include the following: Cultural Arts/Auditorium Room/Education Center, Wellness Center/Exercise Room, Beauty Salon, Business Services Center, Club Room, Wood Working Shop, Healthcare Screening Center, Library/Fireplace/memorabilia, and a Discovery Corridor.

In addition, the community center will also include the following spaces and functions to support the congregate meals and activities program:

- ◇ Main dining room;
- ◇ Dining room entry parlor;
- ◇ Central commercial kitchen;
- ◇ Garden room chapel;
- ◇ Arts and crafts room;
- ◇ Individual mail boxes;
- ◇ Entry lobby with waiting area;
- ◇ Club room;
- ◇ Activity room;

#### Assisted Living Units

A two story structure attached to the community center will contain 30 units of assisted living. The assisted living program will be licensed according to requirements for Assisted Living Facilities, Extended Congregate Living Facilities and will meet the requirements for a Limited Nursing License.

The proposed assisted living units are assumed to be configured as follows:

**Table \_\_\_\_**  
**Assisted Living Unit Mix, Fees, and Square Footage**

Unit Type	Number of Units	Percentage	Monthly Fee	Unit Square Footage
Studio	20	66.7%	\$3,050	480
One Bedroom	10	33.3%	\$3,540	560
<b>Total Assisted Living</b>	<b>30</b>	<b>100.0%</b>		

An additional component to the assisted living units and under the same licensures will be 16 alcove units with special programming and design for older people with different levels of Alzheimer disease and other dementia. There will also be 6 units that will draw on the staff of the wellness and the assisted living operations to provide both respite and rehabilitation services.

Residents in the assisted living units receive all the services available to the residents in independent living units, as well as three meals a day and daily housekeeping and laundry services. Nonetheless, assisted living units are designed to accommodate persons who require limited assistance with daily living activities, yet do not require the medical supervision. At this level of care, residents are ambulatory and receive assistance with dressing and other activities of daily living and meals. Assisted living unit residents need only occasional nursing care by a professional nurse.

#### Special Care Units

The Project includes the construction of an approximate \_\_\_\_\_ square foot, 16 bed unit on the \_\_\_\_\_. The proposed special care units are assumed to be configured as follows:

**Table \_\_\_\_**  
**Special Care Unit Mix, Fees, and Square Footage**

Unit Type	Number of Units	Percentage	Monthly Fee	Unit Square Footage
Studio	16	100.0%	\$4,300	430
<b>Total Special Care</b>	<b>16</b>	<b>100.0%</b>		

Respite/Rehab Units

The Project includes the construction of an approximate \_\_\_\_\_ square foot, 6 bed unit on the \_\_\_\_\_. The Corporation designed this project to serve the short term needs of people recovering from a hospitalization or other injuries. This center will be outfitted with beds, a nursing station, and other related care items. The proposed special care units are assumed to be configured as follows:

**Table \_\_\_\_\_**  
**Respite/Rehab Unit Mix, Fees, and Square Footage**

Unit Type	Number of Units	Percentage	Monthly Fee	Unit Square Footage
Studio	6	100.0%	\$4,050	380
<b>Total Respite/Rehab</b>	<u>6</u>	<u>100.0%</u>		

The assisted living, special care apartment, and respite/rehab unit amenities are as follows:

- ◇ Ceiling fans;
- ◇ Carpeting, tile, and window treatments;
- ◇ Frost-free refrigerator with ice-maker;
- ◇ Oven and glass top range and microwave oven;
- ◇ Individually controlled heating and air-conditioning units;
- ◇ Secure care emergency call system;
- ◇ Walk in showers;
- ◇ Grab bars; and
- ◇ Cable and telephone jacks.

Construction on the Project will begin in \_\_\_\_\_, and after an estimated \_\_\_\_\_ month construction period, the Project's units will be available in \_\_\_\_\_. Stabilized occupancy (assumed at \_\_\_\_\_%) is forecasted to be achieved in \_\_\_\_\_ after an \_\_\_\_\_ month fill-up period.

***Residency Agreement and Services***

The Corporation will enter into a Residency Agreement ("Residency Agreement") with each resident which sets forth the responsibilities of both the Borrower and the resident and under which the resident is provided with an independent living unit (a "Residential Unit") and certain services. The Project will be operated under a fee-for-service agreement pursuant to which health services are not included in the monthly rental/service fee.

The independent living units will be made available to persons who are at least 62 years old, who are able to care for themselves, safely and independently, and who are able to demonstrate the ability to pay the monthly rental/service fee required under the Residency Agreement and other required living expenses. Each prospective resident must certify as to his or her health prior to

acceptance in the Project, abide by community rules and regulations on an ongoing basis, and demonstrate sufficient financial resources to afford the Project's fee requirements, as well as other expenses associated with living in these units.

For the right to occupy and use a residential unit and receive the services provided at the Project, the resident(s) of each unit are required to execute a Security Reservation Form and pay a refundable security deposit equal to \_\_\_\_\_ for the particular unit they wish to occupy. A resident may terminate this security reservation at any time prior to occupancy. All security deposits minus administrative costs will be refunded within 45 days of written notification. A Residency Agreement is entered into between the resident and the Project on the day of occupancy.

Residents of the independent living units are charged an Entrance Fee that is based upon the size of the residence. Residents of independent living units also pay a monthly fee according to the type and size of the unit. The Entrance Fee has a guaranteed 85% refund feature. The refund will be paid to the departing resident or their estate from the proceeds of the resale of their unit or a similar unit.

Payment of a monthly fee will entitle the resident to the use of an independent living unit and the following services and amenities:

- ◇ Pre-defined number of meals monthly;
- ◇ Housekeeping;
- ◇ All utilities including telephone and cable;
- ◇ Building and ground maintenance;
- ◇ Flat linen services;
- ◇ Social, recreational, educational, cultural, and health and wellness programs;
- ◇ Scheduled local transportation; and
- ◇ 24-hour security.

Additional services will be available on a fee-for-service basis including, but not limited to, additional housekeeping, laundry for personal items, additional or guest meals, barber and beauty shop services, personalized transportation, repair and maintenance of personal furnishings, and temporary guest services.

After the resident assumes occupancy of an independent living unit, the Residency Agreement may be cancelled for the following reasons:

1. By mutual consent at any time;
2. Immediately without prior notice by Management if the unit or the Project or a substantial portion thereof is destroyed or damaged so it is unfit for habitation;
3. Upon at least ten (10) days written notice by Management to the resident in the case of the resident's default in meeting the terms of the Residency Agreement, or if the resident fails to abide by Management's rules, regulations or policies;
4. 30 days following the death of the resident, or, in the case of co-resident, the last resident of the unit; and
5. By resident or legal guardian for any reason with a 30 day written notice.

Monthly service fees may be adjusted at the discretion of Management by giving a 30 day's written notice to residents.

### ***Charitable Purpose Fund***

It is the intent of the Corporation to establish a Charitable Purpose Fund for the purpose of helping residents who become unable to pay their monthly fees and provide additional services to all residents. The Charitable Purpose Fund will be created from private contributions or from operating revenues and will be held by the trustee but applied at the direction of the Corporation.

### ***Financing Program***

A summary of the estimated sources and uses of funds for the Project is as follows:

#### **Assumed Sources and Uses of Funds**

<b><i>Sources:</i></b>	
<i>Series 2008A Bonds</i>	\$25,425,000
<i>Series 2008B Bonds</i>	775,000
<i>Equity contribution</i>	1,500,000
<i>Total Sources</i>	<u>\$27,700,000</u>
<b><i>Uses:</i></b>	
<i>Project Fund</i>	\$14,394,400
<i>Developer fee</i>	1,180,100
<i>Land acquisition</i>	1,600,000
<i>Capitalized Interest Fund</i>	3,863,000
<i>Design and other direct construction costs</i>	542,100
<i>Furniture and equipment</i>	650,000
<i>Impact fees, real estate taxes, and other fees</i>	343,500
<i>Marketing</i>	640,000
<i>Indirect construction costs and contingency</i>	628,700
<i>Total Project related costs</i>	<u>23,841,800</u>
<i>Working capital</i>	769,000
<i>Debt Service Reserve Fund</i>	500,000
<i>Operating Reserve Fund</i>	500,000
<i>Return of Seed Capital</i>	250,000
<i>Costs of issuance</i>	1,839,200
<i>Total Uses</i>	<u>\$27,700,000</u>

### **Sources of Funds**

As provided by the Corporation's underwriter, Raymond James and Associates (the "Underwriter"), the City of Lake Wales, Florida (the "Issuer") will issue the non-rated, tax-exempt Series 2008A Bonds in the amount of \$25,425,000, with a coupon rate of 7.25% and a term of 38 years and the non-rated, taxable Series 2008B Bonds in the amount of \$775,000, with a coupon rate of 11.00% and a term of 7 years. Interest on the Series 2008 Bonds would be

payable semi-annually, beginning September 1, 2008. Annual principal payments will be made beginning September 1, 2011 and ending September 1, 2046.

Pursuant to a Loan Agreement between the Issuer and the Corporation (the "Loan Agreement"), the Issuer will lend the proceeds of the Series 2008 Bonds to the Corporation. Under the Loan Agreement, the Corporation has agreed to make payments to the Trustee to provide for the full and prompt payment when due of the principal of, and premium, if any, and interest on the Series 2008 Bonds. The obligations of the Corporation under the Loan Agreement will be secured by a pledge of the gross receipts of the Corporation and a Mortgage and Security Agreement (the "Mortgage") on the Project.

According to Management, cash equity in the amount of \$1,500,000 will be provided by the Corporation.

#### Uses of Funds

Total costs, net of investment earnings, associated with the construction, excluding the development fee, are assumed to approximate \$14,394,400. Management has entered into a Guaranteed Maximum Price Construction Contract (the "GMP Contract") for the construction of the Project with \_\_\_\_\_ ("Construction Manager"). The GMP Contract calls for a maximum price for the construction of the Project of \$\_\_\_\_\_ (\$\_\_\_\_\_ per square foot).

The Corporation has entered into a Development Agreement dated \_\_\_\_\_ with the Developer and pursuant to the terms of the Development Agreement, the Developer will be responsible for performing certain pre-development, development period, and other related activities and services as defined in the Development Agreement. The proceeds of the Series 2008 Bonds and investment earnings will fund a development fee of approximately \$1,180,100. The development fee will be paid as follows: 1) 33 1/3% will be paid to the Developer at the time of the closing of the financing of the Project.; 2) 33 1/3% will be paid monthly in amounts equal to the change in the percentage of completion of the Project construction during the month immediately proceeding the month a payment is due; and 3) 33 1/3% will be paid at the time certificates of occupancy are issued for the Project.

Land acquisition costs in the amount of \$1,600,000 will be paid from proceeds of the Series 2008 Bonds.

Capitalized interest for the Series 2008 Bonds, in the approximate amount of \$3,863,000, is assumed to be funded from the Series 2008 Bond proceeds. The initial capitalized interest fund balance represents 24 months (construction period plus 12 months of operations) of interest expense on the Series 2008 Bonds.

In addition to the funds listed above, funds for furniture and fixtures, design fees, impact fees, real estate costs during the construction period, and indirect construction costs will be expended. Management estimates that total project related costs will approximate \$23,841,800.

The Debt Service Reserve Fund will be funded in the amount of \$500,000 from the proceeds of the Series 2008 Bonds. Amounts on deposit in this fund will be available to pay debt service

requirements if excess of operations is insufficient to meet a scheduled payment. As required by the \_\_\_\_\_, any draws against this account will have to be repaid in \_\_ months.

The Operating Reserve Fund will be funded in the amount of \$500,000 from proceeds of the Series 2008 Bonds. Amounts on deposit in the Operating Reserve Fund shall be released from time to time to be applied to pay the operating expenses of the Project, including the debt service on the Series 2008 Bonds. Any amount withdrawn from the Operating Reserve Fund must be replenished in 12 equal monthly installments.

Based on estimates by Management, proceeds from the Series 2008 Bonds will contain \$769,000 to provide working capital during the development period for the Project and the first year of operations.

#### [REPAYMENT OF SEED CAPITAL]

Management has estimated that the marketing of the independent living units during development period activities up through the opening of the Project will approximate \$640,000.

Issuance costs of approximately \$992,000, including legal fees, accounting and feasibility fees, underwriter fees, and other costs associated with the issuance of the Series 2008 Bonds, will be funded from equity contributions and bond proceeds.

#### Bond Covenant and Special Redemption

The Series 2008 Bond documents require that the Corporation maintains a Debt Service Coverage Ratio defined as:

*Rate Covenant:* Commencing with the earlier of (i) the achievement of Stable Occupancy (as defined as \_\_%) and (ii) \_\_\_\_\_, 2011, the Borrower must calculate the Historical Debt Service Coverage Ratio for each twelve month period ending [1<sup>ST</sup> QTR], [2<sup>ND</sup> QTR], [3<sup>RD</sup> QTR], and [4<sup>TH</sup> QTR1]. In the event that the Historical Debt Service Coverage Ratio of the Obligated Group for any such Fiscal Year is less than 1.25:1 for two consecutive fiscal quarters after Stable Occupancy, the Obligated Group is required to retain a Consultant within 30 days following the calculation described herein to make recommendations with respect to the rates, fees and charges of the Obligated Group's methods of operation and other factors affecting its financial condition in order to increase such Historical Debt Service Coverage Ratio to at least 1.25:1 for the next calculation period. Each Obligated Group Member is required to follow the recommendations of the Consultant applicable to it to the extent feasible (as determined in the reasonable judgment of the Governing Body of such Member) and to the extent that such recommendations are consistent with the Borrower's status as an organization described in Section 501(c)(3) of the Code and permitted by law. Failure to achieve an annualized Debt Service Coverage Ratio (Ratio) of 1.25x for two consecutive quarters requires the employment of a management consultant unless waived by the bondholder representative. Failure to achieve a Ratio of at least 1.00x constitutes an event of default.



*Special Mandatory Redemption:* Series 2008 Bonds shall be redeemed annually from the excess of unrestricted operating and nonoperating revenues of the Borrower over expenses for the Fiscal Year, each determined in accordance with generally accepted accounting principles, exclusive of (i) depreciation, interest, and amortization, (ii) any profits or losses that would be regarded as extraordinary items, (iii) gain or loss on the extinguishment of indebtedness, (iv) unrealized gains and losses on investments and hedging transactions, (v) gifts, grants, bequests, donations, and contributions, (vi) proceeds of indebtedness, (vii) proceeds of insurance and condemnation, and (viii) the proceeds of any sale or other disposition of property (collectively, “Excess Cash Flow”) at par during any period in which the principal amount of long-term debt per Independent Living Unit exceeds \$185,000 within 60 days following the receipt of audited financial statements of such Fiscal Year, provided that such redemption will not be required if (i) Cash on Hand, as defined in the Series 2008 Bond Documents, is less than 90 days, (ii) the Charitable Purpose Fund has a balance of less than \$50,000, or (iii) the Renewal and Replacement Fund has a balance of less than \$50,000. The principal amount of Series 2008 Bonds redeemed annually from Excess Cash Flow shall be credited against the next sinking fund payment occurring after such redemption.

## **Underlying Utilization Assumptions and Rationale**

### ***Underlying Assumptions***

Assumptions for the future utilization of the independent living, assisted living and special care units at the Project are based upon an analysis of the following factors:

- ◆ Site description and general area analysis;
- ◆ Identification of the PMA from which the Project will derive its residents and the market share within that area;
- ◆ Analysis of published historical and projected economic and demographic data trends in the PMA;
- ◆ Description and utilization of existing and proposed comparable retirement communities within the defined PMA;
- ◆ Penetration and saturation rates for independent living, assisted living and special care services;
- ◆ An analysis of the future operating plans of the Project; and
- ◆ An analysis of the regulatory economics.

Each of the above assumptions and the assumed utilization of the units and services are addressed in the following sections.

### ***Primary Market Criteria***

The PMA for the Project is defined as the geographic area in which the majority of the potential residents will reside prior to assuming occupancy at the Community. For independent living units, the PMA should provide approximately 70% of the resident base. Assisted living and special care units should also capture 70% of the resident base from the PMA. All providers will draw some residents from beyond the boundaries of the PMA due to a variety of factors, the most common of which is the desire of the resident's adult child, who lives in the PMA, to have their parent(s) receive services close to the adult child's home.

In general, the size and percentage of the draw from the PMA can be impacted by the following factors:

- ◆ Natural boundaries, such as rivers, lakes, or mountains;
- ◆ Strength or reputation of the sponsor, developer, or existing provider;
- ◆ Access to medical services, shopping, and social activities;
- ◆ Proximity to established neighborhoods, hospitals, or nursing homes;
- ◆ Access to interstate and other major highway systems;
- ◆ The availability of other senior services and products and the marketing pull of those entities;
- ◆ Socio-economic or ethnic boundaries; and
- ◆ Consumer preferences for services proximate to adult children and/or familiar neighborhoods.

***Primary Market Area (PMA) Defined***

The PMA for the Project has been determined by the following characteristics of the area surrounding the Site:

- ◆ The experience of the Developer at similar senior housing communities;
- ◆ The areas of influence of the Sponsorship Group;
- ◆ A network of highways and secondary roads leading east, west, north, and south affords easy access to the Site;
- ◆ An analysis of the area from which the sponsoring churches draw their congregations; and
- ◆ Interviews with existing providers in the area and where they target marketing efforts.

The Sponsorship Group is made up of members of the following community congregates:

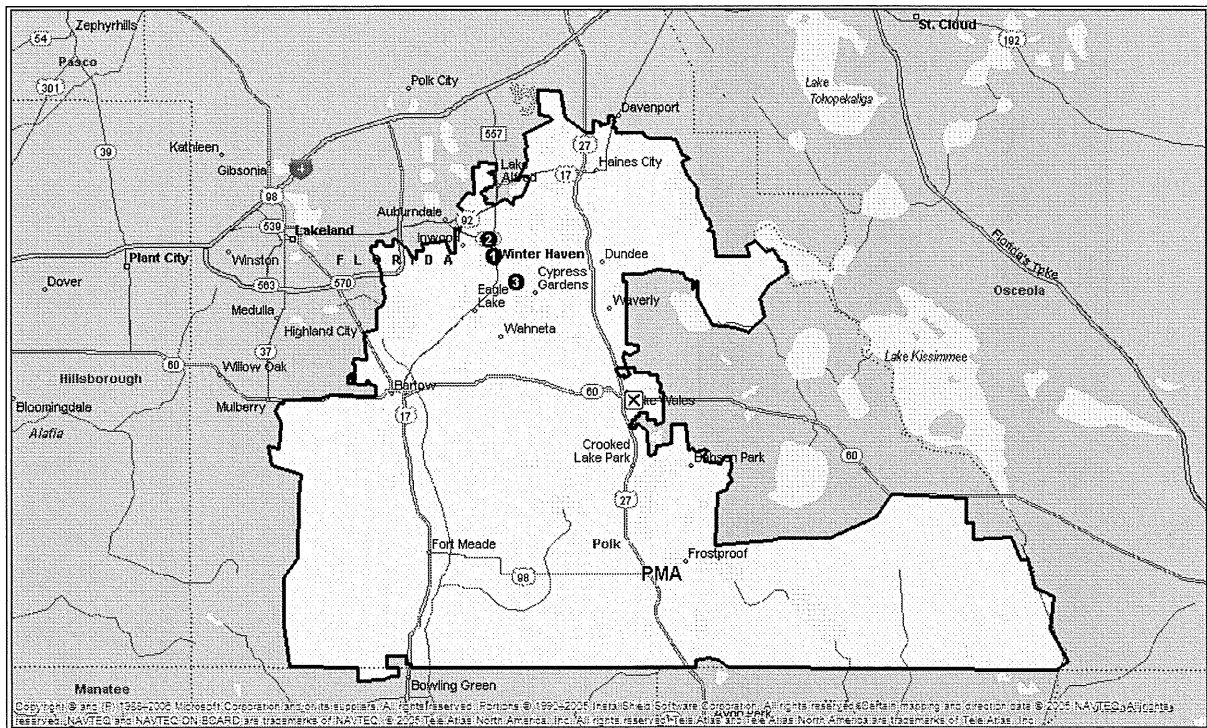
1. Allen Temple AME Church
2. Episcopal Church of the Good Sheperd
3. First Baptist Church
4. First Institutional Baptist Church
5. First Presbyterian Church
6. First United Methodist Church
7. Holy Spirit Catholic Church

The defined PMA was determined, in part, based on the results of our analysis of the Sponsorship Group's membership zip code listings as part of a market study completed in 2004. The results indicated that approximately 75% of the Sponsor Group's memberships were derived from an area comprised of 12 zip codes that surrounded the Site. Table \_\_\_\_ provides detail of the zip codes included in the PMA. The following maps show the Site and its location in connection with its independent living competitors (page \_\_\_\_), assisted living/special care competitors (page \_\_\_\_), and the State of Florida (page \_\_\_\_).

**Table \_\_\_\_**  
**Zip Codes in PMA**

Zip Codes	City
33853	Lake Wales
33859	Lake Wales
33838	Dundee
33839	Eagle Lake
33843	Frostproof
33844	Haines City
33830	Bartow
33841	Ft. Meade
33827	Babson Park
33880	Winter Haven
33881	Winter Haven
33884	Winter Haven

### Map Independent Living Competitors Within the PMA



#### Legend

X = Water's Edge of Lake Wales (The Project)

#### *Existing Communities within the PMA*

- (1) Lake Howard Heights
- (2) Spring Haven Retirement Community

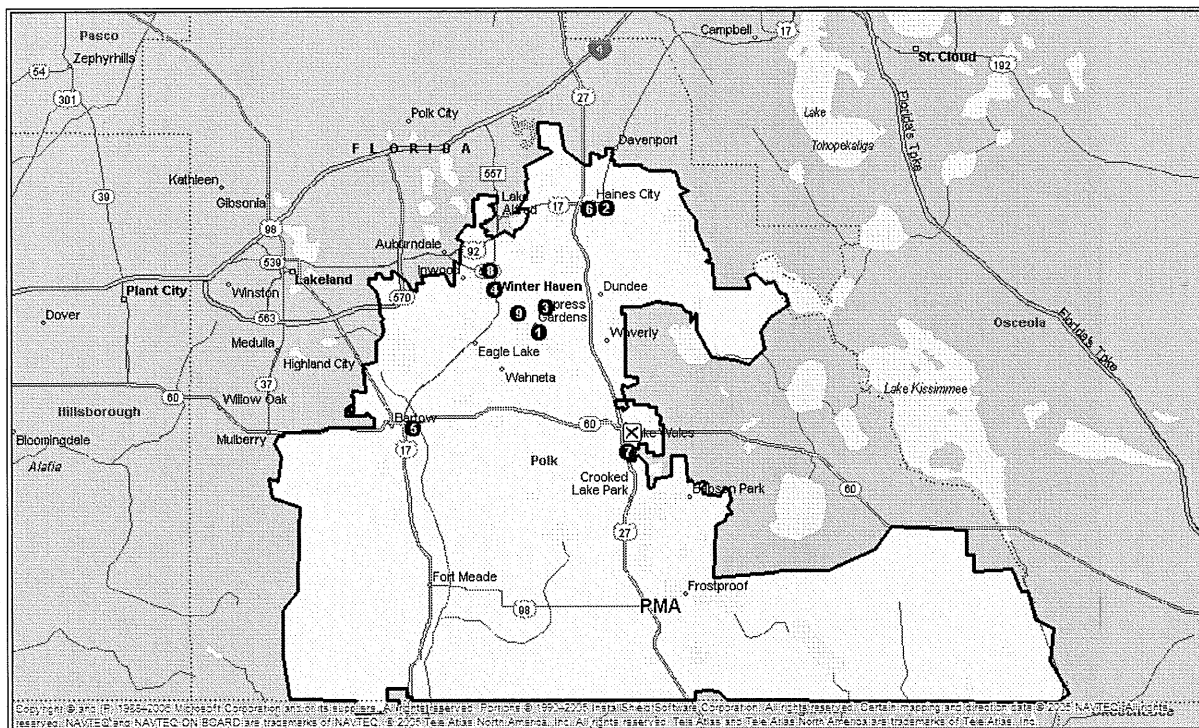
#### *Planned Community within the PMA*

- (3) Senior Housing Project in Winter Haven

Source: Microsoft MapPoint 2006

## Map

### Assisted Living and Special Care Competitors Within the PMA



### Legend

$X$  = Water's Edge of Lake Wales (The Project)

### *Existing Communities within the PMA*

- (1) Alterra Sterling House/Clare Bridge of Winter Haven
- (2) Hampton Court
- (3) Hawthorne Inn of Winter Haven
- (4) Lake Howard Heights
- (5) Savannah Court of Bartow
- (6) Savannah Court of Haines City
- (7) Savannah Court of Lake Wales
- (8) Spring Haven Retirement Community

### *Planned Community within the PMA*

- (9) Senior Housing Project in Winter Haven

*Source: Microsoft MapPoint 2006*

### Map The PMA in relation to the State of Florida



Source: Microsoft MapPoint 2006

#### *Economic Analysis of the Surrounding Area*

The economic data and statistical information for the local area which includes the PMA is accumulated by various city, county, and state government agencies. The information is presented on an “as available” basis.

Unemployment Trends

The unemployment rates for Polk County and the State of Florida, as recorded by the U.S. Department of Labor, Bureau of Labor Statistics, are shown in Table \_\_\_\_.

**Table \_\_\_\_**  
**Unemployment Rates\***

	<b>2005</b>	<b>2006</b>	<b>2007**</b>
Polk County	4.0%	3.5%	4.9%
State of Florida	3.8%	3.3%	4.3%
<i>Source: U.S. Department of Labor-Bureau of Labor Statistics Data</i>			
<i>* Not seasonally adjusted</i>			
<i>** Data through August 2007</i>			

Major Employers

Based on information provided by the Central Florida Development Council, Inc., the major employers in Polk County are presented in Table \_\_\_\_.

**Table \_\_\_\_**  
**Major Employers in Polk County**

<b>Name</b>	<b># of Employees</b>
Polk County School Board	9,500
Publix Super Markets	7,500
State of Florida	4,500
Polk County Government	3,500
Lakeland Regional Medical Center	3,200
IMC-Agrico (a phosphate mining company)	2,800
Winter Haven Hospital	2,500
Walmart	1,900
State Farm Insurance	1,800
Geico Insurance	1,800
Federal Government	1,400
<b>Totals</b>	<b>40,400</b>
<i>Source: Central Florida Development Council, Inc. (www.cfdc.org)</i>	



### ***Primary Market Area Population***

#### **General Description**

The age distribution of the population in a geographic area is a key factor in the determination of a PMA's retirement housing needs. Population and household data regarding the numbers of elderly in the defined PMA are presented in this section of the report. The estimates and projections for 2007 and 2012 are based on the 2000 Census.

The U.S. Bureau of Census provides compiled demographic data based on the 2000 census figures. Claritas, Inc. ("Claritas") has extrapolated this data to derive estimated 2007 population figures and projected statistics for the year 2012. These figures are then utilized to estimate the total population, population by specific age groups, and projected growth rates for all groups within the Project's PMA and the State of Florida. Tables \_\_\_\_ and \_\_\_\_ summarize this information.

Based on information obtained from Claritas, there are 40,489 persons aged 65 and older and 20,097 persons aged 75 and older in the PMA in 2007. As a percentage of the total population, those individuals 65 years of age and older make up 19.6% of the population in the PMA, and those individuals 75 years of age and older make up 9.7% of the population in the PMA. The 65+ and 75+ percentage of the population in the PMA is also slightly higher than that of the State of Florida.

**Table \_\_\_\_**  
**Elderly Population Change for the PMA and the State of Florida**

	2007 (Estimated) Population		2012 (Projected) Population		Compounded Annual Percentage Change 2008 - 2012	
	PMA	State of Florida	PMA	State of Florida	PMA	State of Florida
Total Population	206,506	18,360,271	223,784	20,097,832	1.62%	1.82%
Age 65 to 74 Population	20,392	1,602,742	23,134	1,957,174	2.56%	4.08%
Age 75 to 84 Population	14,882	1,118,722	15,876	1,241,226	1.30%	2.10%
Age 85 plus Population	5,215	422,628	6,211	515,682	3.56%	4.06%
Total 65 plus	40,489	3,144,092	45,221	3,714,082	2.24%	3.39%
Total 75 plus	20,097	1,541,350	22,087	1,756,908	1.91%	2.65%
<i>Source: Claritas, April 24, 2007</i>						

**Table \_\_\_\_**  
**Percentage of Total Population by Elderly Age Cohorts**

	2007 (Estimated)	
	PMA	State of Florida
Age Groupings		
65 plus	19.6%	17.2%
75 plus	9.7%	8.4%
85 plus	2.5%	2.3%
	2012 (Projected)	
	PMA	State of Florida
Age Groupings		
65 plus	20.2%	18.5%
75 plus	9.9%	8.8%
85 plus	2.8%	2.6%
<i>Source: Claritas, April 24, 2007</i>		

### ***Estimated Eligible Households***

In order to qualify for residency at the Project, a prospective resident generally must be at least 62 years of age and demonstrate sufficient financial resources to pay the required monthly fees and other expenses related to independent living not provided by the Project. National studies indicate that seniors will spend approximately 67% to 85% of their annual income for shelter and supportive services comparable to those that would be provided for a resident in an independent living unit (shelter, utilities, maintenance, insurance, transportation, recreation, food, etc.). Although no date has been set for the opening of the Project, for the purpose of our study, we assumed that residents would be moving into the Project in 2009. We also assumed that the Project will reach stabilized occupancy in 2011. Based on information provided by Management, we have assumed that the residents would be required to pay a weighted average monthly service fee of approximately \$2,500 for an independent living unit at the Project. We have assumed that, for the purposes of this study, typical residents will utilize 67% of their income for housing and that monthly income will be supplemented with the spend-down of proceeds from the sale of a personal residence. Based on information obtained from various county recorders offices, the 2007 weighted average sale price for a home in the PMA is approximately \$184,000 (Table \_\_\_\_), which results in additional annual income to those selling their homes of approximately \$6,000 if the sales proceeds are invested at a 4.5% annual rate of return (assuming the seller realizes 80% of the home's value and pays a 7% commission). The required income level to occupy an independent living unit at the Project at an average monthly service fee of \$2,500 is approximately \$39,000 for home owners and \$45,000 for non-home owners.

Management reviews each prospective resident on a case by case basis and may consider admitting persons who do not meet the criteria described above but can demonstrate other financial resources to pay the required monthly services fees.

Table \_\_\_\_ presents a breakdown of the household income for the years 2007, 2009, and 2012. Table \_\_\_\_ indicates the distribution of age 75 plus households in the PMA in 2009 with at least \$30,000 of income.

Table \_\_\_\_\_  
**Market Area Senior Household Income**  
**2007, 2009, and 2012**

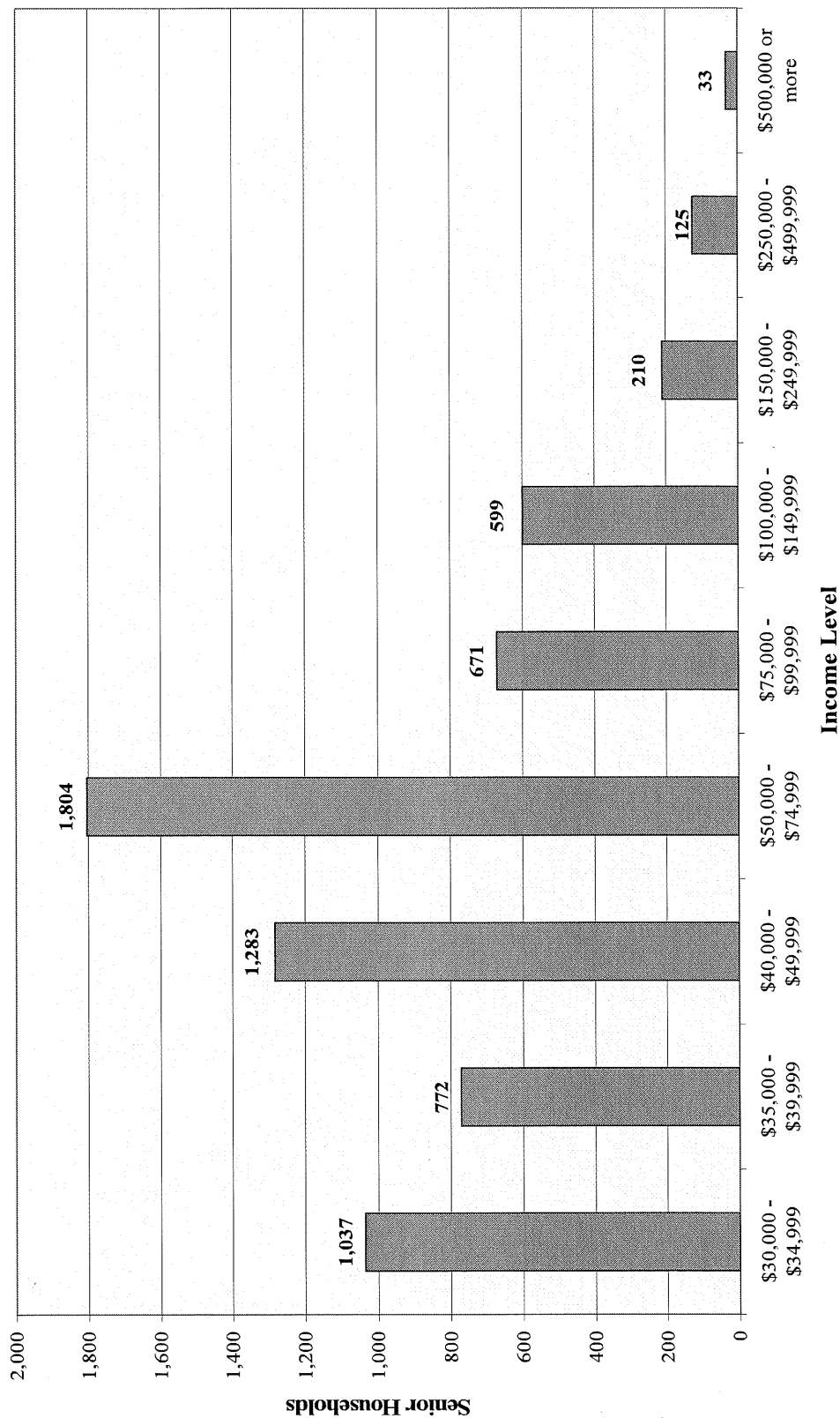
	Estimated-2007		Interpolated-2009		Projected-2012	
	Number	Percent	Number	Percent	Number	Percent
<b><u>Age 65-74</u></b>						
\$30,000 - \$34,999	1,138	15.4%	1,074	13.6%	984	11.3%
\$35,000 - \$39,999	978	13.2%	1,036	13.2%	1,129	13.0%
\$40,000 - \$49,999	1,455	19.7%	1,602	20.3%	1,850	21.2%
\$50,000 - \$74,999	2,103	28.5%	2,224	28.2%	2,418	27.7%
\$75,000 - \$99,999	762	10.3%	852	10.9%	1,006	11.5%
\$100,000 - \$149,999	543	7.3%	626	7.9%	774	8.9%
\$150,000 - \$249,999	244	3.3%	280	3.6%	345	4.0%
\$250,000 - \$499,999	134	1.8%	137	1.7%	141	1.6%
\$500,000 or more	35	0.5%	45	0.6%	67	0.8%
Subtotal	7,392	100.0%	7,876	100.0%	8,714	100.0%
<b><u>Age 75-79</u></b>						
\$30,000 - \$34,999	423	14.9%	456	15.0%	511	15.1%
\$35,000 - \$39,999	342	12.1%	347	11.4%	355	10.5%
\$40,000 - \$49,999	577	20.3%	581	19.2%	588	17.4%
\$50,000 - \$74,999	755	26.6%	832	27.4%	963	28.5%
\$75,000 - \$99,999	310	10.9%	323	10.6%	343	10.1%
\$100,000 - \$149,999	264	9.3%	304	10.0%	375	11.1%
\$150,000 - \$249,999	93	3.3%	109	3.6%	139	4.1%
\$250,000 - \$499,999	59	2.1%	67	2.2%	80	2.4%
\$500,000 or more	15	0.5%	19	0.6%	26	0.8%
Subtotal	2,838	100.0%	3,038	100.0%	3,380	100.0%
<b><u>Age 80-84</u></b>						
\$30,000 - \$34,999	307	15.7%	339	15.9%	393	16.2%
\$35,000 - \$39,999	244	12.4%	262	12.3%	291	11.9%
\$40,000 - \$49,999	384	19.5%	406	19.0%	441	18.1%
\$50,000 - \$74,999	549	28.0%	607	28.4%	707	29.1%
\$75,000 - \$99,999	211	10.8%	228	10.7%	255	10.5%
\$100,000 - \$149,999	166	8.5%	188	8.8%	226	9.3%
\$150,000 - \$249,999	62	3.2%	62	2.9%	62	2.6%
\$250,000 - \$499,999	30	1.5%	36	1.7%	48	2.0%
\$500,000 or more	7	0.4%	7	0.3%	7	0.3%
Subtotal	1,960	100.0%	2,135	100.0%	2,430	100.0%

Table \_\_\_\_  
(Continued)  
**Market Area Senior Household Income**  
**2007, 2009, and 2012**

	Estimated-2007		Interpolated-2009		Projected-2012	
	Number	Percent	Number	Percent	Number	Percent
<b>Age 85+</b>						
\$30,000 - \$34,999	214	17.6%	242	17.8%	290	17.8%
\$35,000 - \$39,999	143	11.8%	163	12.0%	197	12.1%
\$40,000 - \$49,999	291	24.0%	296	21.7%	304	18.7%
\$50,000 - \$74,999	316	26.0%	365	26.8%	454	28.0%
\$75,000 - \$99,999	100	8.2%	120	8.8%	158	9.7%
\$100,000 - \$149,999	96	7.9%	107	7.9%	125	7.7%
\$150,000 - \$249,999	31	2.6%	39	2.9%	56	3.4%
\$250,000 - \$499,999	19	1.6%	22	1.6%	27	1.7%
\$500,000 or more	4	0.3%	7	0.5%	15	0.9%
Subtotal	1,214	100.0%	1,361	100.0%	1,626	100.0%
<b>Total Age 65+</b>						
\$30,000 - \$34,999	2,082	15.5%	2,111	14.7%	2,178	13.5%
\$35,000 - \$39,999	1,707	12.7%	1,808	12.5%	1,972	12.2%
\$40,000 - \$49,999	2,707	20.2%	2,885	20.0%	3,183	19.8%
\$50,000 - \$74,999	3,723	27.8%	4,028	28.0%	4,542	28.1%
\$75,000 - \$99,999	1,383	10.3%	1,523	10.6%	1,762	10.9%
\$100,000 - \$149,999	1,069	8.0%	1,225	8.5%	1,500	9.3%
\$150,000 - \$249,999	430	3.2%	490	3.4%	602	3.7%
\$250,000 - \$499,999	242	1.8%	262	1.8%	296	1.8%
\$500,000 or more	61	0.5%	78	0.5%	115	0.7%
Total Age 65+	13,404	100.0%	14,410	100.0%	16,150	100.0%
<b>Total Age 75+</b>						
\$30,000 - \$34,999	944	15.7%	1,037	15.9%	1,194	16.0%
\$35,000 - \$39,999	729	12.1%	772	11.8%	843	11.3%
\$40,000 - \$49,999	1,252	20.9%	1,283	19.6%	1,333	17.9%
\$50,000 - \$74,999	1,620	27.0%	1,804	27.6%	2,124	28.6%
\$75,000 - \$99,999	621	10.3%	671	10.3%	756	10.2%
\$100,000 - \$149,999	526	8.7%	599	9.2%	726	9.8%
\$150,000 - \$249,999	186	3.1%	210	3.2%	257	3.5%
\$250,000 - \$499,999	108	1.8%	125	1.9%	155	2.1%
\$500,000 or more	26	0.4%	33	0.5%	48	0.6%
Total Age 75+	6,012	100.0%	6,534	100.0%	7,436	100.0%

Source: Claritas, April 24, 2007

Table  
Total Age 75+ Households in the PMA – 2009



For purposes of quantifying the number of eligible households in the PMA, Management has assumed that households with the following characteristics would generally be eligible for residency in an independent living unit at the Project based on the demographic cohorts available at the date of this study and the estimated average independent living monthly service fees at the Project.

- ◆ The householder is 75 years of age or older; and
- ◆ Annual household income of at least \$39,000.

As shown in Table \_\_\_\_, based on a minimum annual household income of \$39,000, there are estimated to be approximately 4,143 age and income qualified households in the PMA in 2007. By 2012, there are projected to be approximately 4,555 households in the PMA headed by persons with annual household incomes of at least \$39,000.

**Table \_\_\_\_\_**  
**Income Eligible Households for Independent Living Services**  
**Within the PMA**

<b>2007 (Estimated)</b>			
	<b>65 – 74</b>	<b>75+</b>	<b>Total</b>
Total Households:	12,693	13,104	25,797
<u>Household Income</u>			
Under \$39,000	7,575	8,961	16,536
\$39,000 and over:			
\$39,000 - \$49,999	1,297	1,056	2,353
\$50,000 - \$74,999	2,103	1,620	3,723
\$75,000 - \$99,999	762	621	1,383
\$100,000 plus	956	846	1,802
Total \$39,000 and over	5,118	4,143	9,261
Percentage of income eligible households	40.33%	31.62%	35.90%
<b>2012 (Projected)</b>			
	<b>65 – 74</b>	<b>75+</b>	<b>Total</b>
Total Households:	13,954	14,405	28,359
<u>Household Income</u>			
Under \$39,000	8,327	9,850	18,177
\$39,000 and over:			
\$39,000 - \$49,999	1,426	1,161	2,587
\$50,000 - \$74,999	2,312	1,781	4,093
\$75,000 - \$99,999	838	683	1,521
\$100,000 plus	1,051	930	1,981
Total \$39,000 and over	5,627	4,555	10,182
Percentage of income eligible households	40.33%	31.62%	35.90%
<i>Source: Claritas, April 24, 2007</i>			



Market Area Real Estate

Generally, the ability of prospective residents to sell their current residences is expected to affect their ability to move into the Project. Based on information obtained from Claritas, Inc. as of 2007, 73.1% of individuals age 65 and older in the PMA own their own homes and 26.9% rented.

Melissa Data Corp., a nationally renowned database collection company, has the following real estate trends for those zip codes located within the PMA based on information gathered from various county recorders offices.

**Table \_\_\_\_\_**  
**Market Area Real Estate Trends for PMA Zip Codes**

Zip Code	Town/City	County	2005		2006		2007 <sup>(A)</sup>	
			Number of Sales	Weighted Average Sale Price	Number of Sales	Weighted Average Sale Price	Number of Sales	Weighted Average Sale Price
33827	Babson Park	Polk	79	\$ 161,708	57	\$ 192,234	31	\$ 192,823
33830	Bartow	Polk	503	125,114	466	156,995	251	166,765
33838	Dundee	Polk	90	127,190	115	171,177	63	169,636
33839	Eagle Lake	Polk	75	131,467	116	213,208	43	165,486
33841	Fort Meade	Polk	108	89,930	130	122,061	61	132,901
33843	Frostproof	Polk	159	81,878	164	116,133	66	108,098
33844	Haines City	Polk	894	169,923	777	199,485	457	213,564
33853 <sup>(B)</sup>	Lake Wales	Polk	302	104,086	213	127,916	99	138,562
33859	Lake Wales	Polk	284	179,937	298	216,639	106	212,919
33880	Winter Haven	Polk	919	127,298	931	156,437	417	155,973
33881	Winter Haven	Polk	752	136,827	713	169,513	399	169,782
33884	Winter Haven	Polk	1,177	195,489	1,276	230,078	526	228,496
Total / Weighted Average			5,342	\$ 150,488	5,256	\$ 184,536	2,519	\$ 185,736
Source: Melissa Data Corp.								
(A) Data through September 2007.								
(B) The Project is located in zip code 33853.								

Claritas estimated the median house value in 2007 to be approximately \$99,000. For the purpose of the study, the 2007 weighted average sale price for a home in the PMA of approximately \$184,000. This amount is being used in our evaluation since it was based on actual real estate trends.

## COMPETITIVE SENIOR HOUSING COMMUNITIES

The competitors selected in this market study were based on their resident service package, reputation in the local healthcare community, and their proximity to the Project site, as well as their monthly fee range

### Independent Living Units

#### Comparable Retirement Communities

Comparable retirement communities can include several types of communities. Retirement communities can be continuing care retirement communities (“CCRCs”), as defined in Florida statutes, or rental independent living apartments that may offer higher levels of service on a fee for service basis. CCRCs typically involve the payment of an entrance fee and a monthly service fee while rental communities normally require only a monthly service fee. CCRCs offer housing and various levels of service and healthcare which provide for residents’ changing needs as the resident ages and begins to require a higher level of care. This care would be provided at the same monthly fee, a discounted rate for the higher levels of care, or on a market fee-for-service basis.

The Project will be a rental community offering a variety of unit sizes and configurations at a range of monthly service fees. Management has identified comparable retirement community providers that provide complete continuing care services.

To evaluate the list of competitors provided by Management, a search was conducted to identify existing and planned comparable retirement communities that offer similar services and amenities and which compete for similar age and income qualified residents within the PMA of the Project. We obtained and reviewed the following sources to compile an inventory of existing and planned independent living providers.

- Internet listing of senior housing projects within a 20-mile radius of the Site;
- FAHSA and FHCA directories of members;
- Local city and county planning commissions; and
- Conducted media research of local publications.

#### Existing Retirement Communities

The results of our market research indicate that there are two rental properties in the PMA offering services and amenities that are considered to be competitive with the Project.

Telephone interviews were conducted with representatives of these providers to verify fees and comparable services. Summary descriptions of the results are provided in Table \_\_\_\_.

*Lake Howard Heights*

Lake Howard Heights, a for-profit rental community, has 100 independent living units and 30 assisted living units. It is located in Winter Haven and is approximately 16 miles northwest of the Project. Monthly fees range from \$1,515 to \$2,520 per month for the studio, one, and two-bedroom units. The second person fee is \$500 per month. The units range in size from 450 to 800 square feet. Services include two restaurant-style meals per day (breakfast and dinner), all utilities except phone and cable TV, weekly housekeeping, weekly linen and towel service, apartment and community maintenance, 24-hour security personnel, emergency response system, scheduled transportation, wellness program, covered parking, and activities.

*Spring Haven Retirement Community*

Spring Haven Retirement Community, a for-profit rental community, has 200 independent living units and 100 assisted living units. This community also offers respite and adult day care services. It is located in Winter Haven and is approximately 17 miles northwest of the Project. Monthly fees range from \$1,375 to \$2,300 per month for the studio, one, and two-bedroom units. A lake view unit costs \$200 more per month. The second person fee is \$750 per month. The units range in size from 230 to 600 square feet. Services include two restaurant-style meals per day, all utilities except phone and cable TV, weekly housekeeping, launder of linens, complimentary use of washers and dryers, apartment maintenance and repair, 24-hour security personnel, emergency response system, scheduled transportation, wellness program, computer access, and activities.

*Comparable Retirement Communities Planned or Under Development*

Discussions with representatives of the local planning and permitting agencies and interviews with the management of existing retirement communities and local developers in the PMA identified no planned retirement communities within the defined PMA. We were able to identify one possible new development in Winter Haven. A for-profit provider is contemplating a new project that would include 160 independent living and 40 assisted living units in the initial phase of the development. We have considered this potential development in our evaluation.

**Table \_\_**  
**Comparable Retirement Communities within the PMA**

	Water's Edge of Lake Wales (the Project)	Lake Howard Heights	Spring Haven Retirement Community (A)
Location	Lake Wales	Winter Haven	Winter Haven
Distance from the Project	-	15.8 miles	17.2 miles
Corporate Structure	Not-for-profit	For-Profit	For-Profit
Type of Contract	Rental	Rental	Rental
Year Opened	Planned - 2009	1979	1983
Independent Living Units (ILU)	85	100	200
Assisted Living Units	30	30	100
Special Care Units	16	-	-
ILU Square Footage			
Studio Apartment	490	450	230
One-Bedroom Apartment	550 - 750	570	385
Two-Bedroom Apartment	900 - 1,100	800	520 - 600
Villas	1,235- 1,812		
ILU Monthly Fees			
Studio Apartment	\$1,750	\$1,515 - \$1,570	\$1,375 - \$1,475
One-Bedroom Apartment	\$1,950 - \$2,800	\$1,870 - \$1,980	\$1,650
Two-Bedroom Apartment	\$3,350 - \$3,900	\$2,520	\$2,100 - \$2,300
Villas	\$2,050 - \$2,900		
Second Person Fee	\$700	\$500	\$750
Assisted Living Monthly Fees	\$3,050 - \$3,540	\$2,200	\$2,175 - \$3,100
Special Care Monthly Fees	\$4,300		
Occupancy Rate			
Independent Living		93%	93%
Assisted Living		100%	89%
Occupied Units			
Independent Living		93	186
Assisted Living		30	89
Source: Telephone interviews, February 2008.			
(A) Represents occupancy rates and charges as of October 2007.			

*Summary of Independent Living Units*

There are 300 existing independent living units at comparable retirement communities located within the PMA of the Project. Including the Project's proposed 85 independent living units and planned 160 independent living units; the total number of existing and planned independent living units in the PMA is 545.

*Number of Age and Income Qualified Households*

The Project began development during 2007. Management estimated that the Project will be completed and begin operations in 2009. Management also assumed that the Project will reach stabilized occupancy by 2011. Table \_\_\_\_ presents results of the 2000 census, the forecast of the 65+ and 75+ households in 2007, and the projection of those same households in 2012. Using these numbers, we have interpolated those levels for 2009 and 2011.

**Table \_\_\_\_**  
**Age and Income Qualified Households for Independent Living Services**  
**2009 and 2011**

	2007 <sup>(1)</sup>	2009 <sup>(2)</sup>	2011 <sup>(2)</sup>	2012 <sup>(1)</sup>
Age 65 and above	9,261	9,619	9,991	10,182
Age 75 and above	4,143	4,303	4,469	4,555
(1) From Claritas report dated April 24, 2007				
(2) Interpolated amount				

*Independent Living Penetration and Saturation Rates*

The market penetration rate (Table \_\_\_\_ ) is calculated by dividing the number of available independent living units in the PMA by the total number of age and income qualified households in the PMA for the year the Project would be available for occupancy. Total available independent living units would include planned independent living units for the Project, planned independent living units for other communities, and units becoming available due to attrition. The market penetration rate indicates the percentage of estimated qualified households that the available units in the PMA would need to absorb in order for the entire market to achieve stabilized occupancy.

The market saturation rate (Table \_\_\_\_ ) is calculated by dividing the total number of existing and planned independent living units in the PMA by the total number of age and income qualified households in the PMA for the year the Project is expected to achieve stabilized occupancy. Market saturation measures the ability of the PMA to absorb all of the existing and planned units within its boundaries.

Table \_\_\_\_ shows the projected market penetration rate in 2009, the year the Project is planned to open. Table \_\_\_\_ portrays the projected market saturation levels for 2011, the year the Project is expected to reach stabilized occupancy.

Table \_\_\_\_  
Market Penetration Rate for Independent Living Services - 2009

<b><u>Qualified Households</u></b>	
Estimated age & income qualified households in 2009 <sup>(1)</sup> (A)	4,303
<b><u>Market Inventory of Independent Living Units</u></b>	
Number of independent living units planned for the Project	85
Number of planned independent living units at other projects <sup>(2)</sup>	160
Total planned independent living units in the PMA	245
Total planned independent living units in the PMA at 95% occupancy	233
Total existing independent living competitive units available due to attrition <sup>(3)</sup>	89
Total independent living units to be occupied	322
Less: Independent living units expected to be occupied by persons residing outside the PMA <sup>(4)</sup>	(97)
Total independent living units to be filled from the PMA at 95% occupancy (B)	225
Market Penetration Rate (B/A)	5.2%
<p>Notes:</p> <p>(1) Age and income eligible households (age 75 and over) include homeowners with income over \$39,000 and renters with income over \$45,000 in the year the Project is planned to open.</p> <p>(2) A for-profit provider is contemplating a new project in the Winter Haven area that would include approximately 160 independent living and 40 assisted living units. This project is in the initial phase of development.</p> <p>(3) Represents total existing independent living rental units at the identified competitors (Table ____ ) at 95% occupancy with an assumed resident turnover rate of 31.1% (<math>300 \times 95\% \times 31.1\% = 89</math> units) [Source: AAHSA's <i>The State of Seniors Housing, 2007</i>].</p> <p>(4) Assumes providers will draw 70% of residents from the PMA.</p>	

The estimated market penetration rate presented in Table \_\_\_\_ does not consider the following points:

- ◆ The income requirements are based on the weighted average monthly service fee for an independent living unit at the Project. The monthly service fee for a number of the independent living units is less than the weighted average monthly service fee used in the market penetration and saturation calculations; and
- ◆ Certain households may have less than the annual requirement and yet have resources available (i.e. support from family members, etc.) to pay monthly service fees as well as other living expenses.

Table \_\_\_\_\_  
**Market Saturation Rate for Independent Living Services – 2011**

<b><u>Qualified Households</u></b>	
Estimated age & income qualified households in 2011 <sup>(1)</sup> (A)	4,469
<b><u>Market Inventory of Independent Living Units</u></b>	
Number of independent living units planned for the Project	85
Number of existing independent living units <sup>(2)</sup>	300
Number of planned independent living units at other projects <sup>(3)</sup>	160
Total independent living units available in the PMA	545
Less: Vacancy factor <sup>(4)</sup>	(27)
Less: Units expected to be occupied by persons residing outside the PMA <sup>(5)</sup>	(155)
Total independent living units at the Project to be filled from the PMA at 95% occupancy (B)	363
Market Saturation Rate (B/A)	8.1%
<i>Notes:</i>	
<i>(1) Age and income eligible households (age 75 and over) include homeowners with income over \$39,000 and renters with income over \$45,000 in the year the Project is expected to reach stabilized occupancy.</i>	
<i>(2) Represents units in identified competitors (Table _____).</i>	
<i>(3) A for-profit provider is contemplating a new project in the Winter Haven area that would include approximately 160 independent living and 40 assisted living units. This project is in the initial phase of development.</i>	
<i>(4) Assumes providers will not be more than 95% occupied.</i>	
<i>(5) Assumes providers will draw 70% of residents from the PMA.</i>	

Fitch IBC (New York), a nationally recognized tax-exempt bond rating agency, has issued guidelines on market penetration and saturation rates for the senior housing and care provider group. Fitch indicates that it likes to see penetration and saturation rates below 5% and 15%, respectively.

The market penetration and saturation rates should serve as indicators in estimating the potential market available for the independent living units at the Project but must be considered in conjunction with other market factors such as occupancy levels at existing competitive retirement communities within the PMA, the number of proposed new providers, the size of units and physical design at all of the providers, and the marketing plans and efforts of Management.

### **Assisted Living Units**

Research was conducted to identify existing and planned comparable retirement communities which provide assisted living services and amenities similar to the Project and which compete for similar age and income qualified residents within the PMA of the Project. We obtained and reviewed the following sources to compile an inventory of existing and planned assisted living providers.

- ◇ Internet listing of senior housing projects within a 20-mile radius of the Site;
- ◇ Assisted Living Federation of America directories of members;
- ◇ Local city and county planning commissions; and
- ◇ Conducted media research of local publications.

The results of our market research indicate that there are eight providers offering assisted living units in the PMA that are considered to be competitive with the Project. Four of the eight assisted living competitors are experiencing at least 90% occupancy. The remaining four assisted living competitors are experiencing between 81% and 89% occupancy.

Telephone interviews were conducted with representatives of these competitive communities to verify fees and comparable services. Summary descriptions of the results are provided in Table \_\_\_\_\_. Management is of the opinion that these providers represent the competitive environment expected to impact the marketing of the assisted living units at the Project.

#### *Savannah Court of Lake Wales*

Savannah Court of Lake Wales, a for-profit rental community, is located in Lake Wales and is approximately one third of a mile south of the Project. This community has 43 assisted living units. The assisted living monthly rental fees range from \$2,260 to \$3,300 for studio and one-bedroom floor plans. The level of care fees range from \$300 to \$500 per month. The second person fee is \$1,000 per month. The units range in size from 176 to 352 square feet. Services include three restaurant-style meals per day, all utilities except telephone and cable, weekly housekeeping, linen and personal laundry, scheduled transportation, wellness program, and activities.

#### *Alterra Sterling House/ Clare Bridge of Winter Haven*

Alterra Sterling House and Alterra Clare Bridge of Winter Haven, for-profit rental communities owned by Brookdale Senior Living, are located in Winter Haven and are approximately 11 miles northwest of the Project. Alterra Sterling House has 42 assisted living apartments while Alterra Clare Bridge has 32 special care apartments. The communities are located next to one another and are operated by the same administrator. The assisted living monthly rental fees range from \$2,755 to \$3,320 for one-bedroom floor plans. The level of care fees range from \$366 to \$2,500 per month. The second person fees range from \$827 to \$996 per month. Services include three restaurant-style meals per day, all utilities except telephone and cable, weekly housekeeping, linen and personal laundry, scheduled transportation, wellness program, and activities

#### *Hawthorne Inn of Winter Haven*

Hawthorne Inn of Winter Haven, a not-for-profit rental community, is located in Winter Haven and is approximately 12 miles northwest of the Project. This community has 40 assisted living units and 16 special care units. The assisted living monthly rental fee is \$2,135 for semi-private room and \$2,575 for private room. The size of the studio unit is approximately 320 square feet. The level of care fees range from \$500 to \$1,000 per month. A second person is charged the same rate as the first person who needed care. Services include three meals per day, all utilities



except telephone and cable, weekly housekeeping, linen and personal laundry, scheduled transportation, wellness program, and activities.

*Savannah Court of Bartow*

Savannah Court of Bartow, a for-profit rental community, is located in Bartow and is approximately 15 miles west of the Project. This community has 30 assisted living units. The assisted living monthly rental fee is \$1,900 for semi-private room and \$2,695 for private room. The size of the one-bedroom unit is approximately 315 square feet. The level of care fees range from \$300 to \$1,000 per month. The second person fee is \$1,000 per month. Services include three restaurant-style meals per day, all utilities except telephone and cable, weekly housekeeping, linen laundry, scheduled transportation, wellness program, and activities

*Lake Howard Heights*

Lake Howard Heights, a for-profit rental community, has 100 independent living units and 30 assisted living units. It is located in Winter Haven and is approximately 16 miles northwest of the Project. The assisted living monthly rental fee is \$2,200 for a studio unit with approximately 390 square feet. The level of care fees range from \$0 to \$1,000. The second person fee is \$500 per month. Services include three restaurant-style meals per day, all utilities except phone and cable TV, weekly housekeeping, weekly linen and towel service, scheduled transportation, wellness program, and activities.

*Hampton Court*

Hampton Court, a rental community, is located in Haines City and is approximately 16 miles northwest of the Project. This community has 60 assisted living units. The assisted living monthly rental fees range from \$1,750 to \$3,000 for studio floor plans. The level of care fees range from \$250 to \$400 per month. The second person fee is \$800 per month. Services include three restaurant-style meals per day, all utilities except telephone and cable, weekly housekeeping, scheduled transportation, wellness program, and activities.

*Savannah Court of Haines City*

Savannah Court of Haines City, a for-profit rental community, is located in Haines City and is approximately 17 miles northwest of the Project. This community has 42 assisted living units. The assisted living monthly rental fees range from \$1,750 to \$1,950 for semi-private room and \$2,395 to \$2,495 for private room. The level of care fees range from \$300 to \$1,000 per month. The second person fee is \$1,200 per month. Services include three restaurant-style meals per day, all utilities except telephone and cable, weekly housekeeping, linen and personal laundry, scheduled transportation, wellness program, and activities

*Spring Haven Retirement Community*

Spring Haven Retirement Community, a for-profit rental community, has 200 independent living units and 100 assisted living units. This community also offers respite and adult day care services. It is located in Winter Haven and is approximately 17 miles northwest of the Project. The assisted living monthly rental fees range from \$2,175 to \$3,100 for studio, one-bedroom and

two-bedroom floor plans. A lake view unit costs \$200 more per month. The level of care fee is \$500 per month. The second person fee is \$1,250 per month. The units range in size from 210 to 520 square feet. Services include three restaurant-style meals a day with meal reminders, all utilities except telephone and cable, weekly housekeeping, linen and personal laundry, bathing assistance twice per week, and medical supervision, scheduled transportation, wellness program and activities.

#### **Other Assisted Living Communities**

The following assisted living communities are located in the PMA but have been excluded from the penetration and saturation calculations due to their low rates. These communities are as follows:

- 1) Meadows at Cypress Gardens (Winter Haven) with monthly assisted living fees range from \$1,150 to \$2,250; and
- 2) New Horizon (Winter Haven) with monthly assisted living all-inclusive fees range from \$1,675 to \$2,400.

#### ***Comparable Retirement Communities Planned or Under Development***

Discussions with representatives of the local planning and permitting agencies and interviews with the management of existing retirement communities and local developers in the PMA indicated no planned assisted living communities within the defined PMA. However, as discussed earlier, we identified a new development in the early stages of planning that would include approximately 40 assisted living units. We have included this in our evaluation of the market.

**Table**  
**Comparable Assisted Living and Special Care Communities Within the PMA**

	Water's Edge of Lake Wales (the Project)	Savannah Court of Lake Wales (A)	Alterra Sterling House/Clare Bridge of Winter Haven	Hawthorne Inn of Winter Haven (A)	Savannah Court of Bartow (A)	Lake Howard Heights	Hampton Court (A)	Savannah Court of Haines City	Spring Haven Retirement Community (A)
Location	Lake Wales	Lake Wales	Winter Haven	Winter Haven	Bartow	Winter Haven	Haines City	Haines City	Winter Haven
Distance from the Project	-	.3 mile	10.6 miles	12.4 miles	15.0 miles	15.8 miles	16.3 miles	16.6 miles	17.2 miles
Corporate Structure	Not-For-Profit	For-Profit	For Profit	Not-For Profit	For Profit	For-Profit	Unknown	For-Profit	For-Profit
Type of Contract	Rental	Rental	Rental	Rental	Rental	Rental	Rental	Rental	Rental
Year Opened	Planned - 2009	1998	1997	1997	2001	1979	2000	1998	1983
Assisted Living Units	30	43	42	40	30	30	60	42	100
Special Care Units	16	0	32	16	0	0	0	0	0
Assisted Living Monthly Fee									
Standard Monthly Fee	\$3,050 - \$3,540	\$2,260 - \$3,300	\$2,755 - \$3,320	\$2,135 - \$2,575	\$1,900 - \$2,695	\$2,200	\$1,750 - \$3,000	\$1,750 - \$2,495	\$2,175 - \$3,100
Level of Care Fee	\$100 - \$800	\$300 - \$500	\$366 - \$2,500	\$500 - \$1,000	\$300 - \$1,000	\$0 - \$1,000	\$250 - \$400	\$300 - \$1,000	\$500
Second Person Fee	\$0	\$1,000	\$827 - \$996	\$2,135 - \$2,575	\$1,000	\$500	\$800	\$1,200	\$1,250
Special Care Monthly Fee									
Standard Monthly Fee	\$4,300		\$2,670 - \$2,940	\$2,235 - \$2,675					
Level of Care Fee	\$100 - \$800		\$366 - \$2,500	\$500 - \$1,000					
Occupancy Rate		95%	81%	100%	100%	100%	83%	83%	89%
Assisted Living			81%	100%					
Special Care									
Occupied Units		41	34	40	30	30	50	35	89
Assisted Living			26	16					
Special Care									

Source: Telephone interviews, February 2008.

(4) Represents occupancy rates and charges as of October 2007.

### Estimated Qualified Households

A 1999 study by National Investment Conference (NIC) titled “Income Confirmation Study of Assisted Living Residents and the Age 75+ Population” indicated that income alone may not be the best indicator of market demand for ALs. Other factors include home equity, investment income, and family member support. As a result, for the purpose of this study, we have utilized an average revenue utilization of 85% and an estimated average monthly fee of \$3,200. Based on these assumptions, we estimated that a prospective resident would need an annual income of approximately \$39,000 to qualify for residency in an assisted living unit in the Project.

As noted in the independent living section, investment proceeds from the sale of a personal residence are forecasted to approximate \$6,000 annually. An age 75 or older householder who does not own a home (“renter”) will be able to afford the estimated average cost of an assisted living unit in the Project if he/she has an annual income of approximately \$45,000. An age 75 or older householder who owns a home would need a minimum annual income of approximately \$39,000.

It is assumed that 70% of the residents in the assisted living units will be from the PMA.

### Living Arrangements

While it is true that some health incidents will require a married couple to move into an assisted living facility, national statistics indicate that fewer than 5% of the current assisted living residents are couples. There is no indication that this percentage will change in the foreseeable future. Therefore, only single member households in the PMA will be considered to be potential candidates for assisted living services.

According to Claritas, there are approximately 4,143 age and income qualified households, and 32.59% of the households above the poverty level in the PMA are householders living alone. Therefore, of the estimated 6,354 persons living in income qualified households, approximately 2,071 are living alone.

### Frailty Indicators – Assisted Living

Dependence on others in performing certain activities of daily living (“ADLs”) is viewed as one indicator of the need for assisted living services. Although various national studies identify a large number of variables, ADLs are the most common measurements of frailty. According to the Assisted Living Overview, current assisted living residents demonstrate an average of three ADL deficiencies. It should be noted that these statistics reflect the characteristics of the existing resident population and not characteristics of those at the point of moving into an assisted living facility. Therefore, lower levels of ADL assistance may be typical for the potential assisted living move-in candidate.

There have been several national studies indicating the utilization of ADL support by older Americans. In 2000, the U.S. Bureau of the Census gathered data from respondents age 65 and older on mobility and self care limitations. In gathering the information, the Census Bureau defined mobility limits as those limitations that prevent individuals from easily going outside of

their home alone and participating in activities such as shopping and visiting a doctor's office. Self-care limitations were considered conditions that make it difficult for individuals to take care of their own personal needs, such as dressing, bathing, or other identified ADLs.

According to Claritas, 36.78% of the persons living in the PMA 65 and older need assistance with one or more ADLs. Therefore, of the estimated 2,071 persons living alone, approximately 762 would require assistance with at least one ADL in 2007.

**Table \_\_\_\_**  
**Estimated Number of Assisted Living**  
**Qualified Population in the PMA**

	<b>Assisted Living 2007</b>	
	<b>Number</b>	<b>Percentage</b>
Estimated age eligible households <sup>(1)</sup>	13,104	16.5%
Estimated age and income eligible households <sup>(2)</sup>	4,143	5.2%
Estimated age and income eligible population	6,354	
Estimated age and income eligible population living alone <sup>(3)</sup>	2,071	
Estimated age, income, living alone population requiring assistance (at risk population) <sup>(4)</sup>	762	

*Notes:*  
 (1) Eligible households are those households headed by an individual that are 75 and over.  
 (2) Age and income eligible households (age 75 and over) include homeowners with income over \$39,000 and renters over \$45,000.  
 (3) Living alone percentage based on Claritas, Inc. demographic estimates, 2000 Census.  
 (4) Percentage requiring assistance is based upon Claritas, Inc. demographic estimates.  
 Source: Claritas, April 24, 2007

Table \_\_\_\_ shows the estimate of the age, income, living status, and need for assistance population within the PMA.

Claritas projects the age 75+ cohort to grow at a compounded annual rate of 1.91%. Assuming the Project begins its resident fill-up by the year 2009, the qualified population is expected to increase from 762 to 791 individuals. The number of qualified population is estimated to be 822 individuals in 2011, the year the Project is expected to reach stabilized occupancy.

#### Assisted Living Penetration and Saturation Rates

The market penetration rate (Table \_\_\_\_ ) is calculated by dividing the number of available assisted living units in the PMA by the total number of age and income qualified individuals in the PMA for the year the Project would be available for occupancy. Total available assisted living units would include planned assisted living units for the Project, planned assisted living units for other communities, and units becoming available due to attrition. The market penetration rate indicates the percentage of estimated qualified individuals that the available units in the PMA would need to absorb in order for the entire market to achieve stabilized

occupancy.

The market saturation rate (Table \_\_\_\_ ) is calculated by dividing the total number of existing and planned assisted living units in the PMA by the total number of age and income qualified individuals in the PMA for the year the Project is expected to achieve stabilized occupancy. Market saturation measures the ability of the PMA to absorb all of the existing and planned units within its boundaries.

**Table \_\_\_\_**  
**Market Penetration Rate for Assisted Living Services - 2009**

<b><u>Qualified Individuals</u></b>	
Estimated age & income qualified individuals in 2009 <sup>(1)</sup> (A)	791
<b><u>Market Inventory of Assisted Living Units</u></b>	
Number of assisted living units planned for the Project	30
Number of planned assisted living units at other project <sup>(2)</sup>	40
Total planned assisted living units in the PMA	70
Total planned assisted living units in the PMA at 95% occupancy	67
Total existing assisted living competitive units available due to attrition <sup>(3)</sup>	197
Total assisted living units to be occupied	264
Less: Assisted living units expected to be occupied by persons residing outside the PMA <sup>(4)</sup>	(79)
Total assisted living units to be filled from the PMA at 95% occupancy (B)	185
Market Penetration Rate (B/A)	23.4%
<b>Notes:</b> (1) Age and income eligible individuals (age 75 and over) include homeowners with income over \$39,000 and renters with income over \$45,000 in the year the Project is planned to open. (2) A for-profit provider is contemplating a new project in the Winter Haven area that would include approximately 160 independent living and 40 assisted living units. This project is in the initial phase of development. (3) Represents total existing assisted living units at the identified competitors (Table ____ ) at 95% occupancy with an assumed resident turnover rate of 53.6% ( $387 \times 95\% \times 53.6\% = 197$ units) [Source: AAHSA's <i>The State of Seniors Housing 2007</i> ]. (4) Assumes providers will draw 70% of residents from the PMA.	

Table \_\_\_\_\_  
**Market Saturation Rate for Assisted Living Services – 2011**

<b><u>Qualified Individuals</u></b>	
Estimated age & income individuals households in 2011 <sup>(1)</sup>	822
Add: Occupied competitive assisted living unit inventory <sup>(2)</sup>	349
Total estimated age & income qualified individuals in the PMA (A)	1,171
<b><u>Market Inventory of Assisted Living Units</u></b>	
Number of assisted living units planned for the Project	30
Number of existing assisted living units <sup>(2)</sup>	387
Number of planned assisted living units at other projects <sup>(3)</sup>	40
Total assisted living units available in the PMA	457
Less: Vacancy factor <sup>(4)</sup>	(23)
Less: Assisted living units expected to be occupied by persons residing outside the PMA <sup>(5)</sup>	(130)
Total assisted living units at the Project to be filled from the PMA at 95% occupancy (B)	304
Market Saturation Rate (B/A)	26.0%
<b>Notes:</b> (1) Age and income eligible individuals (age 75 and over) include homeowners with income over \$39,000 and renters with income over \$45,000 in the year the Project is expected to reach stabilized occupancy. (2) Represents units in identified competitors (Table _____). (3) A for-profit provider is contemplating a new project in the Winter Haven area that would include approximately 160 independent living and 40 assisted living units. This project is in the initial phase of development. (4) Assumes providers will not be more than 95% occupied. (5) Assumes providers will draw 70% of residents from the PMA.	

### Special Care Units

Research was conducted to identify existing and planned comparable retirement communities which provide special care services similar to the Project and which compete for similar age and income qualified residents within the PMA of the Project. The following sources were researched to compile an inventory of existing and planned special care providers.

- ◇ Internet listing of senior housing projects within a 20-mile radius of the Site;
- ◇ FAHSA and FHCA directories of members;
- ◇ Local city and county planning commissions; and
- ◇ Conducted media research of local publications.

Market research results indicate that there are two providers offering special care units in the PMA that are considered to be competitive with the Project. A third provider, Meadows at Cypress Gardens, located in Winter Haven, has 22 special care units. The special care monthly fees for *Meadows at Cypress Gardens* range from \$1,150 to \$2,250 or are much lower than the other identified special care competitors (Table \_\_\_\_). Therefore, this special care community is not considered as a direct competitor for the Project.

Telephone interviews were conducted with representatives of these providers to verify fees and comparable services. Summary descriptions of the results are provided in Table \_\_\_\_\_. Management is of the opinion that these providers represent the competitive environment expected to impact the marketing of the special care units at the Project.

*Alterra Sterling House/ Clare Bridge of Winter Haven*

Alterra Sterling House and Alterra Clare Bridge of Winter Haven, for-profit rental communities owned by Brookdale Senior Living, are located in Winter Haven and are approximately 11 miles northwest of the Project. Alterra Sterling House has 42 assisted living apartments while Alterra Clare Bridge has 32 special care apartments. Both communities are located next to one another and are operated by the same administrator. The special care monthly rental fee is \$2,670 for semi-private room and \$2,940 for private room. The level of care fees range from \$366 to \$2,500 per month. Services include three restaurant-style meals per day, all utilities except telephone and cable, weekly housekeeping, linen and personal laundry, scheduled transportation, wellness program, and activities

*Hawthorne Inn of Winter Haven*

Hawthorne Inn of Winter Haven, a not-for-profit rental community, is located in Winter Haven and is approximately 12 miles northwest of the Project. This community has 40 assisted living units and 16 special care units. The special care monthly rental fee is \$2,235 for semi-private room and \$2,675 for private room. The size of the studio unit is approximately 320 square feet. The level of care fees range from \$500 to \$1,000 per month. Services include three meals per day, all utilities except telephone and cable, weekly housekeeping, linen and personal laundry, scheduled transportation, wellness program, and activities.

*Comparable Retirement Communities Planned or Under Development*

Based on discussions with representatives of the local planning and permitting agencies and interviews with the management of existing retirement communities and local developers in the PMA, there are no planned special care units within the defined PMA.

Estimated Qualified Households

For the purpose of this study, we have utilized the Project's estimated monthly fee of approximately \$4,300 for special care assisted living. Based on an 85% utilization of income assumption, we estimated that a prospective resident would need an annual income of approximately \$55,000 to qualify for residency in a special care unit in the Project.



As noted in the independent living section, investment proceeds from the sale of a personal residence are forecasted to approximate \$6,000 annually. An age 75 or older householder who does not own a home (“renter”) will be able to afford the estimated cost of a special care unit in the Project if he/she has an annual income of approximately \$61,000. An age 75 or older householder who owns a home would need a minimum annual income of approximately \$55,000.

#### Alzheimer’s Indicators

According to the Department of Health and Human Services (“DHHS”), the prevalence of dementia among the elderly increases sharply with age. Based on representative samples of the general population, DHHS found that among individuals aged 75 to 84; the rate of dementia was about 18.7% of the population. Among individuals aged 85 and older, the rate increased to 47.2%. Therefore, of the estimated 3,227 total age and income population between 75 and 84 years of age, approximately 603 individuals, or 18.7%, are likely to suffer from dementia. Of the estimated 713 age and income individuals aged 85 and older, approximately 337, or 47.2%, are considered likely to suffer from dementia. The estimated total age and income population likely to suffer from dementia is approximately 940 individuals.

Unlike traditional assisted living calculations, which factor in the percentage of individuals living alone as well as the percentage of individuals with mobility or care limits, Alzheimer’s demand calculations do not consider these statistics to be relevant factors. Whether living alone or with family, any Alzheimer’s patient is a potential candidate for structured Alzheimer’s assisted living care. In addition, the prevalence of mobility and care limits has no influence on the calculations, since the nature of the disease is primarily that of a cognitive impairment, with physical impairments arising as a result of cognitive degeneration.

Claritas projects the age 75+ cohort to grow at a compounded annual rate of 1.91%. Assuming the Project begins its resident fill-up by the year 2009, the qualified population is expected to increase from 940 to 976 individuals. The number of qualified population in 2011, the year the Project is expected to reach stabilized occupancy, is estimated to be 1,014 individuals.

Table \_\_\_\_  
**Estimated Number of Special Care  
 Qualified Population in the PMA**

	<b>Special Care 2007</b>	
	<b>Number</b>	<b>Percentage</b>
Estimated age eligible households <sup>(1)</sup>	13,104	16.5%
Estimated age and income eligible households <sup>(2)</sup>	2,568	3.2%
Estimated age and income eligible population	3,940	
Prevalence rate applied to estimated age and income eligible population		
Age 75 to 84 – assuming dementia prevalence rate	603	
Age 85+ - assuming dementia prevalence rate	337	
Estimated age and income eligible population likely to suffer dementia	940	
<i>Notes:</i> (1) Eligible households are those households headed by an individual age 75 and over. (2) Age and income eligible households (age 75 and over) include homeowners with income over \$55,000 and renters over \$61,000. Source: Claritas, April 24, 2007		

Based on the information concerning the age, income, and acuity characteristics of the PMA, the penetration and saturation rates for special care units are calculated as follows.

**Table \_\_\_\_**  
**Market Penetration Rate for Special Care Services - 2009**

<b><u>Qualified Individuals</u></b>	
Estimated age & income qualified individuals in 2009 <sup>(1)</sup> (A)	976
<b><u>Market Inventory of Special Care Units</u></b>	
Number of special care units planned for the Project	16
Number of planned special care units at other projects <sup>(2)</sup>	0
Total planned special care units in the PMA	16
Total planned special care units in the PMA at 95% occupancy	15
Total existing special care competitive units available due to attrition <sup>(3)</sup>	27
Total special care units to be occupied	42
Less: Special care units expected to be occupied by persons residing outside the PMA <sup>(4)</sup>	(13)
Total special care units to be filled from the PMA at 95% occupancy (B)	29
Market Penetration Rate (B/A)	3.0%
<b>Notes:</b> (1) Age and income eligible individuals (age 75 and over) include homeowners with income over \$55,000 and renters with income over \$61,000 in the year the Project is planned to open. (2) Per discussions with various zoning and building departments for counties and cities within the PMA, there are no new planned special care units. (3) Represents total existing special care units at the identified competitors (Table ____ ) at 95% occupancy with an assumed resident turnover rate of 59.6% ( $48 \times 95\% \times 59.6\% = 27$ units) [Source: AAHSA's <i>The State of Seniors Housing, 2007</i> ]. (4) Assumes providers will draw 70% of residents from the PMA.	

Table \_\_\_\_  
**Market Saturation Rate for Special Care Services – 2011**

<b><u>Qualified Individuals</u></b>	
Estimated age & income qualified individuals in 2011 <sup>(1)</sup> (A)	1,014
<b><u>Market Inventory of Special Care Units</u></b>	
Number of special care units planned for the Project	16
Number of existing special care units <sup>(2)</sup>	48
Number of planned special care units at other projects <sup>(3)</sup>	0
Total special care units available in the PMA	64
Less: Vacancy factor <sup>(4)</sup>	(3)
Less: Special care units expected to be occupied by persons residing outside the PMA <sup>(5)</sup>	(18)
Total special care units at the Project to be filled from the PMA at 95% occupancy (B)	43
Market Saturation Rate (B/A)	4.2%
<b>Notes:</b> (1) Age and income eligible individuals (age 75 and over) include homeowners with income over \$55,000 and renters with income over \$61,000 in the year the Project is expected to reach stabilized occupancy. (2) Represents units in identified competitors (Table ____). (3) Per discussions with various zoning and building departments for counties and cities within the PMA, there are no new planned special care units. (4) Assumes providers will not be more than 95% occupied. (5) Assumes providers will draw 70% of residents from the PMA.	

#### **Additional Financial Support**

Population data and income statistics may be utilized to an extent to estimate the number of qualified households and individuals for assisted living, special care, and skilled nursing services, but should not be relied upon entirely as a measure of success for a provider. The amount of financial support received from adult children (assumed to be those households aged 45 to 64 earning in excess of \$75,000 annually) to their parents may provide the financial means to afford these levels of care.

**Table \_\_\_\_**  
**Adult Care Givers**  
**Market Penetration Rate**

Age Cohort (Households)	
45 – 54 (estimated 2007)	4,016
55 – 59 (estimated 2007)	1,332
60 – 64 (estimated 2007)	1,217
Total	6,565
Total Support Units <sup>(A)</sup>	
	435
Market Penetration Rate	6.63%
<sup>(A)</sup> Total assisted living and special care units at the identified competitors within the PMA (Table ____).	

Additionally, non-income qualified seniors may have an asset base that would provide the financial means to afford these levels of care.

### ***Marketing the Project***

The success of the Project is dependent on Management's ability to achieve specified advance reservations and fill-up rates and its ability to keep the Project at forecasted occupancy levels.

To reserve an independent living unit, a prospective resident must pay a security deposit equal to the sum of two months rent for the applicable unit. The deposit is refundable to the depositor based on conditions stipulated in the Residency Agreement. Unit reservations were initiated in \_\_\_\_\_. As of \_\_\_\_\_, depositors representing \_\_\_\_\_ of the \_\_\_\_\_ planned units at the Project have paid a deposit of \$100.

### ***Forecasted Resident Move-ins***

Management anticipates that the proposed independent living units in the Project will become available for occupancy in \_\_\_\_\_.

Table \_\_\_\_ summarizes the assumed utilization of the independent living apartments and Villas during the first 24 months of operations as provided by Management.

**Table \_\_\_\_**  
**Net Monthly Move-Ins and Occupancy**

Month	Independent Living		
	Monthly Move-Ins	Total Occupancy	Percentage of Occupancy
	14	14	16%
	10	24	28%
	8	32	38%
	4	36	42%
	5	41	48%
	4	45	53%
	2	47	55%
	3	50	59%
	2	52	61%
	2	54	64%
	3	57	67%
	1	58	68%
	2	60	71%
	2	62	73%
	2	64	75%
	2	66	78%
	2	68	80%
	3	71	84%
	3	74	87%
	2	76	89%
	1	77	91%
	1	78	92%
	1	79	93%
	2	81	95%
<i>Source: Management</i>			

The assumed number of independent living apartments becoming available each year is due to resident turnover, and the double occupancy rate is based on Management's experience at other properties and statistics compiled by the American Association of Homes and Services for the Aging (AAHSA). Based on this information, annual apartment turnover during the forecast period is approximately 14%.

### Financial Assumptions Underlying Management's Financial Forecast and Significant Accounting Policies

The forecast has been prepared in accordance with generally accepted accounting principles expected to be used by Management during the period of the forecast.

Cash and Cash Equivalents - Cash and cash equivalents include investments in highly liquid instruments with an original maturity of three months or less, excluding amounts whose use is limited by the bond documents related to the Series 2008 Bonds.

Accounts Receivable - Resident accounts receivable are reported at the estimated net realizable amounts from residents and others for services rendered.

Assets Whose Use Is Limited - Assets whose use is limited are assumed to be carried at full value, which is based on the underlying securities (assumed to be carried at fair value), and is assumed to approximate historical cost. Management assumes no material change in values that would result in material net realized or unrealized gains or losses during the forecast period.

Property, Buildings, and Equipment - Property, buildings, and equipment are recorded at cost. Additions, renewals, and betterments that extend the life of an asset are capitalized. Maintenance and repair expenditures are expensed as incurred. Depreciation is provided using the straight-line method over the estimated useful lives of the respective assets, as follows:

	ESTIMATED USEFUL LIFE
Land and improvements	40 Years
Buildings and improvements	7 - 40 Years
Equipment and furniture	3 - 10 Years

Other Assets - Other assets include bond issuance costs incurred in issuing the Series 2008 Bonds, which are being amortized over the term of the Series 2008 Bonds, using a method that approximates the effective interest method.

Income Taxes - The Corporation is a limited liability corporation. The single member of the Corporation is Florida Christian Homes Senior Housing Inc., a not-for-profit corporation which is exempt from Federal and State income tax. For Federal income tax purposes, the Corporation is considered a "disregarded entity". Accordingly, the forecast includes no provision or liabilities for income taxes.

#### ***Revenue***

##### Service Income

Service fees paid by residents for maintenance, meals, security and other services are assessed monthly and are recognized as revenue in the period services are rendered.

Management has forecasted an annual 3% increase in the resident service fees starting in the fiscal year ending December 31, \_\_\_\_\_.

**Table \_\_\_\_\_**  
**Forecasted Average Monthly Service Fees**

Type of Units	No. of Units	Forecasted Rates				
		2008	2009	2010	2011	2012
<div></div>						

#### Community Fees

New residents will be charged a one-time fee of \$1,000 to cover the cost of preparation of an apartment for occupancy. After the initial fill-up, the annual revenue is based on the forecasted apartment turnover of 11 units.

#### Investment Income

Investment income consists of interest earned on assets whose use is limited and cash and investment balances. Investment income is assumed by Management to be earned at an average annual rate of 4%.

#### Other Revenue

Other revenue is estimated based upon Management's experience and consists of revenue from the following services:

- ◇ other meals;
- ◇ non-scheduled transportation;
- ◇ guest rooms; and
- ◇ other miscellaneous services.



***Operating Expenses***

Operating expenses have been forecasted based upon Management's experience with other communities and are adjusted for changes in occupancy. Non-salary expenses are assumed to increase 3% beginning in 2010.

**Staffing, Payroll and Related Benefits**

Salaries and wages were based upon the assumed staffing levels, wage rates, and assumed increases of 3% annually.

Table \_\_\_\_ summarizes the assumed staffing levels at the Project.

**Table \_\_\_\_**  
**Assumed Staffing Levels**  
**(At Stabilized Occupancy of \_\_\_\_%)**  
**Full Time Equivalents (FTE's)**

Department	FTE's
Dietary	
Environmental	
Security/Transportation	
Administration	
Marketing	
Plant Operations	
Social Services	
Total	

The average annual salary, according to Management, is assumed to approximate \$\_\_\_\_\_ (approximately \$\_\_\_\_\_ per hour) in the first year of operation. The cost of employee benefits, consisting primarily of payroll taxes, healthcare insurance, and other miscellaneous items, are provided by Management based upon the historical experience at similar facilities and are approximately \_\_\_\_\_% of salaries and wages based on Management's historical experience by department. The assumed increases in employee benefits are based on the assumed increases in staffing, salary, and wage rates.

**Dietary**

Non-salary dietary costs include raw food, contracted services, and supplies.

**Housekeeping**

Non-salary environmental services costs include housekeeping and laundry supplies and uniforms.

Transportation and Security

Non-salary transportation and security includes the cost of providing scheduled and non-scheduled transportation services for the residents. It also includes the cost of security services during times when on-site staffing is minimal and the maintenance of the emergency call system.

Building Services

Non-salary building services includes repairs and utility costs (gas, electricity, water, and sewer expenses).

Administration

Non-salary administrative expenses include telephone services, legal, professional fees, and other miscellaneous costs. Included in Administration is Management's estimate of annual property taxes.

Activities

Non-salary activities expenses mainly are the cost of those activities directly associated to the delivery of services to residents. These costs include, but are not limited to, concierge services, fitness center, and other costs.

Marketing

Non-salary marketing expenses consist primarily of ongoing marketing supplies and the costs of planning special events for the residents.

Management Fees

A description of services and payment for those services appears under the section entitled "Management Agreement" earlier in this report.

Depreciation Expense

Property and equipment are based on forecasted capital costs as provided by Management. Depreciation expense is computed based upon the straight-line method over the estimated useful lives of the related assets.

Interest Expense

As provided by the Corporation's underwriter, Raymond James and Associates (the "Underwriter"), the City of Lake Wales, Florida (the "Issuer") will issue the non-rated, tax-exempt Series 2008A Bonds in the amount of \$25,425,000, with a coupon rate of 7.25% and a term of 38 years and the non-rated, taxable Series 2008B Bonds in the amount of \$775,000, with a coupon rate of 11.00% and a term of 7 years. Interest on the Series 2008 Bonds would be payable semi-annually, beginning September 1, 2008. Annual principal payments will be made beginning September 1, 2011 and ending September 1, 2046.

### **Current Assets and Liabilities**

Various assumptions regarding assets and liabilities have been based upon the experience of Management, as well as the operating history of other facilities similar to the Project, and are summarized as follows:

- ◇ Accounts receivable are assumed to approximate \_\_\_\_\_ days of the current year's revenues;
- ◇ Accounts payable are assumed to approximate \_\_\_\_\_ weeks of expenses excluding salaries, employee benefits, and property taxes; and
- ◇ Accrued expenses are assumed to approximate \_\_\_\_\_ weeks of salaries and benefits and nine months of real estate tax expense.

### **Assets Whose Use Is Limited**

#### **Bond Fund**

The Bond Fund represents monthly advance payments of bond principal and interest to be made by the Corporation to the trustee relating to the Series 2008 Bonds. The funds held in the Bond Fund will be used by the trustee to make the annual principal payments and semi-annual interest payments to the owners of the Series 2008 Bonds when due.

#### **Debt Service Reserve Fund**

A Debt Service Reserve Fund in the amount of \$500,000 will be established under the Bond Indenture, which will be funded on the date of issuance of the Series 2008 Bonds with bond proceeds. The Debt Service Reserve Fund is available to pay the principal of and interest on the Series 2008 Bonds if the Corporation's cash available for debt service is insufficient to meet a scheduled payment.

#### **Operating Reserve Fund**

At closing, approximately \$500,000 will be placed in the Operating Reserve Fund. These funds are available to be used to meet operating expenses during the fill-up period. Any amount withdrawn from the Operating Reserve Fund must be replenished in 12 equal monthly installments.

#### **Capitalized Interest Fund**

At closing, approximately \$3,863,000 will be placed in a Capitalized Interest Fund. Amounts in the Capitalized Interest Fund will be available to pay interest on the Series 2008 Bonds for the construction period (12 months) and the first 12 months of operations.

#### **Project Fund**

The Project Fund is to be net funded from the Series 2008 Bonds proceeds and is to be used to pay the costs of construction and development.

Repair and Replacement Fund

Approximately \$\_\_\_\_\_ of the Series 2008 Bond proceeds will be placed in the Repair and Replacement Fund. Commencing on January 1, 2009, the Corporation shall make monthly deposits of one twelfth (1/12) of the Repair and Replacement Fund Requirement for credit to the Repair and Replacement Fund until the amount held in the Repair and Replacement Fund is equal to the Repair and Replacement Fund Requirement. The Corporation shall engage an Independent Consultant, reasonably satisfactory to the Bondholder Representative, to conduct an analysis to determine the current and projected capital needs of the Project Facilities and make a determination, based on such study, of the amount that should be held in the Repair and Replacement Fund.

Charitable Purpose Fund

A fund in the amount of \$\_\_\_\_\_, to be funded from operating revenues, will be established by Management and deposited with the Bond Trustee in the first operating year for the Project. The Trustee shall disburse amounts on deposit in the Charitable Purpose Fund to or upon the order of the Corporation to subsidize rentals payable by persons unable to afford them.

**Sensitivity [TO BE ADDED]**

The financial forecast is based in part on Management's assumption that the Project will reach a stabilized occupancy of \_\_\_\_% after a fill-up period of approximately 18 months. Management has conducted a series of sensitivity analyses, which demonstrate the following alternative occurrences. These analyses did not include an excess cash estimate.

- ◇ A stabilized occupancy (79%) required to meet a break-even Debt Service Coverage (1.0x); and
- ◇ A fill-up period of 36 months.

**Table \_\_\_\_**  
**Sensitivity I**  
**Breakeven Analysis**  
**(Assumes 79% Occupancy is Maintained)**

	Year Ending December 31,				
	2008	2009	2010	2011	2012
Service Income					
Change in Net (Deficit)					
Debt Service Coverage*					
Days Cash on Hand					
<i>*No Debt Service Coverage Requirement would be required because stabilization will not have occurred.</i>					

**Table \_\_\_\_**  
**Sensitivity II**  
**Slow Fill-up (36 Months) Analysis**

	Year Ending December 31,				
	2008	2009	2010	2011	2012
Service Income					
Change in Net Assets					
Debt Service Coverage					
Days Cash on Hand					

**APPENDIX C**  
**APPENDIX D**  
**APPENDIX E**

**DOCUMENTS PENDING**



§ \_\_\_\_\_  
CITY OF LAKE WALES, FLORIDA  
RETIREMENT FACILITY REVENUE BONDS  
(WATER'S EDGE OF LAKE WALES PROJECT)  
SERIES 2008A

§ \_\_\_\_\_  
CITY OF LAKE WALES, FLORIDA  
TAXABLE RETIREMENT FACILITY  
REVENUE BONDS  
(WATER'S EDGE OF LAKE WALES PROJECT)  
SERIES 2008B

\_\_\_\_\_  
**BOND PURCHASE AGREEMENT**  
\_\_\_\_\_

\_\_\_\_\_, 2008

City of Lake Wales, Florida  
Lake Wales, Florida

Water's Edge of Lake Wales, LLC  
Largo, Florida

Ladies and Gentlemen:

Raymond James & Associates, Inc. (the "Underwriter") hereby offers to enter into this Bond Purchase Agreement with the City of Lake Wales, Florida (the "Issuer") and Water's Edge of Lake Wales, LLC (the "Borrower").

This offer is made subject to acceptance by the Issuer and the Borrower prior to 3:00 p.m., Tampa, Florida time, on the date hereof; and, upon such acceptance, this Bond Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Issuer, the Borrower and the Underwriter. If this offer is not so accepted, it is subject to withdrawal by the Underwriter upon written notice delivered to the Issuer and the Borrower at any time prior to such acceptance.

1. **Definitions.** As used in this Bond Purchase Agreement, the following terms have the following meanings, unless the context indicates a different meaning:

"Act" means Chapter 166, Florida Statutes, Part II, Chapter 159, Florida Statutes, and other applicable provisions of law.

"Architect" means Genesis Architecture, LLC.

"Bond Counsel" means Nabors, Giblin & Nickerson, P.A., Tampa, Florida.

"Bond Documents" means the Bonds, this Bond Purchase Agreement, the Master Indenture, the Mortgage, the Loan Agreement, the Tax Compliance Agreement, the Series 2008 Notes, the Continuing Disclosure Agreement, the Bond Indenture and all other documents which the Issuer or the Borrower has executed and delivered, or may hereafter execute and deliver, in connection with the issuance of the Bonds, together with any and all amendments thereto as of the Closing, each of which shall be in form and substance satisfactory to the Underwriter.

"Bond Indenture" means the Indenture of Trust by and between the Issuer and the Bond Trustee, in form and substance satisfactory to the Underwriter.

"Bond Trustee" means Wells Fargo Bank, National Association in its capacity as trustee under the Bond Indenture.

"Bonds" means the \$\_\_\_\_\_ City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales Project), Series 2008A and the \$\_\_\_\_\_ City of Lake Wales, Florida Retirement Facility Taxable Revenue Bonds (Water's Edge of Lake Wales Project), Series 2008B, which are more particularly described in the Limited Offering Memorandum.

"Borrower Documents" means the Bond Documents to which the Borrower is a party and all other documents delivered by the Borrower in connection with the acquisition, development, construction, marketing, management and financing of the Project.

"Business Day" or "business day" means any day other than (i) a Saturday, Sunday or legal holiday in the State and (ii) a day on which the New York Stock Exchange is closed.

"Closing" means 10:00 a.m., Tampa, Florida time, on \_\_\_\_\_, 2008, or at such other time or on such earlier or later date upon which the Underwriter, the Issuer and the Borrower mutually agree.

"Code" means the Internal Revenue Code of 1986, as amended.

"Construction Manager" means Sweet Grass Company, LLC.

"Continuing Disclosure Agreement" means the Continuing Disclosure Agreement by and between the Borrower and the Bond Trustee, as trustee and dissemination agent, in form and substance satisfactory to the Underwriter.

"Deed" means the Warranty Deed dated \_\_\_\_\_, 2008.

"Developer" means Life Wellness Communities.

"Development Agreement" means the Development Agreement dated \_\_\_\_\_ between the Borrower and the Developer.

"Feasibility Consultant" means Moore Stephens Lovelace, P.A.



"Feasibility Study" means the Market and Financial Feasibility Study prepared by the Feasibility Consultant, a copy of which is included in the Limited Offering Memorandum as Appendix B.

"Issuer" means the City of Lake Wales, Florida, a municipal corporation duly organized and validly existing under the laws of the State.

"Limited Offering Memorandum" means the Limited Offering Memorandum relating to the Bonds, dated \_\_\_\_\_, 2008, including the cover page and all appendices, exhibits, reports and statements included therein or attached thereto, together with any amendments thereto that are made between the date hereof and the date of the Closing, in form and substance satisfactory to the Underwriter.

"Loan Agreement" means the Loan Agreement by and between the Issuer and the Borrower relating to the Bonds, in form and substance satisfactory to the Underwriter.

"Management Agreement" means the Management Agreement between \_\_\_\_\_ and the Manager.

"Manager" means Legacy Healthcare Management, LLC, a Florida limited liability company.

"Master Indenture" means the Master Trust Indenture dated as of March 1, 2008, between the Borrower and the Master Trustee and all supplements thereto.

"Master Trustee" means Wells Fargo Bank, National Association, its successors and assigns.

"Mortgage" means the Mortgage and Security Agreement dated as of March 1, 2008 between the Borrower and the Master Trustee, in form and substance satisfactory to the Underwriter.

"Mortgaged Property" shall have the meaning given such term in the Mortgage.

"Project" means the Project as described in the Limited Offering Memorandum.

"Purchase Price" means (a) with respect to the Series 2008A Bonds, \$\_\_\_\_\_, which amount is equal to the aggregate principal amount of the Series 2008A Bonds (\$\_\_\_\_\_), less an amount of money equal to the Underwriter's Discount attributable to the Series 2008A Bonds and (b) with respect to the Series 2008B Bonds, \$\_\_\_\_\_, which amount is equal to the aggregate principal amount of the Series 2008B Bonds (\$\_\_\_\_\_), less an amount of money equal to the Underwriter's Discount attributable to the Series 2008B Bonds.

"Resolution" means the resolution of the Issuer adopted \_\_\_\_\_, 2008.

"Rule 15c2-12" means Rule 15c2-12 of the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Series 2008 Notes" means the Series 2008A Note and the Series 2008B Note issued by the Borrower pursuant to the Master Indenture.

"State" means the State of Florida.

"Tax Compliance Agreement" means the Tax Exemption Agreement and Certificate dated as of March 1, 2008, between the Issuer and the Borrower.

"Underwriter" means Raymond James & Associates, Inc.

"Underwriter's Discount" means the sum of \$\_\_\_\_\_.

2. **Purchase of Bonds; Description.** Upon the terms and conditions and upon the basis of the representations herein set forth, the Underwriter hereby agrees to purchase, and the Issuer hereby agrees to sell to the Underwriter, all (but not less than all) of the Bonds, at the aggregate purchase price equal to the Purchase Price, which amount shall be payable to the order of the Issuer at Closing in immediately available funds. The Underwriter reserves the right to change the prices or yields of the Bonds as the Underwriter deems necessary or desirable in connection with the sale of the Bonds and to sell the Bonds to dealers (including dealer banks and dealers depositing Bonds into investment trusts) and others, in each case at prices different from the prices set forth on the cover page to the Limited Offering Memorandum. The Underwriter also reserves the right (a) to over-allot or effect transactions which stabilize or maintain the market price of the Bonds at a level above or below that which might otherwise prevail in the open market and (b) to discontinue such stabilizing, if commenced, at any time.

The Bonds shall be dated, shall mature and shall bear interest at the rate or rates as set forth in Schedule 1. The Bonds shall otherwise have the terms and conditions and shall be secured as set forth in the Limited Offering Memorandum.

3. **Limited Offering Memorandum.** The Issuer has delivered or caused to be delivered to the Underwriter two copies of the Limited Offering Memorandum duly executed by the Issuer and the Borrower. The Issuer and the Borrower have duly approved, authorized and ratified the use and distribution of the Limited Offering Memorandum.

4. **Authorization to Use Documents in Connection with Sale of Bonds.** The Issuer and the Borrower authorize the use and distribution of copies of the Limited Offering Memorandum (including all amendments thereof and supplements thereto) and the Bond Documents in connection with the sale of the Bonds.

5. **Certain Representations and Covenants of the Issuer.** The Issuer hereby represents and agrees as follows:

(a) The statements and information in the Limited Offering Memorandum relating to the Issuer under the headings "The Issuer" and "Litigation" (only the first paragraph thereof) are true, correct, and complete in all material respects, and do not contain any untrue statement of a material fact relating to the Issuer or omit to state a material fact relating to the Issuer that is necessary to make the statements and information therein, in the light of the circumstances under

which they were made, not misleading and the Issuer consents to the use of such statements and information by the Underwriter.

(b) The Issuer is a municipal corporation existing under the laws of the State, with power and authority to execute and deliver this Bond Purchase Agreement, the Bond Indenture and the Loan Agreement and to perform its obligations hereunder and thereunder and to issue and sell the Bonds pursuant hereto and to the Bond Indenture.

(c) The Issuer has taken all necessary action and has complied with all provisions of law, including the Constitution of the State, required to make this Bond Purchase Agreement, the Bond Indenture, the Loan Agreement and the Bonds the valid obligations they purport to be; and when executed and delivered by the parties thereto and hereto, this Bond Purchase Agreement, the Bond Indenture, the Tax Compliance Agreement and the Loan Agreement will constitute valid and binding agreements of the Issuer and be enforceable in accordance with their respective terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles or public policy and to applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted.

(d) When delivered to and paid for by the Underwriter in accordance with the terms of this Bond Purchase Agreement, the Bonds will constitute valid and binding limited obligations of the Issuer enforceable in accordance with their terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles or public policy and to applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted and will be entitled to the benefits of the Bond Indenture.

(e) The execution, delivery and compliance with the terms and conditions of the Bond Documents to which the Issuer is a party will not violate or conflict with any provision of the Constitution of the State or any applicable statute, or any rule, order, regulation, judgment or decree of any court, agency or other governmental or administrative board or body to which the Issuer is subject, or conflict with or constitute a breach of or a default under any indenture, mortgage, deed of trust, agreement or other instrument to which the Issuer is a party or by which it or its properties are bound.

(f) No additional or further approval, consent or authorization of any governmental or public agency or authority not already obtained is required by the Issuer in connection with the issuance or delivery of the Bonds to the Underwriter or the execution, delivery and performance by the Issuer of its obligations under the other Bond Documents to which the Issuer is a party, except that no representation is made concerning compliance with state or federal securities or Blue Sky laws.

(g) There is no action, suit, proceeding or investigation at law or in equity in or before any court, agency or other governmental or administrative board or body, pending against the Issuer or, to the best of the knowledge of the Issuer, threatened, challenging or contesting the existence or powers of the Issuer, the authorization of any officers of the Issuer to act in their respective capacities, or the issuance of the Bonds, or in which an unfavorable decision, ruling or finding would adversely affect the validity or enforceability of the Bonds or the other Bond

Documents, the performance by the Issuer of any of its obligations thereunder or hereunder, or the issuance of the Bonds.

(h) The Issuer has not been in default in the payment of principal or interest on any bonds, notes or other debt obligations evidencing indebtedness at any time since its organization.

(i) The Issuer will cooperate with the Underwriter in qualifying the Bonds for offer and sale and determining their eligibility for investment under the laws of the jurisdictions designated by the Underwriter, provided that the Issuer shall not be required to qualify to do business, register as a broker/dealer or consent to service of process in any state or jurisdiction other than the State and the Issuer's out-of-pocket costs and attorney's fees shall be paid out of the Bond proceeds or otherwise provided for.

(j) The Issuer will not take or omit to take any action that may adversely affect the exclusion from gross income for federal income tax purposes or the exemption from State and local tax of interest on the Bonds, as applicable.

(k) Any certificate signed by any officer of the Issuer and delivered to the Underwriter shall be deemed a representation by the Issuer to the Underwriter as to the truth of the statements made therein.

6. **Certain Representations, Warranties and Covenants of the Borrower.** The Borrower makes the following representations, warranties and agreements, all of which shall survive the Closing:

(a) The Borrower is a limited liability company duly organized, validly existing and in good standing under the laws of the State. The Borrower has full power and authority to execute and deliver the Borrower Documents and to undertake and perform its obligations thereunder and hereunder.

(b) The Borrower is organized and operated exclusively for charitable purposes and not for pecuniary profit, no part of the net earnings of which inures to the benefit of any person, private stockholder or individual.

(c) No portion of the proceeds of the Bonds shall be used in any unrelated trade or business as determined pursuant to Section 513(a) of the Code.

(d) The execution and delivery of, and compliance with the terms and conditions of, the Borrower Documents, and the carrying out and consummation of the transactions contemplated thereby and by the Limited Offering Memorandum will not violate or conflict with any provision of any statute or any rule, order, regulation, judgment or decree of any court, agency or other governmental or administrative board or body to which the Borrower is subject, or conflict with or constitute a breach of or a default under any provision of the Borrower's operating agreement, articles of organization or bylaws, or any indenture, mortgage, deed of trust, agreement or other instrument to which the Borrower is a party or by which the Borrower or its properties are bound.

(e) The statements and information contained in the Limited Offering Memorandum with respect to the Project, the Borrower, the plan of financing and the acquisition, development,

construction, marketing, management and financing of the Project, including (without limitation) all statements and information under the captions "Introductory Statement," "Estimated Sources and Uses of Funds," "Plan of Financing," "Certain Bondholders' Risks," "Security and Sources of Payment for the Series 2008 Bonds," "Annual Debt Service Requirements of Series 2008 Bonds," "Feasibility Study," "Litigation" (only the second paragraph thereunder), "Relationships," "Continuing Disclosure" and "Miscellaneous" and all statements and information in Appendix A to the Limited Offering Memorandum, are true, correct and complete and such statements and information do not contain any untrue statement of a material fact or omit to state any material fact necessary to make such statements and information not misleading in light of the circumstances under which they were made. The Borrower has approved and consents to the use of the Limited Offering Memorandum by the Underwriter.

(f) The execution and delivery by the Borrower of the Borrower Documents have been duly authorized by the Borrower, and as of the date of Closing, each Borrower Document will have been duly executed and delivered by the Borrower, will not have been amended, modified or rescinded and will be in full force and effect.

(g) All licenses, consents, permits, approvals or authorizations of any federal, state or local governmental authority required to be obtained by or on behalf of the Borrower in connection with the acquisition, development, construction and operation of the Project for the purposes described in the Limited Offering Memorandum, the execution and delivery of the Borrower Documents and the performance by the Borrower of its obligations thereunder and hereunder and the consummation of the transactions contemplated thereby and by the Limited Offering Memorandum have been duly obtained, other than licenses or permits required for occupancy or operation of the Project upon its completion. The Borrower has complied, or by the date of Closing will have complied, with all applicable provisions of law requiring any designation, declaration, filing, registration or qualification with any governmental authority in connection therewith, other than as may be required by state or federal securities laws.

(h) There is no action, suit, proceeding or investigation pending or, to the Borrower's knowledge, threatened against the Borrower which might materially adversely affect the business, properties or financial condition of the Borrower, or in which an unfavorable decision, ruling or finding would adversely affect the validity, accuracy, completeness or enforceability of the Borrower Documents, the performance by the Borrower of any of its obligations thereunder or the consummation of any of the transactions contemplated thereby or by the Limited Offering Memorandum. The Borrower is not in default under any applicable statute, rule, order or regulation of any governmental body.

(i) The Borrower has created no other lien, encumbrance or security interest with respect to the Mortgaged Property or the Gross Revenues (each as defined in the Loan Agreement) other than those permitted by the Master Indenture.

(j) Any certificate signed by any officer of the Borrower and delivered to the Issuer or the Underwriter shall be deemed a representation and warranty by the Borrower to the Issuer or the Underwriter, respectively, as to the truth of the statements made therein.

(k) The Borrower has not been in default with respect to the payment of principal or interest on any obligation evidencing an indebtedness at any time since its organization.

(l) The Borrower agrees that it will promptly notify the Underwriter and the Issuer of any material adverse change with respect to the Mortgaged Property or its businesses, property or financial condition occurring before Closing and for up to 90 days after Closing which is not disclosed in the Limited Offering Memorandum.

(m) The Borrower agrees that it will refrain from taking any action or permitting any action to be taken that results in the loss of the exclusion from gross income of the interest on the Series 2008A Bonds for federal income tax purposes.

(n) The Borrower agrees that it will deliver to the Underwriter, concurrently with its delivery thereof to the Bond Trustee or the Bondholder Representative (as defined in the Bond Indenture), all financial statements, reports, documents, certificates, and other items required or permitted to be delivered to the Bond Trustee or the Bondholder Representative under the Loan Agreement.

(o) The Borrower agrees that whenever the Borrower is required to appoint a Management Consultant under and as defined in the Master Indenture, or proposes to appoint a new Manager under and as defined in the Master Indenture (whether or not required pursuant to the Master Indenture), it will give prior notice to the Underwriter of the person or persons, or firm or firms, it is considering for such appointment, and shall not appoint any such person or firm which is unsatisfactory to the Underwriter.

(p) The Borrower agrees that it will comply with its obligations under the Continuing Disclosure Agreement.

(q) The Borrower has not created any adverse claims, mortgages, liens, charges or encumbrances affecting the Mortgaged Property other than Permitted Encumbrances (as defined in the Master Indenture). As of the date of Closing, the Borrower will not have entered into or issued any instrument, contract or arrangement of any kind that might give rise to any lien or encumbrance on the Mortgaged Property other than the Permitted Encumbrances.

(r) The Feasibility Study is based upon reasonable assumptions. There have been no substantial changes in such assumptions or in the facts and information upon which such assumptions are based since the date of the Feasibility Study. The Borrower has reviewed and approved the financial forecasts contained in the Feasibility Study and has no reason to believe that during the forecast period the financial condition of the Borrower will be less favorable than the financial condition reflected in such financial forecasts.

7. **Closing.** At or prior to the Closing, the Issuer will deliver or cause to be delivered to The Depository Trust Company ("DTC") or its agent in accordance with this paragraph the Bonds evidenced by a single certificate for each maturity of each series of the Bonds, duly executed and authenticated and registered in the name of Cede & Co. At the time of the Closing, there will be delivered to the Underwriter at the offices of Nabors, Giblin & Nickerson, P.A., Tampa, Florida, or at such other place upon which the Underwriter, the Issuer and the Borrower mutually agree, the other documents hereinafter mentioned. At the Closing, the Underwriter will accept delivery of the Bonds and pay the Purchase Price in the form prescribed in Section 2. The Bonds either will (a) be delivered to DTC at least one business day prior to the Closing, or (b) be held by the Bond Trustee pursuant to DTC's "FAST" system.

8. **Conditions to Obligations of the Underwriter.** The Underwriter has entered into this Bond Purchase Agreement in reliance upon the representations, warranties and agreements of the Issuer and the Borrower set forth herein. The obligation of the Underwriter to purchase the Bonds is subject to the performance by each of the Issuer and the Borrower of its obligations to be performed hereunder, both on the date hereof and at and prior to the date of the Closing, and the accuracy of the representations and warranties of each of the Issuer and the Borrower set forth herein, as of the date hereof and as of the date of the Closing. The obligation of the Underwriter to purchase the Bonds is also subject to the following further conditions:

(a) Prior to or simultaneously with the execution of this Bond Purchase Agreement, the Underwriter shall have received the following:

(i) a letter from the Feasibility Consultant addressed to the Issuer, the Borrower and the Underwriter dated the date of the Limited Offering Memorandum consenting to (A) the use of the Feasibility Study in the Limited Offering Memorandum, and (B) all references to the Feasibility Consultant in the Limited Offering Memorandum;

(ii) a letter or certificate from the Architect, dated the date hereof and addressed to the Issuer, the Borrower and the Underwriter, (A) consenting to all references to the Architect in the Limited Offering Memorandum and (B) including a statement to the effect that the statements and information contained in Appendix A to the Limited Offering Memorandum under the heading "Architect" are true, correct and complete in all material respects, and such statements and information do not contain any untrue statement of any material fact or omit to state any material fact necessary to make such statements and information, in light of the circumstances under which they are made, not misleading in any material respect;

(iii) a letter or certificate from the Construction Manager, dated the date hereof and addressed to the Issuer, the Borrower and the Underwriter, (A) consenting to all references to the Construction Manager in the Limited Offering Memorandum and (B) including a statement to the effect that the statements and information contained in Appendix A to the Limited Offering Memorandum under the heading "Construction Manager" are true, correct and complete in all material respects, and such statements and information do not contain any untrue statement of any material fact or omit to state any material fact necessary to make such statements and information, in light of the circumstances under which they are made, not misleading in any material respect;

(iv) a letter or certificate from the Developer, dated the date hereof, and addressed to the Issuer, the Borrower and the Underwriter, (A) consenting to all references to the Developer in the Limited Offering Memorandum, and (B) including a statement to the effect that the statements and information contained in Appendix A to the Limited Offering Memorandum under the heading "Development Services" are true, correct and complete in all material respects, and such statements and information do not contain any untrue statement of any material fact or omit to state any material fact necessary to make such statements and information, in light of the circumstances under which they are made, not misleading in any material respect;

(v) a letter or certificate from the Manager, dated the date hereof, and addressed to the Issuer, the Borrower and the Underwriter, (A) consenting to all references to the Manager in the Limited Offering Memorandum, and (B) including a statement to the effect that the statements and information contained in Appendix A to the Limited Offering Memorandum under the heading "Management of the Community" are true, correct and complete in all material respects, and such statements and information do not contain any untrue statement of any material fact or omit to state any material fact necessary to make such statements and information, in light of the circumstances under which they are made, not misleading in any material respect.

(b) At the time of the Closing:

(i) this Bond Purchase Agreement, the other Bond Documents and the other Borrower Documents shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Underwriter;

(ii) the proceeds of the sale of the Bonds shall be applied or deposited with the Bond Trustee for application as described in the Limited Offering Memorandum; and

(iii) there shall be in full force and effect such resolutions, orders and proceedings as, in the opinion of Bond Counsel, shall be necessary in connection with the transactions described herein.

(c) At or prior to the Closing, the Underwriter shall receive the following:

(i) evidence satisfactory to the Underwriter that all conditions precedent to the issuance and delivery of the Bonds have been satisfied;

(ii) a certified copy of all proceedings of the Issuer pertaining to the authorization, issuance and sale of the Bonds and the transactions described in the Limited Offering Memorandum;

(iii) a copy of the Articles of Organization of the Borrower, certified by the proper State authorities, a certified copy of the Operating Agreement of the Borrower and a certified copy of all proceedings of the Borrower pertaining to the transactions described in the Limited Offering Memorandum, including the authorization, execution and delivery of the Borrower Documents;

(iv) evidence satisfactory to the Underwriter that all consents, permits, licenses, accreditations, certificates and other approvals (governmental or otherwise) that are necessary for the construction and operation of the Project, including (without limitation) grading and building permits, have been obtained or will be obtained prior to the commencement of construction or operation of that portion of the Project for which such consents, permits, licenses, accreditations, certificates or other approvals are needed;

(v) evidence satisfactory to the Underwriter that the Borrower is in good standing as a State limited liability company, authorized to transact business in the State;



(vi) an opinion of Bond Counsel dated the date of Closing substantially in the form set forth in Appendix D to the Limited Offering Memorandum, together with (A) a letter addressed to the Underwriter and the Bond Trustee to the effect that the Underwriter and the Bond Trustee may rely upon such opinion and (B) an opinion of Bond Counsel dated the date of Closing in a form acceptable to the Underwriter;

(vii) an opinion of counsel to the Issuer dated the date of Closing addressed to the Underwriter in a form acceptable to the Underwriter;

(viii) an opinion of counsel to the Borrower dated the date of Closing addressed to the Issuer and the Underwriter in a form acceptable to the Underwriter;

(ix) a certificate of the Issuer dated the date of Closing executed by an officer of the Issuer satisfactory to the Underwriter to the effect that:

(A) each of the representations of the Issuer contained in this Bond Purchase Agreement is true and correct as of the date of Closing;

(B) each of the covenants and agreements of the Issuer contained in this Bond Purchase Agreement which are required to be performed on or before the date of Closing has been duly performed; and

(C) as of the date of the Closing, no event affecting the Issuer has occurred since the date of the Limited Offering Memorandum that should be disclosed in the Limited Offering Memorandum for the purposes for which it is to be used or that it is necessary to disclose therein in order to make the statements and information and statements contained therein not misleading in any material respect;

(x) a certificate of the Borrower dated the date of Closing executed by an officer of the Borrower satisfactory to the Underwriter to the effect that:

(A) each of the representations and warranties of the Borrower contained in this Bond Purchase Agreement is true and correct as of the date of Closing;

(B) each of the covenants and agreements of the Borrower contained in this Bond Purchase Agreement which are required to be performed on or before the date of Closing has been duly performed; and

(C) as of the date of the Closing, no event affecting the Borrower has occurred since the date of the Limited Offering Memorandum that should be disclosed in the Limited Offering Memorandum for the purposes for which it is to be used or that it is necessary to disclose therein in order to make the statements and information and statements contained therein not misleading in any material respect;

(xi) certificates of the Issuer and the Borrower, dated the date of Closing (A) setting forth such facts, estimates and circumstances with respect to the uses of the proceeds of the Series 2008A Bonds necessary to support the conclusion that the Series 2008A Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Code and (B) evidencing compliance with the maturity limitation, public hearing and information reporting requirements of Sections 147(b), 147(f) and 149(e) of the Code with respect to the Series 2008A Bonds;

(xii) original executed copies of the Bond Indenture, the Loan Agreement, the Master Indenture, the Tax Compliance Agreement, the Series 2008 Notes and each other Bond Document together with conformed copies of each of the other Borrower Documents;

(xiii) evidence satisfactory to the Underwriter that each of the conditions precedent to the issuance of the Bonds under the Bond Indenture has been satisfied;

(xiv) evidence satisfactory to the Underwriter that each of the conditions precedent to the issuance of the Series 2008 Notes under the Master Indenture;

(xv) a letter from an insurance advisor to the effect that at the time of the Closing, the Borrower will be in compliance with all the insurance requirements of the Master Indenture;

(xvi) a letter of representation to DTC satisfactory to the Underwriter;

(xvii) an executed copy of the Feasibility Study;

(xviii) evidence satisfactory to the Underwriter that the equity contribution of \$ \_\_\_\_\_ has been made;

(xix) a letter from the Feasibility Consultant substantially in the form of the letter required under Section 8(a)(i) above with respect to the Limited Offering Memorandum but dated as of a date no earlier than five business days prior to the Closing;

(xx) an opinion of counsel to the Underwriter in the form attached hereto as Appendix D hereto;

(xxi) a copy of a lender's title commitment from a title company acceptable to the Issuer and the Underwriter evidencing its fee simple interest in the Mortgaged Property and naming the Master Trustee and its assigns as the insured, and containing no exceptions that are not acceptable to the Underwriter;

(xxii) a perimeter and location survey of the Mortgaged Property satisfactory to the Underwriter, prepared by an independent surveyor or civil engineer licensed in the State, showing all improvements, easements, rights of way and restrictions affecting the Mortgaged Property;

(xxiii) evidence satisfactory to the Underwriter that (a) all utility services necessary for the construction and operation of the Project for their intended purposes, including water supply of sufficient quantity and pressure, storm and sanitary sewer facilities of adequate capacities, gas, electric and telephone facilities have been procured and (b) the Borrower has procured from the appropriate State, county, municipal and other authorities and corporations connection and discharge arrangements for the supply of water, gas, electricity and other utilities and sewage and industrial waste disposal for the operation of the Project; and

(xxiv) such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter or Bond Counsel may reasonably request, in form and substance satisfactory to the Underwriter, counsel to the Underwriter, the Issuer, counsel to the Issuer and Bond Counsel.

All of the opinions, letters, certificates, instruments and other documents mentioned in this Bond Purchase Agreement required by the Underwriter shall be deemed to be in compliance with the provisions of this Bond Purchase Agreement if, in the reasonable judgment of the Underwriter, they are satisfactory in form and substance. The approval of the Underwriter when required hereunder or the determination of its satisfaction (in its reasonable judgment) as to the form and substance of any document referred to herein shall be in writing signed by the Underwriter and delivered to the Issuer and the Borrower.

9. **Amendments or Supplements to Limited Offering Memorandum.** Neither the Issuer nor the Borrower will amend or supplement or approve an amendment or supplement to the Limited Offering Memorandum without the prior written consent of the Underwriter; provided, however, that, before or after the Closing, until the earlier of (i) 90 days from the end of the "Underwriting Period" as defined in Rule 15c2-12 or (ii) the time when the Limited Offering Memorandum is available to any person from a nationally recognized municipal securities information repository (but in no event less than 25 days after the end of the "Underwriting Period"), if any event occurs as a result of which it is necessary, in the opinion of Bond Counsel or counsel to the Underwriter, to amend or supplement the Limited Offering Memorandum to make the Limited Offering Memorandum not misleading in light of the circumstances existing at the time it is delivered to a purchaser, the Issuer and the Borrower shall forthwith prepare and furnish to the Underwriter (at the expense of the Borrower) a reasonable number of copies of an amendment of or supplement to the Limited Offering Memorandum (in form and substance satisfactory to counsel to the Underwriter and to Bond Counsel) that will amend or supplement the Limited Offering Memorandum so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances existing at the time it is delivered to a purchaser, not misleading. The Issuer and the Borrower will notify the Underwriter if any event shall occur as a result of which it is or may be necessary to amend or supplement the Limited Offering Memorandum as described herein and shall furnish such information with respect to themselves as the Underwriter may from time to time reasonably request in order to comply with the provisions of this paragraph and Rule 15c2-12. Unless the Underwriter notifies the Issuer to the contrary, the end of the "Underwriting Period" as defined in Rule 15c2-12 shall be the first Business Day after the Closing.

10. **Cancellation of Bond Purchase Agreement by Underwriter.** The Underwriter shall have the right to cancel this Bond Purchase Agreement by notification to the Issuer and the

Borrower if, at any time subsequent to the date of this Bond Purchase Agreement and at or prior to the Closing:

(a) the market price or the marketability of the Bonds or ability of the Underwriter to sell the Bonds, or to enforce contracts for the sale of the Bonds, at the contemplated sale price shall, in the reasonable opinion of the Underwriter, have been materially adversely affected by (i) an amendment to or proposal to amend the Constitution of the State or any federal or State legislation or proposed legislation or any decision of any federal or state court or any ruling or regulation (final, temporary or proposed) or Limited Offering Memorandum on behalf of the Treasury Department of the United States, the Internal Revenue Service or other federal authority or authority of the State, or any other action or event affecting, directly or indirectly, the federal or State tax-exempt status of bonds of the Issuer (including the Series 2008A Bonds) or the interest thereon, or the federal or State tax consequences of any of the transactions described herein and in the Limited Offering Memorandum; or (ii) the occurrence of any outbreak of hostilities or other local, national or international calamity or crisis, including (without limitation) any escalation of the United States of America's war in Iraq or "war on terrorism", that the Underwriter determines, in its reasonable discretion, will have an adverse effect on its ability to market and sell the Bonds; or

(b) there shall have occurred and be in effect a general suspension of, or material limitation on, trading on the New York Stock Exchange or other national securities exchange, the establishment of minimum or maximum prices on such exchange or the declaration of a general banking moratorium by the authorities of the United States of America, the State or the State of New York; or

(c) any new restrictions on transactions in securities materially affecting the free market for securities or the extension of credit by, or any change to the net capital requirements of, underwriters shall have been established by the New York Stock Exchange or other national securities exchange, the Securities and Exchange Commission, any other federal agency or any agency of any state, or by Executive Order; or

(d) legislation shall be enacted or any federal court shall render a decision, or the Securities and Exchange Commission or other governmental agency shall make or issue a ruling or regulation (final, temporary or proposed), in any event to the effect that (i) the Bonds or any securities of a type similar to the Bonds of the Issuer or any similar body or any instrument pertaining thereto are subject to the registration requirements of the Securities Act, or (ii) the qualification of the Bond Indenture or any other agreement in respect of the Bonds is required under the Trust Indenture Act of 1939, as amended; or

(e) there shall exist any event or condition that, in the reasonable opinion of the Underwriter, either (i) makes untrue or incorrect in any material respect any statement or information contained in the Limited Offering Memorandum, or (ii) is not reflected in the Limited Offering Memorandum but should be reflected therein in order to make the statements and information contained therein not misleading, unless the Limited Offering Memorandum is amended to reflect such event or condition in a manner satisfactory to the Underwriter; or

(f) a supplement or amendment shall have been made to the Limited Offering Memorandum subsequent to the date hereof that, in the reasonable judgment of the Underwriter,

materially and adversely affects the market price or the marketability of the Bonds or the ability of the Underwriter to sell the Bonds, or to enforce contracts for the sale of the Bonds, at the contemplated price.

If the Issuer or the Borrower is unable to satisfy the conditions to the obligation of the Underwriter contained in this Bond Purchase Agreement, or if the obligation of the Underwriter hereunder is terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement may be canceled by the Underwriter, and, upon such cancellation, none of the Underwriter, the Issuer or the Borrower shall be under any further obligation hereunder except as set forth below and except as provided in Sections 11 and 12.

It is recognized and agreed that the Issuer shall have no liability to any person if there shall be a failure by any person to satisfy the conditions to the Underwriter's obligations contained in this Bond Purchase Agreement.

#### 11. **Expenses.**

(a) The Borrower shall pay or cause to be paid all expenses incident to the performance of the obligations of the Issuer and the Borrower hereunder, including (without limitation): (i) the cost of the preparation (including printing and distribution), issuance, delivery and recording or filing (to the extent required) of the Bond Documents, the Limited Offering Memorandum (all in such reasonable quantities as may be requested by the Underwriter) and any documents related thereto; (ii) the cost of the preparation and delivery of the Bonds; (iii) the fees and disbursements of Bond Counsel and counsel to the Borrower; (iv) the fees and disbursements (including counsel fees and disbursements) of the Bond Trustee and Master Trustee; (v) the fees and disbursements of counsel retained by the Underwriter; and (vi) the fees and disbursements of any other counsel, expert or consultants (including accountants and financial advisors) retained by the Issuer or the Borrower.

(b) The Underwriter shall pay only the following, some or all of which will be paid out of the Underwriter's Discount: (i) all advertising expenses in connection with the sale of the Bonds (including additional printing costs with respect to the Limited Offering Memorandum); and (ii) all other expenses incurred by the Underwriter in connection with the sale and distribution of the Bonds, including (A) interest expenses incurred in connection with the borrowing of funds used to purchase the Bonds, (B) any taxes or charges imposed upon the Underwriter by the Municipal Securities Rulemaking Board or the Bond Market Association, (C) in-house computer costs and expenses, (D) the cost of reproducing and distributing the underwriting documents used in connection with the sale of the Bonds, and (E) the CUSIP Service Bureau service charge for the assignment of CUSIP numbers for the Bonds.

To the extent that such expenses which are the responsibility of the Underwriter are less than originally contemplated, the Underwriter shall retain such amount out of the Underwriter's Discount.

12. **Indemnification.** The Borrower hereby agrees to indemnify and hold harmless the Issuer and the Underwriter and their respective directors, members, officers, agents, attorneys, officials and employees, past, present and future, and each person, if any, who controls (as such term is defined in Section 15 of the Securities Act of 1933, as amended (the "Securities

Act")) any of such parties (collectively, the "Indemnified Parties" and individually, the "Indemnified Party"), against any and all losses, claims, damages, liabilities or expenses whatsoever arising out of either any breach by the Borrower of any of its representations and warranties as set forth in Section 6, any allegation that there is any untrue statement of a material fact contained in the Limited Offering Memorandum or that the Limited Offering Memorandum omitted to state a material fact required to be stated in such sections or necessary to make the statements in such sections not misleading, or the fact that the Bonds are not registered under the Securities Act, or that the Bond Indenture is not qualified under the Trust Indenture Act of 1939, as amended.

In case any action shall be brought against one or more of the Indemnified Parties with respect to the matters subject to the indemnity provided by this Section, the Indemnified Party or the Indemnified Parties (as the case may be) shall promptly notify the Borrower in writing, and the Borrower shall promptly assume the defense thereof, including the employment of counsel, the payment of all reasonable expenses and the right to negotiate and consent to settlements. Failure to so notify the Borrower shall not relieve it from any liability unless the failure to provide notice prejudices the defense of such action or proceeding. If the defendants in any action for which indemnity is required hereunder include both the Borrower and an Indemnified Party and such Indemnified Party shall have been advised by its counsel that defenses are available to such Indemnified Party which are not available to the Borrower and that it would be inappropriate for the same counsel to represent both the Borrower and the Indemnified Party, such Indemnified Party shall have the right to employ its own counsel in such action, in which event the Borrower shall reimburse the Indemnified Party for any reasonable legal and other expenses incurred by the Indemnified Party arising out of or in connection with the defense thereof. The Borrower shall not be liable for any settlement of such action effected without its consent (which consent shall not be unreasonably withheld), but if settled with its consent, or if there be final judgment for the plaintiff in any such action with or without consent, the Borrower agrees to indemnify and hold harmless the Indemnified Party or the Indemnified Parties (as the case may be) from and against any loss or liability by reason of settlement or judgment to the extent set forth in this Section. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action, and to participate in the defense thereof, but the fees and expenses of such counsel shall, other than as provided above, be at the expense of such Indemnified Party or the Indemnified Parties (as the case may be), unless the employment of such counsel and the payment of the expense therefore has been specifically authorized by the Borrower. The indemnity provided in this Section includes reimbursement for expenses reasonably incurred by the Indemnified Parties in investigating the claim and in defending it if the Borrower declines to assume the defense. The indemnity provided in this Section shall survive the Closing. The indemnity agreements in this Section shall be in addition to any liability that the Borrower may otherwise have to an Indemnified Party.

If as the result of a ruling by a court with jurisdiction over the Issuer or the Underwriter, as the case may be, that the indemnification provided for in this Section is unavailable to an Indemnified Party under subsection (a) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then the Borrower shall contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Borrower on the one hand and the Underwriter and the Issuer on the other from the offering of the Bonds. If, however, the allocation provided by the

immediately preceding sentence is not permitted by applicable law, then the Borrower shall contribute to such amount paid or payable by such Indemnified Party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Borrower on the one hand and the Underwriter and the Issuer on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Borrower on the one hand and the Underwriter and the Issuer on the other shall be deemed to be in the same proportion as the total net proceeds from such offering (before deducting expenses) received by the Borrower bear to the total underwriting commissions and other amounts received by the Underwriter and the Issuer. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact relates to information supplied by the Borrower or by the Underwriter or the Issuer and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Borrower, the Underwriter and the Issuer agree that it would not be just and equitable if contribution pursuant to this paragraph were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this paragraph. The amount paid or payable by the Borrower as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this paragraph shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act of 1933, as amended) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

13. **Notices.** Any notice or other required communication to be given under this Bond Purchase Agreement shall be given by delivering the same in writing as follows:

If to the Issuer:

City of Lake Wales  
201 West Central Avenue  
Lake Wales, Florida 33853  
Attention: Finance Director

If to the Borrower:

Water's Edge of Lake Wales, LLC  
5550 26<sup>th</sup> Street West, Suite 3  
Bradenton, Florida 34207  
Attention: Chief Manager

With a copy to:

Leonard, O'Brien, Spencer, Gale & Sayre, Ltd.  
100 South Fifth Street, Suite 2500  
Minneapolis, MN 55402  
Attention: Grover C. Sayre, III

If to the Underwriter:

Raymond James & Associates, Inc.  
880 Carillon Parkway  
St. Petersburg, Florida 33716  
Attention: Paul J. Towell

14. **Benefit of Bond Purchase Agreement.** This Bond Purchase Agreement is solely for the benefit of the Issuer, its members, directors, officers, employees and agents, the Underwriter, the Borrower, and their respective successors, and no other person shall acquire or have any right under or by virtue of this Bond Purchase Agreement. The term "successors" as used in this Bond Purchase Agreement shall not include any purchaser of the Bonds from the Underwriter.

15. **No Recourse Against the Issuer.**

(a) Neither the Underwriter nor the Borrower shall have recourse against any member, director, officer, employee or agent of the Issuer for any claims based on this Bond Purchase Agreement or otherwise, all such claims, if any, being expressly waived and released by the Underwriter and the Borrower. The Issuer shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Bond Purchase Agreement.

(b) No provision, covenant or agreement contained in this Bond Purchase Agreement and no obligation herein imposed upon the Issuer shall constitute an indebtedness of the Issuer or the State or any political subdivision of the State within the meaning of any constitutional provision or statutory limitation or shall constitute or give rise to a pecuniary liability of the Issuer. In making the agreements, provisions and covenants set forth in this Bond Purchase Agreement, the Issuer has not obligated itself, except to the extent that the Issuer is authorized to act pursuant to State law and except with respect to, and to the extent of, money received by the Issuer from the Borrower for such purpose. The Issuer and its directors, officials, employees, members or agents shall have no monetary liability arising out of the obligations of the Issuer hereunder or in connection with any covenant, representation or warranty made by the Issuer herein, and neither the Issuer nor its officials shall be obligated to pay any amounts in connection with the transactions described herein other than from money received by the Issuer from the Borrower or from proceeds of sale of the Bonds.

THE ISSUANCE OF THE SERIES 2008 BONDS SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE CITY, THE COUNTY, THE STATE NOR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER, OR TO LEVY AD VALOREM TAXES ON ANY PROPERTY WITHIN THEIR TERRITORIAL LIMITS TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON SUCH SERIES 2008 BONDS OR OTHER PECUNIARY OBLIGATIONS OR TO PAY THE SAME FROM ANY FUNDS THEREOF OTHER THAN SUCH REVENUES, RECEIPTS, AND PROCEEDS SO PLEDGED, AND THE SERIES 2008 BONDS SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OWNED BY THE CITY, THE COUNTY OR THE STATE OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, OTHER THAN THE CITY'S INTEREST IN THE LOAN AGREEMENT AND THE PROPERTY RIGHTS, RECEIPTS, REVENUES AND PROCEEDS PLEDGED THEREFOR UNDER AND AS PROVIDED IN THE BOND INDENTURE AND ANY OTHER AGREEMENTS SECURING THE SERIES 2008 BONDS.

16. **Survival of Representations, Warranties and Covenants.** All representations, warranties and covenants of the Issuer and the Borrower in this Bond Purchase Agreement shall remain operative and in full force and effect and shall survive the delivery of and payment for



the Bonds, regardless of any independent investigation made by or on behalf of the Underwriter, provided that any questions of fact shall relate only to those facts known as of the date hereof and as of the Closing, as the case may be. In addition, the provisions of Sections 11 and 12 shall survive any termination of this Bond Purchase Agreement.

17. **Governing Law.** This Bond Purchase Agreement shall be governed by, and construed in accordance with, the laws of the State.

18. **Assignment.** This Bond Purchase Agreement may not be assigned by the Issuer, the Borrower or the Underwriter without the prior written consent of the other parties hereto.

19. **Section Headings.** Section headings have been inserted in this Bond Purchase Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Bond Purchase Agreement and will not be used in the interpretation of any provision of this Bond Purchase Agreement.

20. **Counterparts.** This Bond Purchase Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

If the foregoing is acceptable to you, please sign below and this Bond Purchase Agreement will become a binding agreement among us.

[Remainder of page left blank intentionally]

**RAYMOND JAMES & ASSOCIATES, INC.**

By: \_\_\_\_\_  
Paul J. Towell  
Managing Director

ACCEPTED AND CONFIRMED AS OF THE DATE FIRST ABOVE WRITTEN.

**CITY OF LAKE WALES, FLORIDA**

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

**WATER'S EDGE OF LAKE WALES, LLC**

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

[Signature page to Bond Purchase Agreement]

SCHEDULE 1

BOND TERMS

Series 2008A Bonds

Principal Amount  
\$

Maturity Date

Interest Rate  
%

Series 2008B Bonds

Principal Amount  
\$

Maturity Date

Interest Rate  
%

## APPENDIX A

### [FORM OF UNDERWRITER'S COUNSEL OPINION]

On the basis of the foregoing and having regard to legal questions that we deem relevant, we are of the opinion:

(a) The Bonds are not required to be registered under the Securities Act of 1933, as amended, and the Bond Indenture is not required to be qualified under the Trust Indenture Act of 1939, as amended. In rendering this opinion, we are assuming the correctness of the opinion of Steptoe & Johnson PLLC as to the validity of the Bonds, the excludability from gross income, for federal income tax purposes, of the interest on the Bonds and the exemption of the Bonds from registration under the Securities Act of 1933, as amended.

(b) The primary offering of the Bonds on the date hereof is exempt from the requirements of Rule 15c2-12(b)(5) of the Securities and Exchange Commission.

We rendered legal advice and assistance to you in connection with the preparation of the Official Statement. Rendering such assistance involved, among other things, discussions and inquiries concerning various legal and related subjects, reviews of responses to such inquiries, and reviews of certain documents. We also participated in conferences with representatives of the Obligated Group, Leonard, O'Brien, Spencer, Gale & Sayre, Ltd., counsel to the Obligated Group, and others in the course of which the contents of portions of the Official Statement and related matters were discussed and revised.

On the basis of the information that was developed in the course of the performance of services referred to above, considered in the light of the experience we have gained in this field, but without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, we do not believe that the Official Statement (except for the (i) financial statements and other financial data included in the Official Statement, (ii) the information included in the Official Statement with respect to the validity and the tax-exempt status of the Bonds and (iii) the information under the caption "Book-Entry Only System," as to which no views are expressed) contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

The limitations inherent in the independent verification of factual matters and the character of determinations involved in the preparation of the Official Statement are such, however, that we do not assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statement.

The views expressed above are limited to the matters set forth above, and no opinions should be inferred beyond the matters expressly stated. We assume no obligation to supplement this letter if any applicable laws or interpretations thereof change after the date hereof or if we become aware of any facts or circumstances that might change the views expressed herein after the date hereof.

The views expressed herein are solely for your use in connection with the consummation of the transactions contemplated by the Official Statement and, without our prior written consent, may not be quoted in whole or in part or otherwise referred to in any legal opinion, document or other report, and may not be furnished to any person or entity, provided that this letter may be included in the transcript of supporting documents in connection with the issuance of the Bonds. This letter may not be relied upon by the holders of the Bonds or any other person or entity to whom it is not specifically addressed.

This letter is furnished by us to meet the requirement of the Bond Purchase Agreement and is furnished solely for your benefit.

Very truly yours,

**EXHIBIT C**

**FORM OF LOAN AGREEMENT**

---

**CITY OF LAKE WALES, FLORIDA**  
**and**  
**WATER'S EDGE OF LAKE WALES, LLC**

\_\_\_\_\_  
**LOAN AGREEMENT**  
\_\_\_\_\_

**DATED AS OF MARCH 1, 2008**

**CITY OF LAKE WALES, FLORIDA**  
**RETIREMENT FACILITY REVENUE BONDS**  
**(WATER'S EDGE OF LAKE**  
**WALES, LLC PROJECT)**  
**SERIES 2008A**

**CITY OF LAKE WALES, FLORIDA**  
**TAXABLE RETIREMENT FACILITY**  
**REVENUE BONDS**  
**(WATER'S EDGE OF LAKE**  
**WALES, LLC PROJECT)**  
**SERIES 2008B**

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(This Table of Contents is not a part of this  
Loan Agreement and is only for convenience of reference)

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## **LOAN AGREEMENT**

**THIS LOAN AGREEMENT**, dated as of March 1, 2008, between CITY OF LAKE WALES, FLORIDA, a municipal corporation duly organized and validly existing under the laws of the State of Florida (the "Issuer"), and WATER'S EDGE OF LAKE WALES, LLC, a limited liability company duly organized and validly existing under the laws of the State of Florida (the "Obligor"),

### **WITNESSETH:**

**WHEREAS**, the Issuer is authorized under the Act (as hereinafter defined), to enter into loan agreements and to issue its bonds and loan the proceeds thereof to provide for the financing of the acquisition, construction or installation of health care facilities and projects for senior care and housing projects for the public purpose of improving the adequacy, cost and accessibility of senior care and living facilities within City of Lake Wales and the State of Florida; and

**WHEREAS**, the Obligor has requested the Issuer to issue its bonds in an amount sufficient to provide for (i) financing the costs of acquisition, construction and installation of certain senior care and living facilities more particularly described in EXHIBIT A hereto (the "2008 Project"), (ii) capitalizing interest and funding certain reserve funds, and (iii) paying costs associated with the issuance of such bonds;

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto formally covenant, agree and bind themselves as follows:

## **ARTICLE I DEFINITIONS**

**SECTION 1.1. DEFINITIONS.** The following terms, except where the context indicates otherwise, shall have the respective meanings set forth below.

**"2008 Project"** means the Project more particularly described in EXHIBIT A hereto.

**"Account"** means any account established within a Fund.

**"Act"** means Chapter 166, Florida Statutes, Part II, Chapter 159, Florida Statutes, and other applicable provisions of law.

**"Additional Bonds"** means the one or more series of additional bonds authorized to be issued by the Issuer pursuant to Section 4.1 herein and Sections 2.09 and 2.10 of the Bond Indenture.

**"Administration Expenses"** means the issuance fees of the Issuer, if any, and the reasonable and necessary fees and expenses incurred by the Issuer pursuant to this Loan Agreement and the Bond Indenture.

**"Aggregate Principal Amount"** or **"aggregate principal amount"** means the outstanding principal amount including, in the case of a security sold at a discount to the purchaser thereof the accreted value of such discount calculated in accordance with the documents authorizing such security, or if not so defined, generally accepted accounting principles.

**"Authorized Denominations"** means (i) \$25,000 principal amount and any integral multiple of \$5,000 in excess thereof while such Series 2008 Bond constitutes a Hamlin Investor Bond, (ii) under all other circumstances, \$100,000 principal amount and any integral multiple of \$5,000 in excess thereof; provided, however, with respect to any series of Additional Bonds, the Authorized Denominations shall be as set forth in such supplemental bond indenture creating such Additional Bonds.

**"Beneficial Owner"** means the person for which a DTC Participant holds an interest in the Bonds as shown on the books and records of the DTC Participant.

**"Bond Counsel"** means Nabors, Giblin & Nickerson, P.A. or any other attorney at law or firm of attorneys of nationally recognized experience in matters pertaining to the validity of, and exclusion from gross income for federal income tax purposes of interest on, the obligations of states and their political subdivisions as may be selected by the Obligor but is reasonably acceptable to the Issuer and is not objected to by the Bond Trustee or Bondholder Representative.

**"Bond Fund"** means the Bond Fund created in Section 3.02 of the Bond Indenture.

**"Bond Indenture"** means the Indenture of Trust of even date herewith relating to the Bonds, between the Issuer and the Bond Trustee, including any indentures supplemental thereto made in conformity therewith.

**"Bondholder," "Owner" or "owner"** of the Bonds mean the registered owner of any fully registered Bond.

**"Bondholder Representative"** means (i) initially Hamlin Capital, so long as a majority in aggregate principal amount of the Outstanding Bonds are beneficially owned by Persons for whom Hamlin Capital serves as investment advisor, and (ii) at any other time, the designee, if any, of the Beneficial Owners of a majority in aggregate principal amount of the Outstanding Bonds. If there shall be no designee, the term Bondholder Representative shall be disregarded and all notices and consents shall be given to and by, respectively, the other parties referenced in this Loan Agreement and the Bond Indenture. Hamlin Capital will provide immediate written notice to the Bond Trustee, Master Trustee, the Obligated Group Representative and the Issuer when clause (i) above is no longer applicable.

**"Bonds"** means the Series 2008 Bonds and any Additional Bonds issued pursuant to the Bond Indenture.

**"Bond Trustee"** means Wells Fargo Bank, National Association being the registrar, paying agent and the trustee under the Bond Indenture, or any successor corporate trustee.

**"Business Day" or business day"** means any day other than (i) a Saturday, a Sunday or, in the City of New York, New York, or in Columbia, Maryland (or, if different, in the city in which the designated corporate trust office of the Bond Trustee is located), a day on which banking institutions are authorized or required by law or executive order to close, or (ii) a day on which the New York Stock Exchange is closed.

**"Claims"** shall mean all claims, lawsuits, causes of action and other legal actions and proceedings of whatever nature brought against (whether by way of direct action, counter claim, cross action or impleader) any Indemnified Party, even if groundless, false, or fraudulent, so long as the claim, lawsuit, cause of action or other legal action or proceeding is alleged or determined, directly or indirectly, to arise out of, to result from, to relate to or to be based upon, in whole or in part: (a) the issuance of the Bonds, (b) the duties, activities, acts or omissions (even if negligent) of any Person in connection with the issuance of the Bonds, or the obligations of the various parties arising under the Bond Indenture, this Loan Agreement or the Master Indenture, or (c) the duties, activities, acts or omissions (even if negligent) of any Person in connection with the design,

construction, installation, operation, use, occupancy, maintenance or ownership of the Projects or any part thereof.

**"Code"** means the Internal Revenue Code of 1986, as amended from time to time, including, when appropriate, the statutory predecessor thereof, or any applicable corresponding provisions of any future laws of the United States of America relating to federal income taxation, and except as otherwise provided herein or required by the context hereof, includes interpretations thereof contained or set forth in the applicable Regulations of the Department of the Treasury (including applicable final or temporary regulations and also including Regulations issued pursuant to the statutory predecessor of the Code), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings), and applicable court decisions.

**"Collateral Assignment "** means the Collateral Assignment of Agreements, dated as of March 1, 2008, between the Obligor and the Master Trustee.

**"Completion Certificate"** means a certificate of the Obligor delivered pursuant to Section 4.2(b) hereof.

**"Completion Date"** means the date specified in the Completion Certificate as the date of completion or termination.

**"Construction Fund"** means the Construction Fund created pursuant to Section 3.05 of the Bond Indenture.

**"Construction Monitor"** means an independent construction expert retained by the Obligor, with the written consent of the Bondholder Representative, who will monitor, on behalf of the Bondholders, the construction of the 2008 Project and the disbursement of moneys from the Construction Fund.

**"Continuing Disclosure Agreement"** means (i) with respect to the Series 2008 Bonds, the Continuing Disclosure Agreement between the Obligor and the Bond Trustee, as dissemination agent, dated the Delivery Date of the Series 2008 Bonds, and (ii) with respect to any other series of Bonds, the continuing disclosure certificate or agreement delivered by the Obligor in connection with the issuance of such series of Bonds in order to comply with the provisions of Rule 15c2-12 of the Securities Exchange Act of 1934.

**"Cost" or "Costs"** as applied to a Project means and includes any and all costs permitted by the Code and the Act.

**"Cost of Issuance"** means (a) with respect to any Tax Exempt Bonds all costs that are treated as issuance costs within the meaning of Section 1.150-1(b) of the Regulations, and (b) with respect to any Bonds, all costs associated with the issuance of such Bonds including, but not limited to, (i) underwriter's spread (whether realized directly or derived through purchase of the Bonds at a discount below the price at which

they are expected to be sold to the public); (ii) counsel fees (including Bond Counsel, underwriter's counsel, Issuer's counsel, Bond Trustee's counsel and Obligor's counsel fees that relate to the issuance of the Bonds, as well as any other specialized counsel fees incurred in connection with the issuance of the Bonds); (iii) financial advisory fees incurred in connection with the issuance of the Bonds; (iv) Rating Agency fees; (v) Bond Trustee fees incurred in connection with the issuance of the Bonds; (vi) Paying Agent and certifying registrar and authenticating agent fees related to issuance of the Bonds; (vii) accountant fees related to the issuance of the Bonds; (viii) printing costs of the Bonds and of the preliminary and final offering materials; (ix) publication costs associated with the financing proceedings; (x) any fees paid to the Issuer; (xi) any fees paid to the Bondholder Representative, and (xii) costs of engineering and feasibility studies necessary to the issuance of the Bonds; provided, that bond insurance premiums and certain credit enhancement fees, to the extent treated as interest expense under applicable Regulations, shall not be treated as "Costs of Issuance" in connection with the issuance of Tax Exempt Bonds.

**"Cost of Issuance Fund"** means the Cost of Issuance Fund created under Section 3.06 of the Bond Indenture.

**"Credit Facility"** has the meaning assigned to such term in the Master Indenture.

**"Days Cash on Hand"** has the meaning assigned to such term in the Supplemental Indenture.

**"Debt Service Reserve Account"** means an account established within the Debt Service Reserve Fund relating to one or more series of Bonds issued under the Bond Indenture.

**"Debt Service Reserve Fund"** means the Debt Service Reserve Fund created in Section 3.12 of the Bond Indenture.

**"Debt Service Reserve Fund Obligations"** means cash and Permitted Investments.

**"Debt Service Reserve Fund Requirement"** means, with respect to (i) the Series 2008A Bonds, an amount equal to the lesser of (a) \$500,000, (b) 125% of the average annual debt service requirement for the Series 2008A Bonds, (c) 10% of the aggregate stated original principal amount of the Series 2008A Bonds, or (d) the Maximum Annual Debt Service on the Series 2008A, (ii) the Series 2008B Bonds, an amount equal to \$0, and (iii) any Additional Bonds, the amount specified in the supplemental bond indenture pursuant to which such Additional Bonds are issued.

**"Delivery Date"** means the date the Bonds are delivered to the initial purchasers against payment therefore.

**"Determination of Taxability"** shall occur upon receipt by the Issuer of a proposed adverse determination by the Internal Revenue Service with respect to the Tax Exempt Bonds, or receipt by the Bondholder or the Bond Trustee of a statutory notice of deficiency by the Internal Revenue Service, a ruling from the National Office of the Internal Revenue Service, or a final decision of a court of competent jurisdiction which holds in effect that interest payable on the Tax Exempt Bonds is includable for federal income tax purposes in the gross income of a Bondholder; provided, however, that the Obligor shall have an opportunity for no more than one hundred (100) days after receipt by the Bond Trustee to initiate an appeal of any such proposed determination, statutory notice, ruling or final decision and that no such proposed determination, statutory notice, ruling or final decision shall be deemed a "Determination of Taxability" if the Obligor is appealing the same during such one hundred (100) day period in good faith until the earliest of (a) abandonment of the appeals process by the Obligor, (b) the date on which such appeals process has been concluded adversely to the Obligor and no further appeals are possible, or (c) twelve (12) months after the initial receipt by the Bond Trustee of such proposed determination, statutory notice, ruling or final decision.

**"DTC Participant"** means those broker-dealers, banks and other financial institutions from time to time for which a Securities Depository holds Bonds or securities as depository.

**"Environmental Compliance Agreement"** means the Environmental Compliance and Indemnification Agreement, dated as of March 1, 2008, between the Obligor and the Master Trustee.

**"Event of Default"** means those defaults specified in Section 8.01 of the Bond Indenture.

**"Fitchratings"** means Fitchratings, Inc., its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Obligor by notice to the Bond Trustee.

**"Funded Interest Account"** means the account of such name in the Construction Fund created in Section 3.05 of the Bond Indenture.

**"Funds"** means the Bond Fund, the Cost of Issuance Fund, Debt Service Reserve Fund, Rebate Fund and the Construction Fund.

**"Government Obligations"** means direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, including (in the case of direct obligations of the United States of America) evidences of direct ownership of proportionate interests in future interest or principal payments of such obligations. Investments in such proportionate interests must be limited to circumstances



wherein (a) a bank or trust company acts as custodian and holds the underlying Government Obligations; (b) the owner of the investment is the real party in interest and has the right to proceed directly and individually against the Obligor of the underlying Government Obligations; and (c) the underlying Government Obligations are held in a special account, segregated from the custodian's general assets, and are not available to satisfy any claim of the custodian, any person claiming through the custodian, or any person to whom the custodian may be obligated.

**"Hamlin Capital"** means Hamlin Capital Management, LLC, a Delaware limited liability company and its successors and assigns initially serving as the Bondholder Representative to all of the Beneficial Owners of the Series 2008 Bonds.

**"Hamlin Investor Bond"** means a Series 2008 Bonds for which all the following conditions are met: (a) the Beneficial Owners of the Series 2008 Bonds are advised by Hamlin Capital under the Investment Advisors Act of 1940; (b) Hamlin Capital serves as Bondholder Representative for such Beneficial Owners pursuant to an investment advisory agreement; and (c) the Series 2008 Bonds are held by Hamlin Capital in managed accounts of accredited investors [with an individual fair market value of not less than \$2,000,000 and will not exceed 2% of each account's holdings, both measured at the time of the investment]; provided, however, no Hamlin Investor Bond as to which a notice has been given under Section 2.15 of the Bond Indenture resulting in a change in authorized denomination shall thereafter constitute a Hamlin Investor Bond.

**"Immediate Notice"** shall mean notice by telephone, telegram, telex, facsimile, electronic mail or other telecommunication or electronic communication, receipt of which has been confirmed by the recipient, to such phone or facsimile numbers or addresses as are specified in Section 11.10 of the Bond Indenture or such other phone number, or facsimile number or address as the addressee shall have directed in writing, promptly followed by written notice by overnight carrier or delivery service, expenses prepaid, to such addresses.

**"Indebtedness"** has the meaning assigned to such term in the Master Indenture.

**"Indemnified Party"** shall mean the Issuer, and any of its respective officers, directors, commissioners, members, officials, consultants, agents, servants and employees, and any successor to any of such Persons.

**"Indemnified Persons"** means the Indemnified Parties and the Bond Trustee.

**"Interest Account"** means the account of such name in the Bond Fund created in Section 3.02 of the Bond Indenture.

**"Interest Payment Date"** means (i) as to the Series 2008 Bonds, each \_\_\_\_ 1 and \_\_\_\_ 1, commencing \_\_\_\_ 1, 20\_\_, or, if such day is not a Business Day, the

immediately succeeding Business Day in the years during which a series of the Series 2008 Bonds are Outstanding under the provisions of the Bond Indenture, and (ii) as to Additional Bonds, the dates specified in the applicable supplemental bond indenture on which interest on such Additional Bonds is to be paid.

**"Issuer"** means City of Lake Wales, Florida, a municipal corporation duly organized and validly existing under the laws of the State, or any public entity succeeding to its rights and obligations under this Loan Agreement.

**"Issuer Representative"** means the Mayor or Vice-Mayor of the Issuer or its City Manager or such other person at the time, and from time to time, designated by written certificate of the Issuer furnished to the Obligor and the Bond Trustee containing the specimen signature of such person and signed on behalf of the Issuer by its Mayor, Vice-Mayor or City Manager. Such certificate shall designate an alternate or alternates, any of whom may act at any time as Issuer Representative.

**"Life Lease Fee Redemption Account"** means the Life Lease Fee Redemption Account of the Bond Fund created under Section 3.02 of the Bond Indenture.

**"Loan Agreement"** means this Loan Agreement and any amendments and supplements hereto made in conformity herewith and with the Bond Indenture.

**"Losses"** means losses, costs, damages, expenses, judgments, and liabilities of whatever nature (including, but not limited to, reasonable attorney's, accountant's and other professional's fees, litigation and court costs and expenses, amounts paid in settlement and amounts paid to discharge judgments and amounts payable by an Indemnified Persons to any other Person under any arrangement providing for indemnification of that Person) directly or indirectly resulting from arising out of or relating to one or more Claims.

**"Master Indenture"** means the Master Trust Indenture dated as of March 1, 2008, between the Obligor and the Master Trustee, including any supplements or amendments thereto and modifications thereof.

**"Master Trustee"** means Wells Fargo Bank, National Association, as trustee under the Master Indenture, and its successors as trustee thereunder.

**"Maximum Annual Debt Service"** means an amount equal to the maximum principal and interest requirements (taking into account all mandatory sinking fund payments) due in any fiscal year of the Obligor year on the Bonds; provided, however, that principal of Bonds in all or a part of their final year(s) shall be excluded from the determination of Maximum Annual Debt Service to the extent of the moneys on deposit as of the date of calculation in the Debt Service Reserve Account for such Bonds

**"Moody's"** means Moody's Investors Service, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Obligor by notice to the Bond Trustee.

**"Mortgage"** means the Mortgage and Security Agreement, dated as of March 1, 2008, from the Obligor to the Master Trustee.

**"Net Proceeds"** means the proceeds of Tax Exempt Bonds reduced by amounts in a reasonably required reserve or replacement fund.

**"Notes"** means the Series 2008 Notes and any other note payable to the Issuer issued under the Master Indenture pursuant to this Loan Agreement.

**"Obligated Group"** has the meaning given such terms in the Master Indenture.

**"Obligated Group Member"** has the meaning given such term in the Master Indenture.

**"Obligated Group Representative"** means the Obligor and any surviving, resulting or transferee corporation.

**"Obligor"** means Water's Edge of Lake Wales, LLC, a Florida limited liability company, and any and all successors thereto in accordance with this Loan Agreement.

**"Obligor Documents"** means this Loan Agreement, the Master Indenture, the Supplemental Indenture, the Series 2008 Notes, the Continuing Disclosure Agreement, the Mortgage, the Environmental Compliance Agreement, the Collateral Assignment and the Tax Compliance Agreement.

**"Operating Reserve Fund"** means the Operating Reserve Fund created under Section \_\_\_\_\_ of the Supplemental Indenture.

**"Operating Reserve Requirement"** has the meaning assigned to such term in the Supplemental Indenture.

**"Opinion of Bond Counsel"** shall mean an opinion in writing signed and delivered by Bond Counsel.

**"Opinion of Counsel"** means an opinion in writing signed by an attorney or firm of attorneys, acceptable to the Bond Trustee and Bondholder Representative, who may be counsel to the Obligor or other counsel.

**"Outstanding"** means, as of any particular time, all Bonds which have been duly authenticated and delivered by the Bond Trustee under the Bond Indenture, except:

(a) Bonds theretofore cancelled by the Bond Trustee or delivered to the Bond Trustee for cancellation after purchase in the open market or because of payment at or redemption prior to maturity;

(b) Bonds for the payment or redemption of which cash funds (or Government Obligations to the extent permitted in Section 7.01 of the Bond Indenture) shall have been theretofore deposited with the Bond Trustee (whether upon or prior to the maturity or redemption date of any such Bonds); provided that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Bond Trustee shall have been made therefore, or waiver of such notice satisfactory in form to the Bond Trustee, shall have been filed with the Bond Trustee and provided further that prior to such payment or redemption, the Bonds to be paid or redeemed shall be deemed to be Outstanding for the purpose of transfers and exchanges under Section 2.05 of the Bond Indenture; and

(c) Bonds in lieu of which other Bonds have been authenticated under Section 2.06 of the Bond Indenture.

**"Paying Agent"** means any bank or trust company, including the Bond Trustee, designated pursuant to the Bond Indenture to serve as a paying agency or place of payment for the Bonds, and any successor designated pursuant to the Bond Indenture.

**"Payment Office"** with respect to the Bond Trustee or other Paying Agent means the office maintained by the Bond Trustee or any affiliate of the Bond Trustee or of another Paying Agent for the payment of interest and principal on the Bonds.

**"Permitted Investments"** has the meaning assigned to such term in the Master Indenture.

**"Person"** means an individual, association, unincorporated organization, corporation, limited liability company, partnership, joint venture, business trust or a government or an agency or a political subdivision thereof, or any other entity.

**"Premium Security"** means any Permitted Investment purchased or to be purchased at a premium.

**"Principal Account"** means the account of such name in the Bond Fund created in Section 3.02 of the Bond Indenture.

**"Project"** means any "health care facility" or other "project" or portion thereof permitted by the Act to be financed or refinanced by Bonds including, without limitation, the 2008 Project and the Water's Edge of Lake Wales Facility.

**"Project Account"** means the account of such name in the Construction Fund created in Section 3.05 of the Bond Indenture.

**"Project Supervisor"** means the person designated pursuant to the provisions of Section 4.10 hereof.

**"Qualified Project Costs"** means Costs of a Project which constitute costs for property which is to be owned by the Obligor or another member of the Obligated Group and will not be used in an "unrelated trade or business" (as such term is used in Section 513(a) of the Code) of the Obligor (or any other organization described in Section 501(c)(3) of the Code) or in the trade or business of a person who is neither a governmental unit nor an organization described in Section 501(c)(3) of the Code. Costs of Issuance are not Qualified Project Costs and any fees paid to banks for letters of credit, for municipal bond insurance premiums or other guaranty fees and any capitalized interest on the Bonds shall be allocated between Qualified Project Costs to be paid or reimbursed from proceeds of the Tax Exempt Bonds and Costs other than Qualified Project Costs to be paid or reimbursed from the proceeds of the Tax Exempt Bonds. Qualified Project Costs shall not include costs or expenses paid more than sixty (60) days prior to the adoption by the Issuer, the Obligor or another member of the Obligated Group of a reimbursement resolution unless those expenditures qualify as "preliminary expenditures" within the meaning of the Regulations.

**"Rating Agency"** means Fitchratings, Moody's or Standard & Poor's, and any successor thereto.

**"Rebate Amount"** means the excess of the future value, as of a computation date, of all receipts on non purpose investments (as defined in Section 1.148-3 of the Regulations) over the future value, as of that date, of all payments on nonpurpose investments, all as provided by the Regulations implementing Section 148 of the Code.

**"Rebate Fund"** means that special fund established in the name of the Issuer with the Bond Trustee pursuant to Section 3.07 of the Bond Indenture.

**"Registered Owner" or "Owners"** means the person or persons in whose name or names a Bond shall be registered on books of the Issuer kept by the Bond Trustee for that purpose in accordance with the terms of the Bond Indenture.

**"Regular Record Date"** means for the Series 2008 Bonds the [last day of the month] preceding each regularly scheduled Interest Payment Date therefore, and for Additional Bonds shall be the day established by the supplement to the Bond Indenture relating to such Additional Bonds.

**"Regulations"** means the applicable proposed, temporary or final Income Tax Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

**"Renewal and Replacement Fund"** has the meaning assigned to such term in the Supplemental Indenture.

**"Responsible Officer"** when used with respect to the Bond Trustee means an officer in the corporate trust department of the Bond Trustee having direct responsibility for administration of the Bond Indenture.

**"Securities Depository"** means The Depository Trust Company, New York, New York, and any successor thereto as permitted by the Bond Indenture.

**"Series 2008 Bonds"** means the Series 2008A Bonds and the Series 2008B Bonds.

**"Series 2008A Bonds"** means the City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008A issued pursuant to the Bond Indenture.

**"Series 2008B Bonds"** means the City of Lake Wales, Florida Taxable Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B issued pursuant to the Bond Indenture.

**"Series 2008 Notes"** means the Series 2008A Note and the Series 2008B Note.

**"Series 2008A Note"** means the obligation issued by the Obligor pursuant to the Supplemental Indenture securing the Obligor's repayment obligations with respect to the Series 2008A Bonds.

**"Series 2008B Note"** means the obligation issued by the Obligor pursuant to the Supplemental Indenture securing the Obligor's repayment obligations with respect to the Series 2008B Bonds.

**["Short term"** means, as to any investment, maturing within one year from the date of such investment and not renewable by the Obligor for a term greater than one year beyond the date of original issuance.]

**"Special Record Date"** means a special date fixed to determine the names and addresses of owners of Series 2008 Bonds for purposes of paying interest on a special interest payment date for the payment of defaulted interest, all as further provided in Section 2.03 of the Bond Indenture and for Additional Bonds shall be the day established by the supplement to the Bond Indenture relating to such Additional Bonds.

**"Special Redemption Account"** means the Special Redemption Account of the Bond Fund created under Section 3.02 of the Bond Indenture.

**"Standard & Poor's"** shall mean Standard & Poor's, a division of The McGraw Hill Companies, Inc., its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Obligor by notice to the Bond Trustee.

**"State"** means the State of Florida.

**"Substantially All"** means ninety-five percent (95%) or more, unless an Opinion of Bond Counsel is rendered indicating that such term, as used herein, shall have a different meaning.

**"Supplemental Indenture"** means the Supplemental Master Trust Indenture Number 1, dated as of March 1, 2008, executed and delivered by the Obligor to the Master Trustee, supplemental to the Master Indenture, providing for the issuance of the Series 2008 Notes.

**"Surplus Construction Fund Moneys"** means all moneys (including moneys earned pursuant to the provisions of Article VI of the Bond Indenture) remaining in the Construction Fund after completion or termination of a Project (as evidenced by a Completion Certificate) and payment of all other costs then due and payable from the Construction Fund.

**"Tax Compliance Agreement"** means the Tax Exemption Agreement and Certificates dated as of March 1, 2008, between the Issuer and the Obligor related to the Series 2008A Bonds.

**"Tax Exempt Additional Bonds"** means any Additional Bonds, the interest on which is intended to be excludable from the gross income of the owners thereof for federal income tax purposes.

**"Tax Exempt Bonds"** means the Series 2008A Bonds and any Tax Exempt Additional Bonds.

**"Trust Estate"** means the property pledged and assigned to the Bond Trustee pursuant to the granting clauses of the Bond Indenture.

**"Water's Edge of Lake Wales Facility"** means the senior care and living community located in City of Lake Wales, Florida and owned and operated by the Obligor including, without limitation, the 2008 Project.

## **ARTICLE II REPRESENTATIONS**

**SECTION 2.1. REPRESENTATIONS BY THE ISSUER.** The Issuer represents that:

(a) The Issuer is a duly organized and validly existing municipal corporation under the laws of the State and has full power and authority (including, in particular, the Act) to enter into the transactions contemplated by this Loan Agreement and to carry out its obligations hereunder. By proper action the Issuer has duly authorized the execution and delivery of this Loan Agreement and the Bond Indenture and the performance of its obligations under this Loan Agreement and the Bond Indenture.

(b) Neither the execution and delivery of the Series 2008 Bonds, the Bond Indenture or this Loan Agreement, the consummation of the transactions contemplated thereby and hereby nor the fulfillment of or compliance with the terms and conditions or provisions of the Series 2008 Bonds, the Bond Indenture or this Loan Agreement conflict with or result in the breach of any of the terms, conditions or provisions of any constitutional provision or statute of the State or of any agreement or instrument or judgment, order or decree of which the Issuer has notice that it is a party or constitutes a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature upon any property or assets of the Issuer under the terms of any instrument or agreement.

(c) The Issuer has the power and authority to issue the Series 2008 Bonds for the purposes of: (i) financing the Costs of the 2008 Project; (ii) funding certain reserves and capitalizing interest; and (iii) paying all or a portion of the Cost of Issuance. The Series 2008 Bonds shall be in the principal amount, mature, bear interest, be subject to redemption prior to maturity, be secured, and have such other terms and conditions as are set forth in the Bond Indenture.

(d) The Series 2008 Bonds are to be issued under and secured by the Bond Indenture pursuant to which the Issuer's interest in this Loan Agreement and in the Series 2008 Notes, and the revenues and receipts derived by the Issuer from the Series 2008 Notes, will be pledged and assigned to the Bond Trustee by outright assignment as security for payment of the principal of, premium, if any, and interest on the Series 2008 Bonds.

(e) The Obligor has represented to the Issuer that the 2008 Project constitutes a "health care facility" and a "project" within the meaning of the Act.

(f) Except as otherwise permitted by this Loan Agreement, the Issuer covenants that it has not and will not pledge the income and revenues derived from this Loan Agreement other than to secure the Bonds.



(g) The Issuer has jurisdiction over the entire area in which the Water's Edge of Lake Wales Facility is located.

(h) After reasonable public notice given by publication in the Lakeland Ledger, a newspaper published and of general circulation in City of Lake Wales, Florida on November 13, 2007, the Issuer held a public hearing on November 28, 2007 concerning the issuance of the Series 2008 Bonds, the financing of the 2008 Project and the location of the 2008 Project.

(i) After such hearing, the Issuer approved the inducement resolution for the issuance of the Series 2008 Bonds by duly adopting a resolution on November 28, 2007.

**SECTION 2.2. REPRESENTATIONS BY THE OBLIGOR.** The Obligor represents that:

(a) The Obligor is a limited liability company duly organized and in good standing under the laws of the State, has the power to enter into the Obligor Documents, and has duly authorized the execution and delivery of the Obligor Documents.

(b) The Obligor shall perform or cause to be performed all of the Obligor's obligations under the Obligor Documents.

(c) Each of the Obligor Documents and the other documents contemplated thereby to which the Obligor is a party constitutes a legal, valid and binding obligation of the Obligor enforceable against the Obligor in accordance with its terms.

(d) Neither the execution and delivery of any of the Obligor Documents and the other documents contemplated thereby to which the Obligor is a party, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions of any of the Obligor Documents and the other documents contemplated thereby, will conflict with or result in a breach of or constitute a default by the Obligor under any of the terms, conditions or provisions of any law or ordinance of the State or any applicable political subdivision thereof or of the Obligor's articles of organization or operating agreement or any restriction therein, or any agreement or instrument to which the Obligor is a party or by which it is bound, or result in the creation or imposition of any lien of any nature upon any of the property of the Obligor under the terms of any such law, ordinance, articles of organization or operating agreement, restriction, agreement or instrument except for Permitted Encumbrances, as defined in the Master Indenture.

(e) No event of default or any event which, with the giving of notice or the lapse of time, or both, would constitute an event of default under the Master Indenture, has occurred.

(f) The members of the Obligor are either disregarded for tax purposes or (i) are organizations described in Section 501(c)(3) of the Code and are not "private foundations," as such term is defined under Section 509(a) of the Code, (ii) have received a letter or other notification from the Internal Revenue Service to that effect and such letter or other notification has not been modified, limited or revoked, (iii) are in compliance with all terms, conditions and limitations, if any, contained in such letter or other notification, it being expressly represented that the facts and circumstances which form the basis of such letter or other notification as represented to the Internal Revenue Service continue to exist, and (iv) are exempt from federal income taxes under Section 501(a) of the Code.

(g) As of the date of delivery hereof the members of the Obligor are organizations (i) organized and operated exclusively for charitable purposes and not for pecuniary profit, and (ii) no part of the net earnings of which inures to the benefit of any Person, private stockholder or individual, all within the meaning of the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended, respectively.

(h) The 2008 Project consist entirely of property that is owned, or to be owned, and operated by the Obligor. Except as to \_\_\_\_\_, consisting of \_\_\_\_\_ square feet, none of the 2008 Project will be used in an "unrelated trade or business" (as such term is used in Section 513(a) of the Code) of the Obligor (or any other organization that is exempt from federal income tax under Section 501(c)(3) of the Code that may rent or use any portion of the 2008 Project) or for any private business use (other than by an organization that is exempt from federal income tax under Section 501(c)(3) of the Code) within the meaning and contemplation of Section 141(b) of the Code.

(i) The Tax Compliance Agreement executed and delivered by the Obligor concurrently with the issuance and delivery of the Series 2008A Bonds is true, accurate and complete in all material respects as of the date on which executed and delivered.

(j) The Obligor agrees that it and any other Obligated Group Member (i) shall not perform any act or enter into any agreement which would adversely affect its members' federal income tax status and shall conduct its operations in the manner which conforms to the standards necessary to qualify the members as a charitable organization within the meaning of Section 501(c)(3) of the Code or any successor provisions of federal income tax law, (ii) shall not perform any act, enter into any agreement or use or permit the Water's Edge of Lake Wales Facility or any Project financed with Tax Exempt Bonds, or any portion thereof, to be used in any manner, or for any trade or business or other non-exempt use related to the purposes of the Obligor, which would adversely affect the exclusion of interest on Tax Exempt Bonds, from federal gross income pursuant to Section 103 of the Code, (iii) shall not do or fail to do any act or undertaking which may give rise to unrelated trade or business income with respect to its operations at the Water's Edge of Lake Wales Facility or any Project financed with Tax Exempt Bonds, and (iv) shall not directly or indirectly use or permit the use (including the making of any

investment) of any proceeds of the Tax Exempt Bonds or any other funds of the Issuer or the Obligated Group, or take or omit to take any action, that would cause the Tax Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code.

(k) The Obligor agrees that neither it nor any related party to the Obligor (as defined in Treas. Reg. § 1.150-1(b)) will purchase any of the Tax Exempt Bonds in an amount related to the obligation represented by this Loan Agreement, as described in Section 1.148-1(b) of the Code.

(l) Any information that has been or will be supplied by the Obligor that has been or will be relied upon by the Issuer, the Bond Trustee and Bond Counsel with respect to the exclusion from gross income for federal income tax purposes of interest on the Series 2008 Bonds is true and correct.

(m) The Obligor is duly authorized to operate the Water's Edge of Lake Wales Facility under the laws, rulings, regulations and ordinances of the State and the departments, agencies and political subdivisions thereof.

(n) The 2008 Project will not cause the Obligor to be subject to regulation under chapter 651, Florida Statutes.

(o) The 2008 Project constitutes a "project," and a "health care facility" within the meaning of the Act. All proceeds of the Series 2008 Bonds will be used to finance a "cost" within the meaning of the Act.

(p) Based on current facts, estimates and circumstances, it is currently expected that the 2008 Project will not be sold or disposed of in a manner producing sale proceeds which, together with accumulated proceeds of the Series 2008 Bonds or earnings thereon, would be sufficient to enable the Obligor to retire substantially all of the Series 2008 Bonds prior to the maturity of the Series 2008 Bonds.

(q) The Obligor will construct and operate the Water's Edge of Lake Wales Facility and each Project in accordance with all applicable zoning, planning, building and environmental laws, ordinances, rules and regulations of governmental authorities rating or inspection organizations, bureaus, associations, or offices having jurisdiction over the Water's Edge of Lake Wales Facility or such Project, as the case may be. The Obligor has obtained or will cause to be obtained all requisite approvals of the State and of other federal, state, regional and local governmental bodies for the Water's Edge of Lake Wales Facility and for any Project.

(r) Substantially all of the net proceeds of Tax Exempt Bonds, including earnings from the investment thereof, were used, or will be used, to pay Qualified Project Costs.

**ARTICLE III**  
**TERM OF AGREEMENT**

**SECTION 3.1. TERM OF THIS AGREEMENT.** Subject to Section 11.12 herein, this Loan Agreement shall remain in full force and effect from the date of delivery hereof until such time as all of the Bonds shall have been fully paid or provision made for such payment pursuant to the Bond Indenture and all reasonable and necessary fees and expenses of the Bond Trustee and the Issuer accrued and to accrue through final payment of the Bonds and all liabilities of the Obligor with respect to the Bonds accrued and to accrue through final payment of the Bonds have been paid.

**ARTICLE IV**  
**ISSUANCE OF THE BONDS; APPLICATION OF PROCEEDS; ADDITIONAL BONDS**

**SECTION 4.1. AGREEMENT TO ISSUE BONDS AND APPLICATION OF BOND PROCEEDS; ADDITIONAL BONDS.**

(a) The Issuer will sell and cause to be delivered to the initial purchasers thereof the Series 2008 Bonds and will deliver the proceeds thereof to the Bond Trustee, together with an equity contribution of the Obligor for disposal into Funds established in accordance with Article III of the Bond Indenture.

(b) Additional Bonds may be issued upon the terms and conditions provided herein and in Sections 2.09 and 2.10 of the Bond Indenture to provide funds (i) to pay the Cost of financing, refinancing, acquiring, providing, constructing, enlarging, remodeling, renovating, improving, furnishing or equipping and refinancing the acquiring, constructing, equipping or completing any Project, (ii) to refund any Bonds theretofore issued and then Outstanding under the Bond Indenture or any other obligations that are permitted to be refunded pursuant to the Act, or (iii) for any combination of such purposes. In the event of the issuance of Additional Bonds for any such purposes, the amount of Additional Bonds issued may include the Costs of Issuance and sale of the Additional Bonds, capitalized interest for such period allowed by law, reserve funds and such other Costs reasonably related to the financing as shall be agreed upon by the Obligor and the Issuer.

(c) If the Obligor is not in default hereunder and otherwise meets the requirements for the issuance of Additional Indebtedness under the Master Indenture, including any necessary consents thereunder, the Issuer agrees, on request of the Obligor, from time to time, to consider the issuance of the amount of Additional Bonds specified by the Obligor; provided that the terms of such Additional Bonds, the purchase price to be paid therefore and the manner in which the proceeds thereof are to be disbursed shall have been approved in writing by the Obligor, and provided further that (1) the Obligor and the Issuer shall have entered into an amendment to this Loan Agreement to provide, among other things, for additional loan payments in an amount at least sufficient to pay principal of, premium, if any, and interest on the Additional Bonds when due, and for deposit into any reserve accounts or funds any additional monies received to be deposited therein and (2) the Obligor and the Master Trustee shall have entered into a supplement to the Master Indenture whereby the Obligor issues an obligation securing payment of the principal of, premium, if any, and interest on the Additional Bonds.

**SECTION 4.2. AGREEMENT TO CONSTRUCT PROJECTS; COMPLETION CERTIFICATE.**

(a) The Obligor shall cause each Project to be acquired, constructed, and improved with the proceeds of Bonds to proceed with due diligence and pursuant to the requirements of the applicable laws of the State in all material respects.

(b) The Obligor shall deliver to the Bond Trustee, Bondholder Representative and Construction Monitor within 90 days after the final completion or termination of a Project financed with proceeds of Bonds a certificate utilizing the Form of Completion Certificate attached hereto as EXHIBIT D, of the Obligor to the effect that:

(i) the Project has been completed substantially in accordance with the plans and specifications, as then amended, and the date of completion;

(ii) the Cost of such Project has been fully paid for and no claim or claims exist against the Obligor or against the Project out of which a lien based on furnishing labor or material exists or might ripen; provided, however, there may be excepted from the foregoing statement any claim or claims out of which a lien exists or might ripen in the event that the Obligor intends to contest such claim or claims in accordance with this Loan Agreement, in which event such claim or claims shall be described; provided, further, that it shall be stated that moneys are on deposit in the applicable Account or Accounts of the Construction Fund sufficient to make payment of the full amount that might in any event be payable in order to satisfy such claim or claims; provided, further, that there may also be excepted from the foregoing statement any claim that has been insured over pursuant to an endorsement to any title insurance;

(iii) all permits, certificates and licenses necessary for the occupancy and use of such Project have been obtained and are in full force and effect; and

(iv) the Obligor has in its possession a copy of "as built" plans.

(c) The Obligor shall deliver to the Bond Trustee, Bondholder Representative and Construction Monitor within 90 days after the final completion of a Project financed with proceeds of Bonds a certificate of an independent architect stating that, in his or her opinion, the Project has been completed substantially in accordance with the plans and specifications then in effect.

**SECTION 4.3. COST OF CONSTRUCTION.** The Obligor represents and warrants that it will use its best efforts to construct or cause the construction of each Project financed with proceeds of Bonds at a price which will permit completion of such Project within the amount of the funds to be deposited in the Construction Fund and within the amount of other available funds of the Obligor.

**SECTION 4.4. COMPLIANCE WITH REGULATORY REQUIREMENTS.** The Obligor covenants and agrees that each Project financed with proceeds of Bonds shall be constructed strictly in accordance with all applicable zoning, planning, building and environmental laws, rules and regulations of governmental authorities, rating or inspection organizations, bureaus, associations, or offices having jurisdiction over the Water's Edge Facilities or such Project, as the case may be. Further, the Obligor covenants and agrees to furnish to the Issuer all information necessary for the Issuer to comply with all of the foregoing and all laws, regulations, orders and other governmental requirements.

**SECTION 4.5. REQUESTS FOR DISBURSEMENTS.**

(a) The Obligor shall be entitled to disbursement of moneys in the Cost of Issuance Fund to pay the Cost of Issuance and to reimburse itself for Cost of Issuance paid by the Obligor. The Obligor shall request disbursements from the Cost of Issuance Fund on the form attached hereto as EXHIBIT B, signed by the Obligor or the Project Supervisor and presented to the Bond Trustee.

(b) The Obligor shall be entitled to disbursements of moneys in the Construction Fund, upon approval of the Construction Monitor, to pay the Costs related to a Project financed with proceeds of any Bonds, utilizing the form of requisition attached hereto as EXHIBIT C, signed by the Obligor or the Project Supervisor, approved by the Construction Monitor, and presented to the Bond Trustee.

**SECTION 4.6. MODIFICATION OF DISBURSEMENTS.** The making of any disbursement or any part of a disbursement shall not be deemed an approval or acceptance by the Bond Trustee of the work theretofore done. Upon prior notice to the Obligor and in order to satisfy requirements specified in the Master Indenture, the Bond Trustee may deduct from any disbursement to be made under this Loan Agreement any amount necessary for the payment of fees and expenses required to be paid under this Loan Agreement and any insurance premiums, taxes, assessments, water rates, sewer rents and other charges, liens and encumbrances upon the facilities, whether before or after the making of this Loan Agreement, and any amounts necessary for the discharge of mechanic's liens, and apply such amounts in payment of such fees, expenses, premiums, taxes, assessments, charges, liens and encumbrances. All such sums so applied shall be deemed disbursements under this Loan Agreement.

**SECTION 4.7. COVENANTS AS TO USE OF BOND PROCEEDS AND OTHER MATTERS, PAYBACK PROVISIONS.** The Obligor covenants and agrees that:

(a) Substantially All of the Net Proceeds received from the sale of Tax Exempt Bonds in connection with a Project, and investment earnings thereon, will be used for payment of Qualified Project Costs;

(b) the Obligor will not submit to the Bond Trustee any requisition for a disbursement from the Construction Fund or the Operating Reserve Fund if, after the expenditure of such disbursement, less than Substantially All of the Net Proceeds of the applicable Tax Exempt Bonds and investment earnings thereon actually disbursed to that time would have been used to pay Qualified Project Cost;

(c) the Obligor will not submit to the Bond Trustee any requisition for a disbursement from the Costs of Issuance Fund if, after the expenditure of such disbursement, more than two percent (2%) of the proceeds of the applicable Tax Exempt Bonds would have been or will be used to pay Costs of Issuance;

(d) in the event a disbursement is made which results in the covenants in paragraphs (a), (b) or (c) above being violated, the Obligor will promptly repay to the Bond Trustee for deposit in the applicable Fund such amount as may be necessary for the Obligor to again be in compliance with paragraphs (a), (b) and (c) above; and

(e) none of the proceeds from the issuance of the Tax Exempt Bonds shall be used to provide, any airplane, skybox or other private luxury box, health club facility (other than any health club facility that is used by the Obligor for a use that is directly related to its exempt purposes under Section 501(c)(3) of the Code), any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

#### **SECTION 4.8. 501(c)(3) STATUS.**

(a) The Obligor covenants and agrees that it shall not perform any acts, enter into any agreements, carry on or permit to be carried on at the Water's Edge of Lake Wales Facility, or any other Facilities (as defined in the Master Indenture), or permit the Water's Edge of Lake Wales Facility or such other Facilities to be used in or for any trade or business, which shall adversely affect the basis for the Obligor's exemption from federal income taxation pursuant to Section 501(c)(3) of the Code.

(b) The Obligor agrees that, so long as the Bonds are outstanding: (i) it will maintain its existence as a limited liability company under the laws of the State of Florida; (ii) it will not dissolve or otherwise dispose of all or substantially all of its assets; (iii) it will not consolidate with or merge into another company or permit one or more other corporations to consolidate with or merge into it; and (iv) the member of the Obligor shall be and remain Florida Christian Home Communities, LLC (a disregarded entity for federal income tax purposes whose sole member is Florida Christian Homes Senior Housing, Inc., a Florida not-for-profit corporation and an organization described in Section 501(c)(3) of the Code); provided, that the Obligor may, without violating the agreement contained in this Section 4.8, consolidate with or merge into another institution, permit one or more other of such institutions to consolidate with or merge into it, or sell or otherwise transfer to another such institution all or substantially all of its



assets as an entirety and thereafter and the members of the Obligor may change, dissolve upon satisfaction of the following conditions: (i) if the surviving, resulting or transferee institution, as the case may be, is other than the Obligor, such surviving, resulting or transferee institution shall assume in writing all of the obligations of the Obligor herein, and shall be a governmental unit, a nonprofit corporation and an organization described in Section 501(c)(3) of the Code, or an entity disregarded for federal income tax purposes the sole member of which is a corporation and an organization described in Section 501(c)(3) of the Code; (ii) the Obligor shall furnish to the Bond Trustee an Opinion of Bond Counsel to the effect that such consolidation, merger, transfer or change shall have no adverse effect on the tax exempt nature of the interest on the Bonds under Section 145 and related Sections of the Code; (iii) the Obligor provides a certificate to the Bond Trustee that all conditions under the Master Indenture are satisfied; and (iv) the Bondholder Representative consents to such consolidation, merger, sale or transfer.

**SECTION 4.9. DISPOSITION OF FACILITIES.** The Obligor covenants and agrees that the property constituting the Water's Edge of Lake Wales Facility or any other Project financed in whole or in part with Tax Exempt Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the Obligor of cash or other compensation, unless the Obligor obtains an Opinion of Bond Counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Tax-Exempt Bonds and the Bondholder Representative consents thereto.

**SECTION 4.10. PROJECT SUPERVISOR.** The Project Supervisor shall be designated by a certificate signed by the Obligor for the purpose of making requests for disbursements and certifying actions required to be made by the Obligor under the provisions of this Loan Agreement. An alternate or alternates may be appointed; such appointment to be certified in writing to the Bond Trustee by the Obligor. In the event any of said persons, or any successors appointed under the provisions of this Section 4.10, should become unavailable or unable to take any action or make any certificate provided for in this Loan Agreement, the Bond Trustee, may then, at the expense of the Obligor, appoint as a successor or alternate any architect or engineer licensed under the laws of the State to serve as such until such appointment is made by the Obligor.

**ARTICLE V**  
**LOAN OF BOND PROCEEDS; NOTES; PROVISION FOR PAYMENT**

**SECTION 5.1. LOAN OF BOND PROCEEDS.** The Issuer hereby covenants and agrees to loan to the Obligor the proceeds of the Series 2008 Bonds and the proceeds of any Additional Bonds issued under the Bond Indenture. The Obligor hereby agrees to repay the loan pursuant to the conditions set forth in Section 5.2 hereof.

**SECTION 5.2. REPAYMENT OF LOAN.** The Obligor covenants and agrees to pay to the Bond Trustee for the account of the Issuer all payments when due on the Notes. If for any reason the amounts paid to the Bond Trustee by the Obligor on the Notes, together with any other amounts available in the Bond Fund, are not sufficient to pay principal of, premium, if any, and interest on the Bonds when due, the Obligor covenants and agrees to pay the amount required to make up such deficiency.

**SECTION 5.3. CREDITS.** Any amount in an account of the Bond Fund at the close of business of the Bond Trustee on the day immediately preceding any payment date on the Notes in excess of the aggregate amount then required to be contained in such account of the Bond Fund pursuant to Section 5.2 hereof shall be credited pro rata against the payments due by the Obligor on such next succeeding principal or interest payment date on the Notes.

In the event that all of the Bonds then Outstanding are called for redemption, any amounts contained in the Debt Service Reserve Fund and the Bond Fund at the close of business of the Bond Trustee on the day immediately preceding such redemption date shall be credited against the payments due by the Obligor on the Notes, as provided below.

The principal amount of any Series 2008 Bonds to be applied by the Bond Trustee as a credit against any sinking fund payment pursuant to Section 5.02 of the Bond Indenture shall be credited against the obligation of the Obligor with respect to payment of installments of principal of the Series 2008 Notes as described in the Supplemental Indenture.

The cancellation by the Bond Trustee of any Series 2008 Bonds purchased by the Obligor or of any Series 2008 Bonds redeemed or purchased by the Issuer through funds other than funds received on the Series 2008 Notes shall constitute payment of a principal amount of the Series 2008 Notes equal to the principal amount of the Series 2008 Bonds so cancelled. Upon receipt of written notice from the Bond Trustee of such cancellation, the Master Trustee shall at the request of the Obligor endorse on the Series 2008 Notes such payment of such principal amount thereof.

**SECTION 5.4. SERIES 2008 NOTES.** Concurrently with the sale and delivery by the Issuer of the Series 2008 Bonds, the Obligor shall execute and deliver the

Series 2008 Notes substantially in the form set forth in the Supplemental Indenture. Concurrently with the sale and delivery by the Issuer of any Additional Bonds, the Master Indenture shall be supplemented to reflect the issuance of the additional Notes referred to below, and to make any other changes, amendments or modifications which, in the opinion of the parties thereto, may be necessary or appropriate. Concurrently with the sale and delivery by the Issuer of any Additional Bonds, the Obligor shall execute and deliver one or more additional Notes payable to the Bond Trustee for the account of the Issuer in substantially the form set forth in the Master Indenture. The additional Notes shall: (a) require payment or payments of principal, premium, and interest in amounts and at times sufficient, together with any other funds available therefore, to permit the payments of principal, premium, if any, and interest on the related Additional Bonds, taking into account any mandatory sinking fund requirements (pursuant to any such supplemental bond indenture) which are required in respect of the related Additional Bonds; and (b) require each payment on the Note to be made on or before the due date for the corresponding payment to be made on the related Additional Bonds of the Issuer.

**SECTION 5.5. PAYMENT OF BOND TRUSTEE'S AND PAYING AGENT'S FEES AND EXPENSES.** The Obligor agrees to pay the reasonable and necessary fees and expenses (including attorneys' fees) of the Bond Trustee and any Paying Agents as and when the same become due, upon submission by the Bond Trustee or any Paying Agent of a statement therefore.

**SECTION 5.6. PAYMENT OF ADMINISTRATION EXPENSES.** In consideration of the agreement of the Issuer to issue Bonds and loan the proceeds thereof to the Obligor, the Obligor hereby agrees to pay the Administration Expenses, including, without limitation, the issuance fees of the Issuer and any and all costs paid or incurred by the Issuer in connection with the issuance of Bonds, whenever incurred, including out of pocket expenses and compensation in connection with the issuance of Bonds, including, without limitation, reasonable sums for reimbursement of the fees and expenses incurred by the Issuer's financial advisors, consultants and legal counsel in connection with the issuance of the Bonds, as set forth in the Memorandum of Agreement, dated November 28, 2007, between the Issuer and the Obligor. The Administration Expenses will be due and payable immediately upon submission by the Issuer to the Obligor of an invoice therefore on the Delivery Date.

**SECTION 5.7. PAYEES OF PAYMENTS.** The payments on the Notes pursuant to Section 5.2 hereof shall be paid in funds immediately available at the Payment Office of the Bond Trustee, directly to the Bond Trustee for the account of the Issuer and shall be deposited into the appropriate account of the Bond Fund. The payments to be made to the Bond Trustee and the Paying Agent under Section 5.5 hereof shall be paid directly to the Bond Trustee and the Paying Agent for their own use. The payments for Administration Expenses under Section 5.6 hereof shall be paid directly to the Issuer for its own use. The amounts provided for in Section 5.9 hereof shall be paid

to the Bond Trustee and shall be deposited into the appropriate Debt Service Reserve Account of the Debt Service Reserve Fund.

**SECTION 5.8. OBLIGATIONS OF OBLIGOR HEREUNDER UNCONDITIONAL.** The obligations of the Obligor to make the payments required in Section 5.2 hereof shall be absolute and unconditional. The Obligor will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for in Section 5.2 hereof for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Water's Edge of Lake Wales Facility or any Project, commercial frustration of purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of either, or any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Loan Agreement, whether express or implied. Nothing contained in this Section shall be construed to release the Issuer from the performance of any agreements on its part herein contained; and in the event the Issuer shall fail to perform any such agreement, the Obligor may institute such action against the Issuer as the Obligor may deem necessary to compel performance, provided that no such action shall violate the agreements on the part of the Obligor contained herein and the Issuer shall not be required to pay any costs, expenses, damages or any amounts of whatever nature except for amounts received pursuant to this Loan Agreement. Nothing herein shall be construed to impair the Obligor's right to perform on behalf of the Issuer or institute an independent action for any claim that it may have against the Issuer, the Bond Trustee, any Bondholder or any other third party. The Obligor may, however, at its own cost and expense and in its own name or in the name of the Issuer, prosecute or defend any action or proceedings or take any other action involving third persons which the Obligor deems reasonably necessary in order to secure or protect this right of possession, occupancy, and use hereunder, and in such event the Issuer hereby agrees to cooperate fully with the Obligor.

**SECTION 5.9. DEBT SERVICE RESERVE FUND.**

(a) In the event any moneys in any Debt Service Reserve Account of the Debt Service Reserve Fund are transferred to the Bond Trustee for deposit to the Bond Fund pursuant to Section 3.14 of the Bond Indenture, except if such moneys are transferred due to the redemption of all Bonds of the related series, the Obligor agrees to deposit additional funds or Debt Service Reserve Fund Obligations in an amount sufficient to satisfy the Debt Service Reserve Fund Requirement for such Debt Service Reserve Account, such amount to be deposited in no more than 12 substantially equal consecutive monthly installments, the first installment to be made on the first day of the seventh month after such transfer.

(b) In the event the value of the Debt Service Reserve Fund Obligations (as determined pursuant to the statement of the Bond Trustee furnished in accordance with Section 6.03 of the Bond Indenture and for reasons other than those described in paragraph (a) above) on deposit in any Debt Service Reserve Account of the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement for such Debt Service Reserve Account, the Obligor agrees to deposit additional Debt Service Reserve Fund Obligations in an amount sufficient to satisfy the Debt Service Reserve Fund Requirement for such Debt Service Reserve Account, such amount to be deposited in no more than three substantially equal consecutive monthly installments, the first installment to be made within 30 days of such receipt after written notice from the Bond Trustee of a deficiency.

**ARTICLE VI**  
**MAINTENANCE; INSURANCE; SECURITY**

**SECTION 6.1. MAINTENANCE AND MODIFICATIONS BY OBLIGOR.** The Obligor may, at its own expense, cause to be made from time to time any additions, modifications or improvements to the Water's Edge of Lake Wales Facility or any Project provided such additions, modifications or improvements do not impair the character of the Water's Edge of Lake Wales Facility and/or such Project as a "health care facility" and a "project" within the meaning of the Act or impair the extent of the exemption of interest on the Tax Exempt Bonds from Federal income taxation.

**SECTION 6.2. INSURANCE.** Throughout the term of this Loan Agreement, the Obligor will, at its own expense, provide or cause to be provided insurance against loss or damage to the Water's Edge of Lake Wales Facility and each Project not included as part of the Water's Edge of Lake Wales Facility in accordance with the terms of the Master Indenture.

## **ARTICLE VII SPECIAL COVENANTS**

### **SECTION 7.1. NO WARRANTY OF SUITABILITY BY THE ISSUER.**

The Issuer makes no warranty, either express or implied, as to the condition of the Water's Edge of Lake Wales Facility or any Project or that the Water's Edge of Lake Wales Facility or any Project will be suitable for the Obligor's purposes or needs.

**SECTION 7.2. RIGHT OF ACCESS TO FACILITIES.** The Obligor agrees that the Issuer, the Bond Trustee, the Bondholder Representative and any of their duly authorized agents shall have the right at all reasonable times upon reasonable notice to the Obligor to examine and inspect the Water's Edge of Lake Wales Facility and any Project to determine that the Obligor is in compliance with the terms and conditions of this Loan Agreement; provided that any such inspection will be conducted in a manner that will minimize any unnecessary intrusion on the operations of the Water's Edge of Lake Wales Facility and any Project.

**SECTION 7.3. NONSECTARIAN USE.** The Obligor agrees that no proceeds of the Bonds will be used to finance the construction, acquisition or installation of any portion of the Water's Edge of Lake Wales Facility or any Project which is intended to be used or which are being used for sectarian purposes.

**SECTION 7.4. FURTHER ASSURANCES.** The Issuer and the Obligor agree that they will, from time to time, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Loan Agreement.

### **SECTION 7.5. INDEMNIFICATION.**

(a) THE OBLIGOR AGREES THAT IT WILL AT ALL TIMES INDEMNIFY AND HOLD HARMLESS EACH OF THE INDEMNIFIED PARTIES AGAINST ANY AND ALL LOSSES OR CLAIMS, INCLUDING LOSSES AS A RESULT OF THE NEGLIGENT ACTS OR OMISSIONS OF ANY INDEMNIFIED PARTY, OTHER THAN LOSSES RESULTING FROM FRAUD, WILLFUL MISCONDUCT OR THEFT ON THE PART OF THE INDEMNIFIED PARTY CLAIMING INDEMNIFICATION. THE OBLIGOR ALSO SHALL INDEMNIFY THE BOND TRUSTEE FOR, AND DEFEND AND HOLD IT HARMLESS AGAINST, ANY LOSSES, LIABILITIES, CLAIMS OR DEMANDS OR EXPENSES (INCLUDING ATTORNEYS FEES) INCURRED WITHOUT NEGLIGENCE OR BAD FAITH ON ITS PART, ARISING OUT OF OR IN CONNECTION WITH THE ACCEPTANCE OR ADMINISTRATION OF THE TRUST CREATED UNDER THE BOND INDENTURE OR THE PERFORMANCE OF ITS DUTIES UNDER THE BOND INDENTURE, INCLUDING THE COSTS AND EXPENSES OF DEFENDING

ITSELF AGAINST ANY CLAIM OR LIABILITY IN CONNECTION WITH THE EXERCISE OR PERFORMANCE OF ANY OF ITS POWERS OR DUTIES UNDER THE BOND INDENTURE. THE BOND TRUSTEE MAY ENFORCE ITS RIGHTS UNDER THE PRECEDING SENTENCE AS A THIRD PARTY BENEFICIARY OF THIS LOAN AGREEMENT.

(b) NONE OF THE INDEMNIFIED PARTIES SHALL BE LIABLE TO THE OBLIGOR FOR, AND THE OBLIGOR HEREBY RELEASES EACH OF THEM FROM, ALL LIABILITY TO THE OBLIGOR FOR, ALL INJURIES, DAMAGES OR DESTRUCTION TO ALL OR ANY PART OF ANY PROPERTY OWNED OR CLAIMED BY THE OBLIGOR THAT DIRECTLY OR INDIRECTLY RESULT FROM, ARISE OUT OF OR RELATE TO THE DESIGN, CONSTRUCTION, OPERATION, USE, OCCUPANCY, MAINTENANCE OR OWNERSHIP OF ANY PROJECT OR ANY PART THEREOF, EVEN IF SUCH INJURIES, DAMAGES OR DESTRUCTION DIRECTLY OR INDIRECTLY RESULT FROM, ARISE OUT OF OR RELATE TO, IN WHOLE OR IN PART, ONE OR MORE ACTS OR OMISSIONS, INCLUDING ACTS OR OMISSIONS CONSTITUTING NEGLIGENCE ON THE PART OF ANY INDEMNIFIED PARTY (BUT NOT INCLUDING ACTS OR OMISSIONS CONSTITUTING FRAUD, WILLFUL MISCONDUCT OR THEFT ON THE PART OF THE INDEMNIFIED PARTY CLAIMING RELEASE) IN CONNECTION WITH THE ISSUANCE OF ANY SERIES OF THE BONDS OR IN CONNECTION WITH ANY PROJECT.

(c) Each Indemnified Person, as appropriate, shall reimburse the Obligor for payments made by the Obligor pursuant to this Section to the extent of any proceeds, net of all expenses of collection, actually received by it from any other source (but not from the proceeds of any claim against any other Indemnified Person) with respect to any Loss to the extent necessary to prevent a recovery of more than the Loss by such Indemnified Person with respect to such Loss. At the request and expense of the Obligor, each Indemnified Person shall claim or prosecute any such rights of recovery from other sources (other than any claim against another Indemnified Person) and such Indemnified Person shall assign its rights to such rights of recovery from other sources (other than any claim against another Indemnified Person), to the extent of such required reimbursement, to the Obligor.

(d) In case any Claim shall be brought or, to the knowledge of any Indemnified Person, threatened against any Indemnified Person in respect of which indemnity may be sought against the Obligor, such Indemnified Person promptly shall notify the Obligor in writing; provided, however, that any failure so to notify shall not relieve the Obligor of its obligations under this Section.

(e) The Obligor shall have the right to assume the investigation and defense of all Claims, including the employment of counsel and the payment of all expenses. Each Indemnified Person shall have the right to employ separate counsel in any such action



and participate in the investigation and defense thereof, but the fees and expenses of such counsel shall be paid by such Indemnified Person unless (i) the employment of such counsel has been specifically authorized by the Obligor, in writing, (ii) the Obligor has failed after receipt of notice of such Claim to assume the defense and to employ counsel, or (iii) the named parties to any such action (including any impleaded parties) include both an Indemnified Person and the Obligor, and the Indemnified Person shall have been advised by counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the Obligor (in which case, if such Indemnified Person notifies the Obligor in writing that it elects to employ separate counsel at the Obligor's expense, the Obligor shall not have the right to assume the defense of the action on behalf of such Indemnified Person; provided, however, that the Obligor shall not, in connection with any one action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegation or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys for the Indemnified Parties, which firm shall be designated in writing by the Indemnified Parties).

(f) Each Indemnified Person shall cooperate with the Obligor, and the Obligor shall cooperate with each Indemnified Person, in the defense of any action or Claim. The Obligor shall not be liable for any settlement of any action or Claim without the Obligor's consent but, if any such action or Claim is settled with the consent of the Obligor or there be final judgment for the plaintiff in any such action or with respect to any such Claim, the Obligor shall indemnify and hold harmless the Indemnified Parties from and against any Loss by reason of such settlement or judgment to the extent provided in Subsection (a).

(g) The provisions of this Section shall survive the termination of this Loan Agreement, and the obligations of the Obligor hereunder shall apply to Losses or Claims under Subsection (a) whether asserted prior to or after the termination of this Loan Agreement. In the event of failure by the Obligor to observe the covenants, conditions and agreements contained in this Section, any Indemnified Person may take any action at law or in equity to collect amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Obligor under this Section. The obligations of the Obligor under this Section shall not be affected by any assignment or other transfer by the Issuer of its rights, titles or interests under this Loan Agreement to the Bond Trustee pursuant to the Bond Indenture and will continue to inure to the benefit of the Indemnified Parties after any such transfer. The provisions of this Section shall be cumulative with and in addition to any other agreement by the Obligor to indemnify any Indemnified Person.

**SECTION 7.6. AUTHORITY OF OBLIGOR.** Whenever under the provisions of this Loan Agreement the approval of the Obligor is required, or the Issuer or the Bond Trustee are required to take some action at the request of the Obligor, such

approval or such request shall be made by the Obligor unless otherwise specified in this Loan Agreement and the Issuer or the Bond Trustee shall be authorized to act on any such approval or request and the Obligor shall have no complaint against the Issuer or the Bond Trustee as a result of any action taken.

**SECTION 7.7. AUTHORITY OF ISSUER REPRESENTATIVE.**

Whenever under the provisions of this Loan Agreement the approval of the Issuer or the Bond Trustee are required, or the Obligor is required to take some action at the request of the Issuer, such approval or such request shall be made by the Issuer Representative unless otherwise specified in this Loan Agreement and the Obligor or the Bond Trustee shall be authorized to act on any such approval or request and the Issuer shall have no complaint against the Obligor or the Bond Trustee as a result of any such action taken.

**SECTION 7.8. NO PERSONAL LIABILITY.** No obligations contained in the Bonds, the Bond Indenture or this Loan Agreement shall be deemed to be the obligations of any officer, director, commissioner, member, trustee, agent or employee of the Issuer, the Bond Trustee or the Obligor, in his or her individual capacity, and neither the Board of Directors, the governing body of the Obligor or the Bond Trustee of the Issuer nor any official of the Issuer executing the Bonds, the Bond Indenture or this Loan Agreement shall be liable personally thereon or be subject to any personal liability or accountability with respect thereto.

**SECTION 7.9. NON-DISCRIMINATION.** The Obligor will not discriminate against the residents of the Water's Edge of Lake Wales Facility or any Project on the basis of race, religion, sex or national origin.

**SECTION 7.10. CERTAIN COVENANTS WITH RESPECT TO COMPLIANCE WITH ARBITRAGE REQUIREMENTS FOR INVESTMENTS IN NONPURPOSE INVESTMENTS AND REBATE TO THE UNITED STATES OF AMERICA.** Section 148(f) of the Code, as implemented by Section 1.148-1 to 1.148-11 of the Regulations (the "Rebate Provisions"), requires that, with certain exceptions, the Issuer pay to the United States of America the Rebate Amount. The Obligor hereby assumes and agrees to make all payments for deposit into the Rebate Fund, in accordance with the terms of Section 3.07 of the Bond Indenture, to pay the Rebate Amount, consents to the payment of the Rebate Amount by the Bond Trustee in accordance with the terms and provisions of Section 3.07 of the Bond Indenture, and agrees to pay any amounts in addition to the Rebate Amount, including all interest and penalties, if any, related thereto to the extent that funds available therefore held by the Bond Trustee under the Bond Indenture are not sufficient for such purpose. The Obligor agrees to indemnify, protect and hold harmless the Issuer and the Bond Trustee with respect to any nonpayment of the Rebate Amount and such interest and penalties, and the Bond Trustee with respect to the unavailability or insufficiency of funds with which to make such payments and with respect to any expenses or costs incurred by the Bond Trustee in complying with the terms of Section 3.07 of the Bond Indenture. The Obligor

hereby agrees to fully and timely comply with the requirements of Section 3.07 of the Bond Indenture.

**SECTION 7.11. OBLIGATIONS UNDER INDENTURE.** The Obligor agrees to perform all obligations imposed upon it by the express terms of the Bond Indenture.

## **ARTICLE VIII ASSIGNMENT AND LEASING**

**SECTION 8.1. ASSIGNMENT AND LEASING BY OBLIGOR.** This Loan Agreement may be assigned, and all or any portion of the Water's Edge of Lake Wales Facility and/or any Project may be leased by the Obligor without the consent of either the Issuer or the Bond Trustee, provided that each of the following conditions is complied with:

(a) No assignment or leasing shall relieve the Obligor from primary liability for any of its obligations hereunder, and in the event of any such assignment or leasing the Obligor shall continue to remain primarily liable for payment of the loan payments and other payments specified in Article V hereof and for performance and observance of the other covenants and agreements contained herein; provided that if the Obligor withdraws from the Obligated Group (as defined in the Master Indenture) and is released from its obligations on the Notes by the Master Trustee pursuant to the Master Indenture, the Obligor shall, with the written consent of the Issuer and the Bondholder Representative, also be released from its liability for its obligations hereunder, including payment of the loan payments and other payments specified in Article V hereof and the performance and observance of the other covenants and agreements contained herein.

(b) The assignee or lessee shall assume in writing the obligations of the Obligor hereunder to the extent of the interest assigned or leased, provided that the provisions of this subsection shall not apply to a lease of a portion of the Water's Edge of Lake Wales Facility and/or any Project or an operating contract for the performance by others of Obligor or medical services on or in connection with the Water's Edge of Lake Wales Facility and/or any Project, or any part thereof.

(c) The requirements relating to assignment and leasing contained in the Tax Compliance Agreement and Master Indenture are met.

**SECTION 8.2. ASSIGNMENT AND PLEDGE BY ISSUER.** Solely pursuant to the Bond Indenture, the Issuer may assign its interest in and pledge any moneys receivable under the Notes and this Loan Agreement (except in respect of certain rights to indemnification and for Administration Expenses, indemnification and payment of attorneys' fees and expenses pursuant to Sections 5.6, 7.5 and 9.5 hereof and the right to receive notices) to the Bond Trustee as security for payment of the principal of, premium, if any, and interest on the Bonds. The Obligor consents to such assignment and pledge.

**ARTICLE IX**  
**FAILURE TO PERFORM COVENANTS AND REMEDIES THEREFOR**

**SECTION 9.1. FAILURE TO PERFORM COVENANTS.** Upon failure of the Obligor to pay when due any payment (other than failure to make any payment on any Note, which default shall have no grace period) required to be made under this Loan Agreement or to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, and continuation of such failure for a period of 45 days after written notice, specifying such failure and requesting that it be remedied, is given to the Obligor by the Issuer or the Bond Trustee, the Issuer or the Bond Trustee shall have the remedies provided in Section 9.2 hereof ; provided, however, that if any such failure can be cured by such Obligor but cannot be cured within the 45 day curative period described above, the remedies in Section 9.2 hereof shall not be available if corrective action is instituted by such Obligor within such 45 day period, the written consent of the Bondholder Representative is obtained and the failure is corrected within 90 days after the original written notice of such failure is provided.

**SECTION 9.2. REMEDIES FOR FAILURE TO PERFORM.** Upon the occurrence of a failure of the Obligor to perform as provided in Section 9.1 hereof, the Issuer or the Bond Trustee, as assignee or successor of the Issuer, upon compliance with all applicable law, in its discretion may take any one or more of the following steps:

(a) if the Bond Trustee has declared the Bonds immediately due and payable pursuant to the terms of the Bond Indenture, by written notice to the Obligor, declare an amount equal to all amounts then due and payable on the Bonds, whether by acceleration of maturity (as provided in the Bond Indenture) or otherwise, to be immediately due and payable as liquidated damages under this Loan Agreement and not as a penalty, whereupon the same shall become immediately due and payable; or

(b) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Issuer, and require the Obligor to carry out any agreements with or for the benefit of the Bondholders and to enforce performance and observance of any duty, obligation, agreement or covenant of the Obligor under the Act or this Loan Agreement; or

(c) by action or suit in equity require the Obligor to account as if it were the trustee of an express trust for the Issuer; or

(d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Issuer; or

(e) upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Bond Trustee and the Bondholders, have appointed a receiver or

receivers of the Trust Estate upon a showing of good cause with such powers as the court making such appointment may confer.

**SECTION 9.3. DISCONTINUANCE OF PROCEEDINGS.** In case any proceeding taken by the Issuer or the Bond Trustee on account of any failure to perform under Section 9.1 shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Issuer or the Bond Trustee, then and in every case the Issuer and the Bond Trustee shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Issuer and the Bond Trustee shall continue as though no such proceeding had been taken.

**SECTION 9.4. NO REMEDY EXCLUSIVE.** No remedy herein conferred upon or reserved to the Issuer or the Bond Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer, Bondholder Representative or the Bond Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than notice required in Section 9.1 hereof. Such rights and remedies given the Issuer hereunder shall also extend to the Bond Trustee, Bondholder Representative and the holders of the Bonds, subject to the Bond Indenture.

**SECTION 9.5. AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.** In the event the Issuer, Bondholder Representative or the Bond Trustee should employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Obligor herein or in the Bond Indenture contained, the Obligor agrees that it will on demand therefore pay to the Issuer, Bondholder Representative or the Bond Trustee, as the case may be, the reasonable fee of such attorneys and such other reasonable expenses incurred by the Issuer, Bondholder Representative or the Bond Trustee.

**SECTION 9.6. WAIVERS.** In the event any agreement contained in this Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach waived and shall not be deemed to waive any other breach hereunder. In view of the assignment of the Issuer's rights in and under this Loan Agreement to the Bond Trustee under the Bond Indenture, the Issuer shall have no power to waive any failure to perform under Section 9.1 hereunder without the consent of the Bond Trustee and the Bondholder Representative.

**ARTICLE X**  
**PREPAYMENT OF NOTES**

**SECTION 10.1. GENERAL OPTION TO PREPAY NOTES.** The Obligor shall have and is hereby granted the option exercisable at any time to prepay all or any portion of its payments due or to become due on any or all of the Notes by depositing with the Bond Trustee for payment into the Bond Fund or any bond fund created with respect to any series of Additional Bonds an amount of money or Government Obligations the principal and interest on which when due, will be equal to an amount sufficient to pay the principal of, premium, if any, and interest on any portion of the Bonds then Outstanding under the Bond Indenture, without penalty. The exercise of the option granted by this Section shall not be cause for redemption of Bonds unless such redemption is permitted at that time under the provisions of the Bond Indenture and the Obligor specifies the date for such redemption. In the event the Obligor prepays all of its payments due and to become due on all the Notes by exercising the option granted by this Section and upon payment of all reasonable and necessary fees and expenses of the Bond Trustee, the Issuer and any Paying Agent accrued and to accrue through final payment of the Bonds called for redemption as a result of such prepayment and of all Administration Expenses through final payment of the Bonds called for redemption as a result of such prepayment, this Loan Agreement shall terminate; provided that no such termination shall occur unless all of the Bonds are no longer Outstanding.

**SECTION 10.2. CONDITIONS TO EXERCISE OF OPTION.** To exercise the option granted in Section 10.1 hereof, the Obligor shall give written notice to the Issuer, the Bondholder Representative and the Bond Trustee which shall specify therein the date of such redemption, which date shall be not less than 45 days from the date the notice is mailed.

**ARTICLE XI  
MISCELLANEOUS**

**SECTION 11.1. NOTICES.** Any notice, request or other communication under this Loan Agreement shall be given in writing and shall be deemed to have been given by either party to the other party at the addresses shown below upon any of the following dates:

(a) The date of notice by facsimile, electronic mail, or similar communications, which is confirmed promptly in writing;

(b) Three Business Days after the date of the mailing thereof, as shown by the post office receipt if mailed to the other party hereto by registered or certified mail;

(c) The date of the receipt thereof by such other party if not given pursuant to (a) or (b) above.

The address for notice for each of the parties shall be as follows:

Issuer: City of Lake Wales, Florida  
201 West Central Avenue  
Lake Wales, Florida 33853  
Attention: City Manager  
Telephone: 863/678-4182  
Facsimile No.: 863/678-4180

Obligor: Water's Edge of Lake Wales, LLC  
1669 Clearwater Harbor Drive  
Largo, Florida 33770  
Attention: President  
Telephone: 727/463-3277  
Facsimile: 727/581-8365

Bond Trustee: Wells Fargo Bank, National Association  
9062 Old Annapolis Road – MAC N2702-011  
Columbia, Maryland 21045  
Attention: Corporate Trust Services  
Telephone: 410/884-2187  
Facsimile: 410/715-3791



Bondholder  
Representative: Hamlin Capital Management, LLC  
477 Madison Avenue, Suite 520  
New York, New York 10022  
Attention: Joseph J. Bridy  
Telephone: 212/752-8777  
Facsimile: 212/ 752-5698

Underwriter: Raymond James & Associates  
Healthcare Finance Group  
880 Carillon Parkway  
St. Petersburg, Florida 33716  
Attention: Paul J.M. Towell  
Telephone: 727/567-5552  
Facsimile: 727/567-8315

**SECTION 11.2. BINDING EFFECT.** This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Obligor, and their respective successors and assigns, subject, however, to the limitations contained in Sections 8.1, 8.2 and 11.9 hereof.

**SECTION 11.3. SEVERABILITY.** In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 11.4. AMOUNTS REMAINING IN FUNDS.** It is agreed by the parties hereto that any amounts remaining in the Bond Fund, the Debt Service Reserve Fund and the Construction Fund upon expiration or sooner termination of this Loan Agreement, after payment in full of all Bonds (or provision for payment thereof having been made in accordance with the provisions of the Bond Indenture), the fees, charges, and expenses of the Bond Trustee, the Issuer and the Paying Agent in accordance with the Bond Indenture, the Administration Expenses and all other amounts required to be paid under this Loan Agreement and the Bond Indenture, shall belong to and be paid to the Obligor by the Bond Trustee or the Issuer.

**SECTION 11.5. AMENDMENTS, CHANGES, AND MODIFICATIONS.** Except as otherwise provided in this Loan Agreement or in the Bond Indenture, subsequent to the initial issuance of Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Bond Indenture), this Loan Agreement may not be effectively amended, changed, modified,

altered, or terminated without the written consent of the Bond Trustee and the Bondholder Representative.

**SECTION 11.6. EXECUTION IN COUNTERPARTS.** This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 11.7. PAYMENT.** At such time as the principal of, premium, if any, and interest on all Bonds Outstanding under the Bond Indenture shall have been paid, or shall be deemed to be paid, in accordance with the Bond Indenture, and all other sums payable by the Obligor under this Loan Agreement shall have been paid, the Notes shall be deemed to be fully paid and shall be delivered by the Bond Trustee to the Obligor.

**SECTION 11.8. GOVERNING LAW.** This Loan Agreement shall be governed and construed in accordance with the law of the State.

**SECTION 11.9. NO PECUNIARY LIABILITY OF ISSUER.** No provision, covenant, or agreement contained in this Loan Agreement, or any obligations herein imposed upon the Issuer, or the breach thereof, shall constitute an indebtedness of the Issuer within the meaning of any Florida constitutional provision or statutory limitation or shall constitute or give rise to a pecuniary liability of the Issuer or a charge against its general credit. In making the agreements, provisions, and covenants set forth in this Loan Agreement, the Issuer has not obligated itself except with respect to the application of the revenues, income, and all other property therefrom, as hereinabove provided.

**SECTION 11.10. PAYMENTS DUE ON HOLIDAYS.** If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Loan Agreement, shall be a legal holiday or a day on which banking institutions in Columbia, Maryland are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized by law to remain closed with the same force and effect as if done on the nominal date provided in this Loan Agreement.

**SECTION 11.11. SURVIVAL OF COVENANTS.** All covenants, agreements, representations and warranties made by the Obligor in this Loan Agreement, the Bond Indenture, the Notes and the Bonds, and in any certificates or other documents or instruments delivered pursuant to this Loan Agreement or the Bond Indenture, shall survive the execution and delivery of this Loan Agreement, and the Bond Indenture and the Notes and shall continue in full force and effect until the Bonds and the Notes are paid in full and all of the Obligor's other payment obligations (including without limitation the indemnification obligation under Section 7.5 and the obligations under

Sections 5.5, 5.6 and 9.5 hereof) under this Loan Agreement, the Bond Indenture, the Notes and the Bonds are satisfied. All such covenants, agreements, representations and warranties shall be binding upon any successor and assigns of the Obligor.

**IN WITNESS WHEREOF**, the Issuer and the Obligor have caused this Loan Agreement to be executed in their respective corporate names, all as of the date first above written.

**CITY OF LAKE WALES, FLORIDA**

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

ATTEST:

By: \_\_\_\_\_  
City Clerk

**WATER'S EDGE OF LAKE WALES, LLC**

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

ATTEST:

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

## **EXHIBIT A**

### **DESCRIPTION OF THE 2008 PROJECT**

The 2008 Project includes, but is not limited to, the acquisition, construction, equipping and installation of 22 single story duplex villas, a 3-story building containing 63 independent living apartments, a 2-story building containing 30 assisted living units, 16 memory support (dementia) assisted living units, six respite/rehabilitation assisted living units, and related common areas (including a 2-story, approximately 21,000 square foot Community Center).

**EXHIBIT B**

**FORM OF COST OF ISSUANCE FUND REQUISITION**

NO. \_\_\_\_\_

**Wells Fargo Bank, National Association, as Bond Trustee**  
**Attention: Corporate Trust Services**

Re: City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008A and Taxable Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B

Amount Requested:

Total Disbursements to Date:

This request for disbursement is submitted to you pursuant to Section 4.5 of the Loan Agreement (the "Loan Agreement") dated as of March 1, 2008, between the City of Lake Wales, Florida and Water's Edge of Lake Wales, LLC (the "Obligor") relating to the captioned Bonds.

Terms used in this requisition shall have the meanings specified for them in the Loan Agreement. The Bond Trustee is hereby authorized and directed to make payment from the Cost of Issuance Fund as specified in SCHEDULE A attached hereto. The undersigned authorized representative of the Obligor hereby certifies to you in connection with the amount for which payment is requested by this requisition, as follows:

1. The obligations as set forth on this requisition were incurred in connection with the issuance of the Series 2008 Bonds;
2. All previous disbursements, if any, made pursuant to Section 4.5 of the Loan Agreement have been expended for Costs of Issuance described in prior requisitions, if any, submitted by the authorized representative of the Obligor;
3. This requisition is for costs that were properly incurred and are proper charges against the Cost of Issuance Fund;
4. The expenditures of the amount requested under this requisition, when added to all disbursements under previous requisitions, will result in no more than two percent (2%) of the aggregate face amount of the Series 2008A Bonds being used for payment of Costs of Issuance related to the Series 2008 Bonds;

5. Nothing has come to the attention of the Obligor that would cause it to conclude that the representations and warranties contained in the Loan Agreement are not true and correct as of the date hereof; and

6. No event has occurred and is continuing which constitutes an Event of Default under the Bond Indenture or the Loan Agreement.

Date: \_\_\_\_\_

**WATER'S EDGE OF LAKE WALES, LLC**  
**as Obligor**

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

**EXHIBIT C**

**FORM OF CONSTRUCTION FUND REQUISITION**

**NO. \_\_\_\_\_**

**Wells Fargo Bank, National Association, as Bond Trustee  
Attention: Corporate Trust Services**

Re: City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008 and Taxable Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B

Amount Requested:

Total Disbursements to Date:

1. Each obligation for which a disbursement is hereby requested is described in reasonable detail in SCHEDULE A hereto together with the name and address of the person, firm or corporation to whom payment is due.

2. The bills, invoices or statements of account for each obligation referenced in SCHEDULE A are on file with the Obligor.

3. The Obligor hereby certifies that:

(a) each obligation described in SCHEDULE A has been properly incurred, is a proper charge against the Project Account of the Construction Fund and has not been the basis of any previous disbursement;

(b) no part of the disbursement requested hereby will be used to pay for materials not yet incorporated into the 2008 Project or for services not yet performed in connection therewith;

(c) no Event of Default under the Bond Indenture has occurred and is continuing and there exists no event or condition which, with the giving of notice or the passage of time would constitute an Event of Default under the Bond Indenture or Loan Agreement;

(d) no item in SCHEDULE A represents any portion of an obligation which the Obligor is, as of the date hereof, entitled to retain under any retained percentage agreement;

(e) all sums previously advanced by the Bond Trustee have been used solely for purposes permitted by the Bond Indenture and the specific items which are the subject of this requisition will be so used;

(f) there has not been served upon the Obligor any lien, notice of any lien, right to lien or attachment upon or claim affecting the right to receive payment of, any moneys payable to any of the persons or firms named in this requisition, which has not been released or will not be released simultaneously with the payment of such obligation; and

(g) after payment of such disbursement, sufficient amounts will remain in the Project Account of the Construction Fund, taking into account investment earnings thereon, to pay all remaining unpaid costs of the 2008 Project.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**WATER'S EDGE OF LAKE WALES, LLC**  
**as Obligor**

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

**APPROVED BY:**

\_\_\_\_\_  
Construction Monitor



## **EXHIBIT D**

### **FORM OF COMPLETION CERTIFICATE**

The undersigned, being a duly Authorized Obligated Group Representative or Project Supervisor of Water's Edge of Lake Wales, LLC, a Florida limited liability company, as the Obligor (the "Obligor") under that certain Loan Agreement by and between the Obligor and the City of Lake Wales, a municipal corporation of the State of Florida (the "Issuer") dated as of March 1, 2008 relating to the City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008A and Taxable Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B (the "Loan Agreement") hereby certifies, on behalf of the Obligor, as follows:

All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to such term in the Loan Agreement.

The acquisition, construction, and equipping of the 2008 Project has been completed in accordance with the plans and specifications currently in effect.

The entire cost of the 2008 Project as shown on the total project cost certificate and sworn construction statement has been paid or is now due and payable in accordance with the requisitions submitted pursuant to the Bond Indenture.

The 2008 Project conforms to all applicable zoning, planning, and building regulations and is suitable and sufficient for efficient operation for the purpose for which the 2008 Project will be used.

The Construction Monitor has in its possession a copy of "as built" plans.

This Certificate is given without prejudice to any rights against third parties which exist at the date hereof or which may subsequently come into being.

Not less than 95% of the net proceeds of the 2008 Bonds have been used to finance costs of the 2008 Project.

IN WITNESS WHEREOF, the undersigned has set his or her hand on this \_\_\_\_ day  
of \_\_\_\_\_, 200\_\_.

**WATER'S EDGE OF LAKE WALES, LLC,  
as Obligated Group Representative**

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

**APPROVED BY:**

\_\_\_\_\_  
Construction Monitor

**EXHIBIT D**

**FORM OF INDENTURE OF TRUST**



---

**CITY OF LAKE WALES, FLORIDA**

**TO**

**WELLS FARGO BANK, NATIONAL ASSOCIATION,  
AS BOND TRUSTEE**

**INDENTURE OF TRUST**

**DATED AS OF MARCH 1, 2008**

**CITY OF LAKE WALES, FLORIDA  
RETIREMENT FACILITY REVENUE BONDS  
(WATER'S EDGE OF LAKE  
WALES, LLC PROJECT)  
SERIES 2008A**

**CITY OF LAKE WALES, FLORIDA  
TAXABLE RETIREMENT FACILITY  
REVENUE BONDS  
(WATER'S EDGE OF LAKE  
WALES, LLC PROJECT)  
SERIES 2008B**

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## **INDENTURE OF TRUST**

**THIS INDENTURE OF TRUST** dated as of March 1, 2008, between CITY OF LAKE WALES, FLORIDA, a municipal corporation duly organized and validly existing under the laws of the State of Florida (the "Issuer"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association with trust powers having an office in Columbia, Maryland, as bond trustee (the "Bond Trustee"), being authorized to accept and execute trusts of the character herein set out,

### **WITNESSETH:**

**WHEREAS**, the Issuer is authorized by Chapter 166, Florida Statutes, Part II, Chapter 159, Florida Statutes, and other applicable provisions of law (collectively, the "Act"), to sell and deliver its bonds for the purpose of financing or refinancing the cost of any "health care facility" or "project," as such terms are defined in the Act; and

**WHEREAS**, the Issuer is further authorized by the Act to make a loan of the proceeds of its bonds in the amount of all or part of the cost of the health care facility or project for which such bonds have been authorized and, at the option of the Issuer, and for the deposit to a reserve fund or reserve funds for such bonds; and

**WHEREAS**, the execution and delivery of this Indenture of Trust (hereinafter sometimes referred to as the "Bond Indenture"), and the issuance of the Bonds hereinafter authorized under this Bond Indenture, pursuant to the provisions of the Act, have been in all respects duly and validly authorized by a resolution duly adopted and approved by the Issuer; and

**WHEREAS**, the Issuer is authorized by law and deems necessary, in accordance with its powers described above, and has duly authorized and directed that its bonds, to be known as "City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project)," be issued in one or more series of tax-exempt and taxable bonds (all bonds from time to time outstanding under the terms of this Bond Indenture being hereinafter referred to as the "Bonds"); and

**WHEREAS**, the proceeds of the Bonds shall be loaned to Water's Edge of Lake Wales, LLC (the "Obligor") pursuant to the Loan Agreement dated as of March 1, 2008 (the "Loan Agreement") between the Issuer and the Obligor; and

**WHEREAS**, to secure the payment of the principal of the Bonds, premium, if any, and the interest thereon and the performance and observance of the covenants and conditions herein contained the Issuer has authorized the execution and delivery of this Bond Indenture; and

**WHEREAS**, the Issuer has determined to issue two initial series of Bonds hereunder, designated "City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008A" and "City of Lake Wales, Florida Taxable Retirement Facility Revenue Bonds (Water's Ede of Lake Wales, LLC Project), Series 2008B" (hereinafter collectively, called the "Series 2008 Bonds") in the aggregate principal amount of \$\_\_\_\_\_ and \$\_\_\_\_\_, respectively, for the purposes of financing a portion of the Cost of the 2008 Project (as such terms are defined in the Loan Agreement), funding certain reserve funds, capitalizing interest on the Series 2008 Bonds and paying a portion of the Cost of Issuance of the Series 2008 Bonds; and

**WHEREAS**, the Series 2008 Bonds, the Bond Trustee's authentication certificate and the assignment are to be substantially in the following forms, with such necessary or appropriate variations, omissions, and insertions as permitted or required by this Bond Indenture:

(FORM OF SERIES 2008A BOND)

**CITY OF LAKE WALES, FLORIDA  
RETIREMENT FACILITY REVENUE BONDS  
(WATER'S EDGE OF LAKE WALES, LLC PROJECT)  
SERIES 2008A**

No. RA-\_\_\_\_\_ \$ \_\_\_\_\_

Interest Rate                      Maturity Date                      Original Issue Date                      CUSIP No.

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

CITY OF LAKE WALES, FLORIDA, a municipal corporation duly organized and validly existing under the laws of the State of Florida (the "Issuer"), for value received, hereby promises to pay, from the sources described herein, to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above (unless this Bond shall have been called for prior redemption) and to pay, from such sources, interest on said sum on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_ at the interest rate specified above, until payment of the principal hereof has been made or provided for. This Bond will bear interest from the most recent interest payment date to which interest has been paid or provided for, or, if no interest has been paid, from the Delivery Date of this Bond.

THE ISSUER, POLK COUNTY, FLORIDA, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATE OF FLORIDA, SHALL NOT BE LIABLE OR OBLIGATED (GENERALLY, SPECIALLY, MORALLY OR OTHERWISE) TO PAY THE PRINCIPAL OF THIS BOND OR THE PREMIUM, IF ANY, OR INTEREST HEREON EXCEPT, WITH RESPECT TO THE ISSUER, SOLELY FROM THE SOURCES IDENTIFIED IN THE HEREINAFTER DEFINED BOND INDENTURE AND LOAN AGREEMENT, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, POLK COUNTY, FLORIDA, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS.

This Bond and the series of Bonds of which it is a part have been issued under and pursuant to the provisions of Chapter 166, Florida Statutes, Part II, Chapter 159, Florida Statutes, and other applicable provisions of law (the "Act"). This Bond is a special and limited obligation of the Issuer payable solely from the revenues, receipts and resources

of the Issuer received from the Obligor (hereinafter defined) pledged to its payment and not from any other revenues, funds or assets of the Issuer. No owner of any Bonds has the right to compel the Issuer to pay the principal of, interest or redemption premium, if any, on the Bonds, except from such sources.

The principal of and premium, if any, on this Bond are payable upon the presentation and surrender hereof at the Columbia, Maryland, trust office of Wells Fargo Bank, National Association, as bond trustee, or at the designated corporate trust office of its successor in trust (the "Bond Trustee") under an Indenture of Trust dated as of March 1, 2008 (the "Bond Indenture") by and between the Issuer and the Bond Trustee. Interest on this Bond will be paid on each interest payment date (or, if such interest payment date is not a business day, on the next succeeding business day), by check or draft mailed to the person in whose name this Bond is registered (the "registered owner") in the registration records of the Issuer maintained by the Bond Trustee at the address appearing thereon at the close of business on the [last day of the calendar month] next preceding such interest payment date (the "Regular Record Date") or by wire transfer of same day funds upon receipt by the Bond Trustee prior to the Regular Record Date of a written request by a registered owner of \$1,000,000 or more in aggregate principal amount of Bonds. The CUSIP number and appropriate dollar amounts for each CUSIP number shall accompany all payments of principal of, redemption premium, if any, and interest on the Bonds. Any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the registered owner hereof at the close of business on the Regular Record Date and shall be payable to the person who is the registered owner hereof at the close of business on a Special Record Date (as defined in the hereinafter defined Loan Agreement), for the payment of any defaulted interest. Such Special Record Date shall be fixed by the Bond Trustee whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the registered owners of such Bonds not less than ten days prior to such Special Record Date. Alternative means of payment of interest may be used if mutually agreed upon between the owner of this Bond and the Bond Trustee, as provided in the Bond Indenture. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Bond Trustee.

[INSERT AUTHORIZED DENOMINATION/CUSIP WARNING LANGUAGE]

This Bond shall be issued pursuant to a book entry system administered by The Depository Trust Company (together with any successor thereto, "Securities Depository"). The book entry system will evidence beneficial ownership of the Bonds with transfers of ownership affected on the register held by the Securities Depository pursuant to rules and procedures established by the Securities Depository. So long as the book entry system is in effect, transfer of principal, interest and premium payments, and provisions of notices or other communications, to beneficial owners of the Bonds will be the responsibility of the Securities Depository as set forth in the Bond Indenture.

This Bond is one of a duly authorized issue of bonds of the Issuer dated March \_\_, 2008, known as "City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008A" (the "Series 2008A Bonds") and issued in an aggregate principal amount of \$ \_\_\_\_\_ for the purpose of providing funds to be loaned to Water's Edge of Lake Wales, LLC, a Florida limited liability company (the "Obligor"), to be used to (i) finance and refinance a portion of the cost of acquisition and construction of certain senior care and living facilities, (ii) fund certain reserve funds, (iii) fund capitalized interest, and (iv) pay a portion of the costs of issuance of the Series 2008A Bonds. The Series 2008A Bonds are being issued simultaneously with Issuer's City of Lake Wales, Florida Taxable Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B" (the "Series 2008B Bonds," and together with the Series 2008A Bonds, the "Series 2008 Bonds") issued in the aggregate principal amount of \$ \_\_\_\_\_ for purpose of providing funds to be loaned to the Obligor and to be used to fund certain reserve funds, working capital and pay a portion of the costs of issuance of the Series 2008 Bonds

To provide for its loan repayment obligations, the Obligor has entered into a Loan Agreement dated as of March 1, 2008, between the Issuer and the Obligor (the "Loan Agreement") and issued its Series 2008A Note and Series 2008B Note (collectively, the "Series 2008 Notes"). The Series 2008 Notes are issued pursuant to a Master Trust Indenture dated as of March 1, 2008, between the Obligor and Wells Fargo Bank, National Association, as master trustee (the "Master Trustee") and a Supplemental Master Trust Indenture Number 1, dated as of March 1, 2008 between the Obligor and the Master Trustee (collectively, the "Master Indenture"). Pursuant to the Master Indenture and a Mortgage and Security Agreement dated as of March 1, 2008, from the Obligor to the Master Trustee (the "Mortgage"), the Obligor has pledged and granted a security interest in, among other things, the Gross Revenues (as defined in the Master Indenture) and the Mortgaged Property (as defined in the Mortgage) to the Master Trustee to secure the Series 2008 Notes. Additional obligations on a parity with the Series 2008 Notes may be issued pursuant to the Master Indenture subject to the conditions and terms contained therein, and the payments on such additional obligations will also be secured by a pledge of the Gross Revenues, the Mortgaged Property and other security.

This Bond and the claims for interest hereon are payable only out of the revenues derived by the Issuer pursuant to the Loan Agreement and the Series 2008 Notes. The Series 2008 Bonds are issued under and are equally and ratably secured and are entitled to the protection given by the Bond Indenture.

No recourse under or upon any obligation, covenant, or agreement contained in the Bond Indenture, or in any Bond, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of the Bond Indenture, shall be had against any director, incorporator, officer, agent,

employee, or representative as such, past, present or future, of the Issuer, either directly or through the Issuer or otherwise, for the payment for or to the Issuer or for or to the registered owner of any Bond issued thereunder or otherwise, of any sum that may be due and unpaid by the Issuer upon any such Bond.

Neither the elected officials, officers, agents, employees or representatives of the Issuer past, present or future, nor any person executing this Bond or the Bond Indenture, shall be personally liable hereon or thereon or be subject to any personal liability by reason of the issuance hereof and thereof, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the execution of the Bond Indenture and the issuance of this Bond.

Additional series of Bonds may be issued by the Issuer in accordance with the limitations and conditions of the Bond Indenture, which Bonds shall be in all respects on a parity with the Series 2008 Bonds, except as otherwise provided therein. Such additional Bonds may be issued at different times, in various principal amounts and denominations, may mature at different times, may bear interest at different rates, may be redeemable at different prices and may otherwise vary as provided in the Bond Indenture. The Series 2008 Bonds and such additional Bonds are herein collectively called the "Bonds." Reference is hereby made to the Bond Indenture and all indentures supplemental thereto and the Master Indenture for a description of the revenues pledged, the nature and extent of the security, the rights, duties, and obligations of the Issuer, the Bond Trustee and the owners of the Bonds, and the terms and conditions upon which the Bonds are, and are to be, secured.

[TO BE UPDATED ONCE REDEMPTION PROVISIONS FINALIZED]

The Series 2008 Bonds are subject to optional redemption, in whole or in part, and if in part, in inverse order of mandatory sinking fund installments, and by lot within a maturity, and in denominations of \$100,000 and integral multiples of \$5,000 in excess thereof, by the Issuer, acting at the direction of the Obligor, on September 1, 2016, and any Business Day thereafter at the redemption prices, expressed as a percentage of the principal amount of Series 2008 Bonds to be redeemed set forth below, plus accrued interest thereon to the applicable redemption date:

Redemption Period (both dates included)	Redemption Price
September 1, 2016 to August 31, 2017	102%
September 1, 2017 to August 31, 2018	101%
September 1, 2018 and thereafter	100%

The Series 2008 Bonds maturing on September 1, 20\_\_ are subject to mandatory sinking fund redemption at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date. As and for a sinking fund for the redemption of Series 2008 Bonds maturing on September 1, 20\_\_, the Obligor shall cause to be deposited into the Principal Account of the Bond Fund a sum which is sufficient to redeem on September 1 of each of the following years (after credit as provided below) the following principal amounts of Series 2008 Bonds maturing on September 1, 20\_\_, plus accrued interest to the redemption date:

<u>Year</u>	<u>Amount</u>
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\*Maturity

At the option of the Obligor to be exercised by delivery of a written certificate to the Bond Trustee on or before the forty-fifth day next preceding any sinking fund redemption date, it may (i) deliver to the Bond Trustee for cancellation Series 2008 Bonds or portions thereof of the same maturity, in an aggregate principal amount desired by the Obligor or (ii) specify a principal amount of Series 2008 Bonds or portions thereof of the same maturity, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Bond Trustee at the request of the Obligor and not theretofore applied as a credit against any sinking fund redemption obligation.

The Bonds shall be subject to optional redemption by the Obligor prior to their scheduled maturities, in whole or in part (proportionally among each Series) at a redemption price equal to the principal amount thereof plus accrued interest from the most recent interest payment date to the redemption date on any date following the occurrence of any of the following events:

(1) in case of damage or destruction to, or condemnation of, any property, plant, and equipment of any Obligated Group Member, to the extent that the net proceeds of insurance or condemnation award exceed the Threshold Amount (as defined in the Master Indenture) and the Obligor has determined not to use such net proceeds or award to repair, rebuild or replace such property, plant, and equipment; or

(2) as a result of any changes in the Constitution or laws of the State of Florida or of the United States of America or of any legislative, executive, or administrative action (whether state or federal) or of any final decree, judgment, or order of any court or administrative body (whether state or federal), the obligations of the Obligor under the Loan Agreement have become, as established by an Opinion of Counsel, void or

unenforceable in each case in any material respect in accordance with the intent and purpose of the parties as expressed in the Loan Agreement.

The Series 2008 Bonds are subject to mandatory redemption in whole or in part on any date for which timely notice of redemption can be given by the Bond Trustee following a Completion Date (as defined in the Loan Agreement) at a redemption price equal to the aggregate principal amount of the Series 2008 Bonds to be redeemed plus accrued interest to the redemption date, without premium, to the extent Surplus Construction Fund Moneys (as defined in the Loan Agreement) are transferred to the Principal Account of the Bond Fund.

The Series 2008A Bonds are subject to mandatory redemption in whole or in part on any date for which timely notice of redemption can be given by the Bond Trustee following a Determination of Taxability at a redemption price equal to 103% of the aggregate principal amount of the Series 2008A Bonds to be redeemed plus accrued interest to the redemption date.

The Series 2008 Bonds are subject to optional redemption on any \_\_\_\_\_ 1, in part, in order of the next succeeding mandatory sinking fund installments, from the Excess Cash Flow deposited in the Special Redemption Account of the Bond Fund.

The Series 2008 Bonds [TO BE DISCUSSED - SPECIFIC MATURITY OR MAX \$\$ AMOUNT] are subject to optional redemption in whole or in part at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date on the first Business Day of each [MONTHLY OR QUARTERLY?], to the extent monies are on deposit in the Life Lease Fee Redemption Account of the Bond Fund.

If less than all Series 2008 Bonds are to be redeemed, the Obligor may select the maturities eligible for redemption which are to be redeemed. If less than all Series 2008 Bonds of a single maturity are to be redeemed, the selection shall be made by the Securities Depository or by lot by the Bond Trustee. Notice of the call for any redemption shall be given by the Bond Trustee by sending a copy of the redemption notice by mail not more than 60 nor less than 30 days prior to the redemption date to the Bondholder Representative and the registered owner of each Series 2008 Bond to be redeemed as shown on the registration records kept by the Bond Trustee, as provided in the Bond Indenture. All Series 2008 Bonds or portions thereof called for redemption will cease to bear interest after the specified redemption date, provided funds for their payment are on deposit at the place of payment at that time.

The Series 2008 Bonds are issuable as fully registered Bonds in denominations of \$25,000 and any integral multiple of \$5,000 in excess thereof and are exchangeable for an equal principal amount of fully registered Series 2008 Bonds of the same maturity of other authorized denominations at the aforesaid office of the Bond Trustee but only in the



manner and subject to the limitations and on payment of the charges provided in the Bond Indenture.

THE SERIES 2008 BONDS SHALL ONLY BE IN AUTHORIZED DENOMINATIONS OF \$100,000 AND ANY INTEGRAL MULTIPLE OF \$5,000 IN EXCESS THEREOF, TO THE EXTENT ANY OF THE FOLLOWING CONDITIONS ARE NO LONGER SATISFIED: (A) THE BENEFICIAL OWNERS OF THE SERIES 2008 BONDS ARE ADVISED BY HAMLIN CAPITAL UNDER THE INVESTMENT ADVISORS ACT OF 1940; (B) HAMLIN CAPITAL SERVES AS BONDHOLDER REPRESENTATIVE FOR SUCH BENEFICIAL OWNERS PURSUANT TO AN INVESTMENT ADVISORY AGREEMENT; AND (C) THE SERIES 2008 BONDS ARE HELD BY HAMLIN CAPITAL IN MANAGED ACCOUNTS OF ACCREDITED INVESTORS [WITH AN INDIVIDUAL FAIR MARKET VALUE OF NOT LESS THAN \$2,000,000 AND WILL NOT EXCEED 2% OF EACH ACCOUNT'S HOLDINGS, BOTH MEASURED AT THE TIME OF THE INVESTMENT.]

This Series 2008A Bond is fully transferable by the registered owner hereof in person or by his or her duly authorized attorney on the registration books kept at the principal office of the Bond Trustee upon surrender of this Series 2008A Bond together with a duly executed written instrument of transfer satisfactory to the Bond Trustee. Upon such transfer a new fully registered Series 2008A Bond of authorized denomination or denominations for the same principal amount and maturity will be issued to the transferee in exchange herefor, all upon payment of the charges and subject to the terms and conditions set forth in the Bond Indenture.

The Bond Trustee will not be required to transfer or exchange any Series 2008A Bond after the mailing of notice calling such Series 2008 Bond or any portion thereof for redemption has been given as herein provided, nor during the period beginning at the opening of business 15 days before the day of mailing by the Bond Trustee of a notice of prior redemption and ending at the close of business on the day of such mailing.

The Issuer and the Bond Trustee may deem and treat the person in whose name this Series 2008A Bond is registered as the absolute owner hereof for the purpose of making payment (except to the extent otherwise provided hereinabove and in the Bond Indenture with respect to Regular and Special Record Dates for the payment of interest) and for all other purposes, and neither the Issuer nor the Bond Trustee shall be affected by any notice to the contrary. The principal of, premium, if any, and interest on this Series 2008A Bond shall be paid free from and without regard to any equities between the Obligor and the original or any intermediate owner hereof, or any setoffs or counterclaims.

The owner of this Series 2008A Bond shall have no right to enforce the provisions of the Bond Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Bond Indenture, or to institute,

appear in or defend any suit or other proceedings with respect thereto, except as provided in the Bond Indenture. In case an event of default under the Bond Indenture shall occur, the principal of all of the Series 2008 Bonds at any such time Outstanding under the Bond Indenture may be declared or may become due and payable, upon the conditions and in the manner and with the effect provided in the Bond Indenture. The Bond Indenture provides that such declaration may in certain events be waived by the Bond Trustee, the Bondholder Representative or the owners of a requisite principal amount of the Series 2008 Bonds Outstanding under the Bond Indenture.

To the extent permitted by, and as provided in, the Bond Indenture, modifications or amendments of the Bond Indenture, or of any indenture supplemental thereto, and of the rights and obligations of the Issuer and of the owners of the Series 2008 Bonds may be made with the consent of the Issuer, the Bondholder Representative and the Bond Trustee and, in certain instances, of not less than a majority in aggregate principal amount of the Series 2008 Bonds then Outstanding. Any such consent by the owner of this Series 2008A Bond shall be conclusive and binding upon such owner and upon all future owners of this Series 2008A Bond and of any Series 2008A Bond issued upon the transfer or exchange of this Series 2008A Bond whether or not notation of such consent is made upon this Series 2008A Bond.

This Series 2008A Bond shall not be entitled to any benefit under the Bond Indenture, or any indenture supplemental thereto, or become valid or obligatory for any purpose until the Bond Trustee shall have manually signed the certificate of authentication hereon.

This Series 2008A Bond is and has all the qualities and incidents of a negotiable instrument under the law merchant act and the Uniform Commercial Code – Investment Securities Law of the State of Florida.

**IT IS HEREBY CERTIFIED, RECITED AND DECLARED** that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Bond Indenture and issuance of this Series 2008A Bond do exist, have happened and have been performed in due time, form and manner as required by law.

[Remainder of page intentionally left blank]

**IN WITNESS WHEREOF**, City of Lake Wales, Florida has caused this Series 2008A Bond to be executed with the manual or facsimile signatures of the Mayor and

attested by the manual or facsimile signature of the City Clerk of the City of Lake Wales, Florida, and a facsimile of its seal to be hereto affixed or printed, all as of the date set forth above.

(SEAL)

**CITY OF LAKE WALES, FLORIDA**

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

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

Date of Authentication:

\_\_\_\_\_

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Bond Trustee**

By: \_\_\_\_\_  
Authorized Signatory

(END OF FORM OF BOND TRUSTEE'S CERTIFICATE OF AUTHENTICATION)

[FORM OF ASSIGNMENT]

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Series 2008A Bond, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer such Series 2008A Bond on the books kept for registration and transfer of the within Series 2008A Bond, with full power of substitution in the premises.

Date: \_\_\_\_\_

NOTICE: The signature to this Assignment must correspond with the name as it appears upon the face of the within Series 2008A Bond in every particular, without enlargement or alteration or any change whatsoever.

Signature Guaranteed By:

\_\_\_\_\_

\_\_\_\_\_

Authorized Signatory

NOTE: The signature to this Assignment must be guaranteed by a financial institution that is a member of the Securities Transfer Agents Medallion Program ("STAMP"), the Stock Exchange Medallion Program ("SEMP") or the New York Stock Exchange, Inc. Medallion Signature Program ("MSP").

\* \* \* [END OF SERIES 2008A BOND FORM] \* \* \*

(FORM OF SERIES 2008B BOND)

**CITY OF LAKE WALES, FLORIDA  
TAXABLE RETIREMENT FACILITY REVENUE BONDS  
(WATER'S EDGE OF LAKE WALES, LLC PROJECT)  
SERIES 2008B**

No. RB-\_\_\_\_\_ \$ \_\_\_\_\_

Interest Rate

Maturity Date

Original Issue Date

CUSIP No.

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

CITY OF LAKE WALES, FLORIDA, a municipal corporation duly organized and validly existing under the laws of the State of Florida (the "Issuer"), for value received, hereby promises to pay, from the sources described herein, to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above (unless this Bond shall have been called for prior redemption) and to pay, from such sources, interest on said sum on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_ at the interest rate specified above, until payment of the principal hereof has been made or provided for. This Bond will bear interest from the most recent interest payment date to which interest has been paid or provided for, or, if no interest has been paid, from the Delivery Date of this Bond.

THE ISSUER, POLK COUNTY, FLORIDA, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATE OF FLORIDA, SHALL NOT BE LIABLE OR OBLIGATED (GENERALLY, SPECIALLY, MORALLY OR OTHERWISE) TO PAY THE PRINCIPAL OF THIS BOND OR THE PREMIUM, IF ANY, OR INTEREST HEREON EXCEPT, WITH RESPECT TO THE ISSUER, SOLELY FROM THE SOURCES IDENTIFIED IN THE HEREINAFTER DEFINED BOND INDENTURE AND LOAN AGREEMENT, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, POLK COUNTY, FLORIDA, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS.

This Bond and the series of Bonds of which it is a part have been issued under and pursuant to the provisions of Chapter 166, Florida Statutes, Part II, Chapter 159, Florida Statutes, and other applicable provisions of law (the "Act"). This Bond is a special and limited obligation of the Issuer payable solely from the revenues, receipts and resources

of the Issuer received from the Obligor (hereinafter defined) pledged to its payment and not from any other revenues, funds or assets of the Issuer. No owner of any Bonds has the right to compel the Issuer to pay the principal of, interest or redemption premium, if any, on the Bonds, except from such sources.

The principal of and premium, if any, on this Bond are payable upon the presentation and surrender hereof at the Columbia, Maryland, trust office of Wells Fargo Bank, National Association, as bond trustee, or at the designated corporate trust office of its successor in trust (the "Bond Trustee") under an Indenture of Trust dated as of March 1, 2008 (the "Bond Indenture") by and between the Issuer and the Bond Trustee. Interest on this Bond will be paid on each interest payment date (or, if such interest payment date is not a business day, on the next succeeding business day), by check or draft mailed to the person in whose name this Bond is registered (the "registered owner") in the registration records of the Issuer maintained by the Bond Trustee at the address appearing thereon at the close of business on the [last day of the calendar month] next preceding such interest payment date (the "Regular Record Date") or by wire transfer of same day funds upon receipt by the Bond Trustee prior to the Regular Record Date of a written request by a registered owner of \$1,000,000 or more in aggregate principal amount of Bonds. The CUSIP number and appropriate dollar amounts for each CUSIP number shall accompany all payments of principal of, redemption premium, if any, and interest on the Bonds. Any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the registered owner hereof at the close of business on the Regular Record Date and shall be payable to the person who is the registered owner hereof at the close of business on a Special Record Date (as defined in the hereinafter defined Loan Agreement), for the payment of any defaulted interest. Such Special Record Date shall be fixed by the Bond Trustee whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the registered owners of such Bonds not less than ten days prior to such Special Record Date. Alternative means of payment of interest may be used if mutually agreed upon between the owner of this Bond and the Bond Trustee, as provided in the Bond Indenture. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Bond Trustee.

**[INSERT AUTHORIZED DENOMINATION/CUSIP WARNING LANGUAGE]**

This Bond shall be issued pursuant to a book entry system administered by The Depository Trust Company (together with any successor thereto, "Securities Depository"). The book entry system will evidence beneficial ownership of the Bonds with transfers of ownership affected on the register held by the Securities Depository pursuant to rules and procedures established by the Securities Depository. So long as the book entry system is in effect, transfer of principal, interest and premium payments, and provisions of notices or other communications, to beneficial owners of the Bonds will be the responsibility of the Securities Depository as set forth in the Bond Indenture.

This Bond is one of a duly authorized issue of bonds of the Issuer dated March \_\_, 2008, known as "City of Lake Wales, Florida Taxable Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B" (the "Series 2008B Bonds") and issued in an aggregate principal amount of \$\_\_\_\_\_ for the purpose of providing funds to be loaned to Water's Edge of Lake Wales, LLC, a Florida limited liability company (the "Obligor"), to be used to fund certain reserve funds, working capital and pay a portion of the costs of issuance of the Series 2008 Bonds. The Series 2008B Bonds are being issued simultaneously with Issuer's City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B" (the "Series 2008B Bonds," and together with the Series 2008A Bonds, the "Series 2008 Bonds") issued in the aggregate principal amount of \$\_\_\_\_\_ for purpose of providing funds to be loaned to the Obligor and to be used to (i) finance and refinance a portion of the cost of acquisition and construction of certain senior care and living facilities, (ii) fund certain reserve funds, (iii) fund capitalized interest, and (iv) pay a portion of the costs of issuance of the Series 2008B Bonds.

To provide for its loan repayment obligations, the Obligor has entered into a Loan Agreement dated as of March 1, 2008, between the Issuer and the Obligor (the "Loan Agreement") and issued its Series 2008A Note and Series 2008B Note (collectively, the "Series 2008 Notes"). The Series 2008 Notes are issued pursuant to a Master Trust Indenture dated as of March 1, 2008, between the Obligor and Wells Fargo Bank, National Association, as master trustee (the "Master Trustee") and a Supplemental Master Trust Indenture Number 1, dated as of March 1, 2008 between the Obligor and the Master Trustee (collectively, the "Master Indenture"). Pursuant to the Master Indenture and a Mortgage and Security Agreement dated as of March 1, 2008, from the Obligor to the Master Trustee (the "Mortgage"), the Obligor has pledged and granted a security interest in, among other things, the Gross Revenues (as defined in the Master Indenture) and the Mortgaged Property (as defined in the Mortgage) to the Master Trustee to secure the Series 2008 Notes. Additional obligations on a parity with the Series 2008 Notes may be issued pursuant to the Master Indenture subject to the conditions and terms contained therein, and the payments on such additional obligations will also be secured by a pledge of the Gross Revenues, the Mortgaged Property and other security.

This Bond and the claims for interest hereon are payable only out of the revenues derived by the Issuer pursuant to the Loan Agreement and the Series 2008 Notes. The Series 2008 Bonds are issued under and are equally and ratably secured and are entitled to the protection given by the Bond Indenture.

No recourse under or upon any obligation, covenant, or agreement contained in the Bond Indenture, or in any Bond, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of the Bond Indenture, shall be had against any director, incorporator, officer, agent,

employee, or representative as such, past, present or future, of the Issuer, either directly or through the Issuer or otherwise, for the payment for or to the Issuer or for or to the registered owner of any Bond issued thereunder or otherwise, of any sum that may be due and unpaid by the Issuer upon any such Bond.

Neither the elected officials, officers, agents, employees or representatives of the Issuer past, present or future, nor any person executing this Bond or the Bond Indenture, shall be personally liable hereon or thereon or be subject to any personal liability by reason of the issuance hereof and thereof, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the execution of the Bond Indenture and the issuance of this Bond.

Additional series of Bonds may be issued by the Issuer in accordance with the limitations and conditions of the Bond Indenture, which Bonds shall be in all respects on a parity with the Series 2008 Bonds, except as otherwise provided therein. Such additional Bonds may be issued at different times, in various principal amounts and denominations, may mature at different times, may bear interest at different rates, may be redeemable at different prices and may otherwise vary as provided in the Bond Indenture. The Series 2008 Bonds and such additional Bonds are herein collectively called the "Bonds." Reference is hereby made to the Bond Indenture and all indentures supplemental thereto and the Master Indenture for a description of the revenues pledged, the nature and extent of the security, the rights, duties, and obligations of the Issuer, the Bond Trustee and the owners of the Bonds, and the terms and conditions upon which the Bonds are, and are to be, secured.

[TO BE UPDATED ONCE REDEMPTION PROVISIONS FINALIZED]

The Series 2008 Bonds are subject to optional redemption, in whole or in part, and if in part, in inverse order of mandatory sinking fund installments, and by lot within a maturity, and in denominations of \$100,000 and integral multiples of \$5,000 in excess thereof, by the Issuer, acting at the direction of the Obligor, on September 1, 2016, and any Business Day thereafter at the redemption prices, expressed as a percentage of the principal amount of Series 2008 Bonds to be redeemed set forth below, plus accrued interest thereon to the applicable redemption date:

Redemption Period (both dates included)	Redemption Price
September 1, 2016 to August 31, 2017	102%
September 1, 2017 to August 31, 2018	101%
September 1, 2018 and thereafter	100%



The Series 2008 Bonds maturing on September 1, 20\_\_ are subject to mandatory sinking fund redemption at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date. As and for a sinking fund for the redemption of Series 2008 Bonds maturing on September 1, 20\_\_, the Obligor shall cause to be deposited into the Principal Account of the Bond Fund a sum which is sufficient to redeem on September 1 of each of the following years (after credit as provided below) the following principal amounts of Series 2008 Bonds maturing on September 1, 20\_\_, plus accrued interest to the redemption date:

<u>Year</u>	<u>Amount</u>
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\*Maturity

At the option of the Obligor to be exercised by delivery of a written certificate to the Bond Trustee on or before the forty-fifth day next preceding any sinking fund redemption date, it may (i) deliver to the Bond Trustee for cancellation Series 2008 Bonds or portions thereof of the same maturity, in an aggregate principal amount desired by the Obligor or (ii) specify a principal amount of Series 2008 Bonds or portions thereof of the same maturity, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Bond Trustee at the request of the Obligor and not theretofore applied as a credit against any sinking fund redemption obligation.

The Bonds shall be subject to optional redemption by the Obligor prior to their scheduled maturities, in whole or in part (proportionally among each Series) at a redemption price equal to the principal amount thereof plus accrued interest from the most recent interest payment date to the redemption date on any date following the occurrence of any of the following events:

(1) in case of damage or destruction to, or condemnation of, any property, plant, and equipment of any Obligated Group Member, to the extent that the net proceeds of insurance or condemnation award exceed the Threshold Amount (as defined in the Master Indenture) and the Obligor has determined not to use such net proceeds or award to repair, rebuild or replace such property, plant, and equipment; or

(2) as a result of any changes in the Constitution or laws of the State of Florida or of the United States of America or of any legislative, executive, or administrative action (whether state or federal) or of any final decree, judgment, or order of any court or administrative body (whether state or federal), the obligations of the Obligor under the Loan Agreement have become, as established by an Opinion of Counsel, void or

unenforceable in each case in any material respect in accordance with the intent and purpose of the parties as expressed in the Loan Agreement.

The Series 2008 Bonds are subject to mandatory redemption in whole or in part on any date for which timely notice of redemption can be given by the Bond Trustee following a Completion Date (as defined in the Loan Agreement) at a redemption price equal to the aggregate principal amount of the Series 2008 Bonds to be redeemed plus accrued interest to the redemption date, without premium, to the extent Surplus Construction Fund Moneys (as defined in the Loan Agreement) are transferred to the Principal Account of the Bond Fund.

The Series 2008A Bonds are subject to mandatory redemption in whole or in part on any date for which timely notice of redemption can be given by the Bond Trustee following a Determination of Taxability at a redemption price equal to 103% of the aggregate principal amount of the Series 2008A Bonds to be redeemed plus accrued interest to the redemption date.

The Series 2008 Bonds are subject to optional redemption on any \_\_\_\_\_ 1, in part, in order of the next succeeding mandatory sinking fund installments, from the Excess Cash Flow deposited in the Special Redemption Account of the Bond Fund.

The Series 2008 Bonds [TO BE DISCUSSED - SPECIFIC MATURITY OR MAX \$\$ AMOUNT] are subject to optional redemption in whole or in part at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date on the first Business Day of each [MONTHLY OR QUARTERLY?], to the extent monies are on deposit in the Life Lease Fee Redemption Account of the Bond Fund.

If less than all Series 2008 Bonds are to be redeemed, the Obligor may select the maturities eligible for redemption which are to be redeemed. If less than all Series 2008 Bonds of a single maturity are to be redeemed, the selection shall be made by the Securities Depository or by lot by the Bond Trustee. Notice of the call for any redemption shall be given by the Bond Trustee by sending a copy of the redemption notice by mail not more than 60 nor less than 30 days prior to the redemption date to the Bondholder Representative registered owner of each Series 2008 Bond to be redeemed as shown on the registration records kept by the Bond Trustee, as provided in the Bond Indenture. All Series 2008 Bonds or portions thereof called for redemption will cease to bear interest after the specified redemption date, provided funds for their payment are on deposit at the place of payment at that time.

The Series 2008 Bonds are issuable as fully registered Bonds in denominations of \$25,000 and any integral multiple of \$5,000 in excess thereof and are exchangeable for an equal principal amount of fully registered Series 2008 Bonds of the same maturity of other authorized denominations at the aforesaid office of the Bond Trustee but only in the

manner and subject to the limitations and on payment of the charges provided in the Bond Indenture.

THE SERIES 2008 BONDS SHALL ONLY BE IN AUTHORIZED DENOMINATIONS OF \$100,000 AND ANY INTEGRAL MULTIPLE OF \$5,000 IN EXCESS THEREOF, TO THE EXTENT ANY OF THE FOLLOWING CONDITIONS ARE NO LONGER SATISFIED: (A) THE BENEFICIAL OWNERS OF THE SERIES 2008 BONDS ARE ADVISED BY HAMLIN CAPITAL UNDER THE INVESTMENT ADVISORS ACT OF 1940; (B) HAMLIN CAPITAL SERVES AS BONDHOLDER REPRESENTATIVE FOR SUCH BENEFICIAL OWNERS PURSUANT TO AN INVESTMENT ADVISORY AGREEMENT; AND (C) THE SERIES 2008 BONDS ARE HELD BY HAMLIN CAPITAL IN MANAGED ACCOUNTS OF ACCREDITED INVESTORS [WITH AN INDIVIDUAL FAIR MARKET VALUE OF NOT LESS THAN \$2,000,000 AND WILL NOT EXCEED 2% OF EACH ACCOUNT'S HOLDINGS, BOTH MEASURED AT THE TIME OF THE INVESTMENT.]

This Series 2008B Bond is fully transferable by the registered owner hereof in person or by his or her duly authorized attorney on the registration books kept at the principal office of the Bond Trustee upon surrender of this Series 2008B Bond together with a duly executed written instrument of transfer satisfactory to the Bond Trustee. Upon such transfer a new fully registered Series 2008B Bond of authorized denomination or denominations for the same principal amount and maturity will be issued to the transferee in exchange herefor, all upon payment of the charges and subject to the terms and conditions set forth in the Bond Indenture.

The Bond Trustee will not be required to transfer or exchange any Series 2008B Bond after the mailing of notice calling such Series 2008 Bond or any portion thereof for redemption has been given as herein provided, nor during the period beginning at the opening of business 15 days before the day of mailing by the Bond Trustee of a notice of prior redemption and ending at the close of business on the day of such mailing.

The Issuer and the Bond Trustee may deem and treat the person in whose name this Series 2008B Bond is registered as the absolute owner hereof for the purpose of making payment (except to the extent otherwise provided hereinabove and in the Bond Indenture with respect to Regular and Special Record Dates for the payment of interest) and for all other purposes, and neither the Issuer nor the Bond Trustee shall be affected by any notice to the contrary. The principal of, premium, if any, and interest on this Series 2008B Bond shall be paid free from and without regard to any equities between the Obligor and the original or any intermediate owner hereof, or any setoffs or counterclaims.

The owner of this Series 2008B Bond shall have no right to enforce the provisions of the Bond Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Bond Indenture, or to institute,

appear in or defend any suit or other proceedings with respect thereto, except as provided in the Bond Indenture. In case an event of default under the Bond Indenture shall occur, the principal of all of the Series 2008 Bonds at any such time Outstanding under the Bond Indenture may be declared or may become due and payable, upon the conditions and in the manner and with the effect provided in the Bond Indenture. The Bond Indenture provides that such declaration may in certain events be waived by the Bond Trustee, the Bondholder Representative or the owners of a requisite principal amount of the Series 2008 Bonds Outstanding under the Bond Indenture.

To the extent permitted by, and as provided in, the Bond Indenture, modifications or amendments of the Bond Indenture, or of any indenture supplemental thereto, and of the rights and obligations of the Issuer and of the owners of the Series 2008 Bonds may be made with the consent of the Issuer, the Bondholder Representative and the Bond Trustee and, in certain instances, of not less than a majority in aggregate principal amount of the Series 2008 Bonds then Outstanding. Any such consent by the owner of this Series 2008B Bond shall be conclusive and binding upon such owner and upon all future owners of this Series 2008B Bond and of any Series 2008B Bond issued upon the transfer or exchange of this Series 2008B Bond whether or not notation of such consent is made upon this Series 2008B Bond.

This Series 2008B Bond shall not be entitled to any benefit under the Bond Indenture, or any indenture supplemental thereto, or become valid or obligatory for any purpose until the Bond Trustee shall have manually signed the certificate of authentication hereon.

This Series 2008B Bond is and has all the qualities and incidents of a negotiable instrument under the law merchant act and the Uniform Commercial Code – Investment Securities Law of the State of Florida.

**IT IS HEREBY CERTIFIED, RECITED AND DECLARED** that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Bond Indenture and issuance of this Series 2008B Bond do exist, have happened and have been performed in due time, form and manner as required by law.

[Remainder of page intentionally left blank]

**IN WITNESS WHEREOF**, City of Lake Wales, Florida has caused this Series 2008B Bond to be executed with the manual or facsimile signatures of the Mayor and attested by the manual or facsimile signature of the City Clerk of the City of Lake Wales, Florida, and a facsimile of its seal to be hereto affixed or printed, all as of the date set forth above.

(SEAL)

**CITY OF LAKE WALES, FLORIDA**

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

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

Date of Authentication:

\_\_\_\_\_

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION**, as Bond Trustee

By: \_\_\_\_\_  
Authorized Signatory

(END OF FORM OF BOND TRUSTEE'S CERTIFICATE OF AUTHENTICATION)

[FORM OF ASSIGNMENT]

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Series 2008B Bond, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer such Series 2008B Bond on the books kept for registration and transfer of the within Series 2008B Bond, with full power of substitution in the premises.

Date: \_\_\_\_\_

NOTICE: The signature to this Assignment must correspond with the name as it appears upon the face of the within Series 2008B Bond in every particular, without enlargement or alteration or any change whatsoever.

Signature Guaranteed By:

\_\_\_\_\_

\_\_\_\_\_  
Authorized Signatory

NOTE: The signature to this Assignment must be guaranteed by a financial institution that is a member of the Securities Transfer Agents Medallion Program ("STAMP"), the Stock Exchange Medallion Program ("SEMP") or the New York Stock Exchange, Inc. Medallion Signature Program ("MSP").

\* \* \* [END OF SERIES 2008B BOND FORM] \* \* \*

**WHEREAS**, all things necessary to make the Series 2008 Bonds, when authenticated by the Bond Trustee and issued as in this Bond Indenture provided, the valid, binding, and legal limited and special obligations of the Issuer and to constitute this Bond Indenture a valid, binding, and legal instrument for the security of the Bonds in accordance with its terms, have been done and performed

**NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:**

That the Issuer, in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Series 2008 Bonds by the owners thereof and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on all Bonds at any time Outstanding under this Bond Indenture, according to their tenor and effect, and to secure the performance and observance of all the covenants and conditions in the Bonds and herein contained, and to declare the terms and conditions upon and subject to which the Bonds are issued and secured, has executed and delivered this Bond Indenture and has granted, bargained, sold, warranted, alienated, remised, released, conveyed, assigned, pledged, set over, and confirmed, and by these presents does grant, bargain, sell, warrant, alien, remise, release, convey, assign, pledge, set over, and confirm unto the Bond Trustee, and to its successors and assigns forever, all and singular the following described property, franchises, and income:

A. All of the Issuer's right, title and interest in and to any Note delivered by the Obligor to the Issuer pursuant to the Loan Agreement or the Master Indenture to secure Bonds; and

B. All of the Issuer's right, title and interest in and to the Loan Agreement (except for the rights of the Issuer to receive payments, if any, under Sections 5.7, 7.5, and 9.5 of the Loan Agreement), together with all powers, privileges, options and other benefits of the Issuer contained in the Loan Agreement; provided, however, that nothing in this clause shall impair, diminish or otherwise affect the Issuer's obligations under the Loan Agreement or, except as otherwise provided in this Bond Indenture, impose any such obligations on the Bond Trustee; and

C. Amounts on deposit from time to time in the Bond Fund, Construction Fund, Debt Service Reserve Fund and Cost of Issuance Fund, but excluding the Rebate Fund, subject to the provisions of this Bond Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

D. Any and all property of every kind or description which may from time to time hereafter be sold, transferred, conveyed, assigned, hypothecated, endorsed, deposited, pledged, mortgaged, granted or delivered to, or deposited with the Bond Trustee as additional security by the Issuer or anyone on its part or with its written

consent, or which pursuant to any of the provisions hereof or of the Loan Agreement or any Note may come into the possession of or control of the Bond Trustee or a receiver appointed pursuant to Article VIII hereof, as such additional security (except amounts held in the Rebate Fund); and the Bond Trustee is hereby authorized to receive any and all such property as and for additional security for the payment of the Bonds, and to hold and apply all such property subject to the terms hereof.

**TO HAVE AND TO HOLD** the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended to be, to the Bond Trustee and its successors in said trust and assigns forever;

**IN TRUST, NEVERTHELESS**, upon the terms herein set forth for the equal and proportionate benefit, security, and protection of all owners of the Bonds issued under and secured by this Bond Indenture without privilege, priority, or distinction as to the lien or otherwise of any of the Bonds over any other of the Bonds;

**PROVIDED, HOWEVER**, that if the Issuer, its successors or assigns, shall pay, or cause to be paid, the principal of the Bonds and the premium, if any, and the interest due or to become due thereon, at the times and in the manner mentioned in the Bonds according to the true intent and meaning thereof, and shall cause the payments to be made into the Bond Fund as hereinafter required or shall provide, as permitted hereby, for the payment thereof by depositing with the Bond Trustee the entire amount due or to become due hereon, or certain securities as herein permitted and shall keep, perform, and observe all the covenants and conditions pursuant to the terms of this Bond Indenture to be kept, performed, and observed by it, and shall pay or cause to be paid to the Bond Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Bond Indenture and the rights hereby granted shall cease, determine, and be void; otherwise this Bond Indenture to be and remain in full force and effect.

**THIS BOND INDENTURE FURTHER WITNESSETH** and it is expressly declared that all Bonds issued and secured hereunder are to be issued, authenticated, and delivered and all said rights hereby pledged and assigned are to be dealt with and disposed of under, upon, and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses, and purposes as hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant, with the Bond Trustee and with the respective owners from time to time of the Bonds as follows:



**ARTICLE I**  
**DEFINITIONS**

**SECTION 1.01. DEFINITIONS.** All defined words and phrases used in this Bond Indenture shall have the meaning given and ascribed to such words and phrases in Article I of the Loan Agreement.

**SECTION 1.02. RECITAL INCORPORATION.** The recitals set forth in the beginning of this Bond Indenture are hereby incorporated herein.

**ARTICLE II**  
**AUTHORIZATION, TERMS, EXECUTION AND**  
**ISSUANCE OF BONDS**

**SECTION 2.01. AUTHORIZED AMOUNT OF SERIES 2008 BONDS.**

No Series 2008 Bonds may be issued under this Bond Indenture except in accordance with this Article. The total original principal amount of Series 2008A Bonds and Series 2008B Bonds that may be issued hereunder is hereby expressly limited to \$ \_\_\_\_\_ and \$ \_\_\_\_\_, respectively, except as provided in Section 2.06 hereof.

**SECTION 2.02. ALL BONDS EQUALLY AND RATABLY SECURED; BONDS NOT AN OBLIGATION OF ISSUER.** All Bonds issued under this Bond Indenture and at any time Outstanding shall in all respects be equally and ratably secured hereby, without preference, priority, or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds, so that all Bonds at any time issued and Outstanding hereunder shall have the same right, lien, and preference under and by virtue of this Bond Indenture, and shall all be equally and ratably secured hereby. The Bonds shall be payable solely out of the revenues and other security pledged hereby and shall not constitute an indebtedness of the Issuer within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the Issuer. Notwithstanding the foregoing, one or more series of Bonds may be separately secured by a Credit Facility for the sole benefit of such series of Bonds.

**SECTION 2.03. AUTHORIZATION OF SERIES 2008 BONDS.**

(a) There is hereby authorized to be issued hereunder and secured hereby two series of bonds designated as the "City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008A and "City of Lake Wales, Florida Taxable Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008B." The Series 2008A Bonds shall be numbered consecutively upward from RA-1 and the Series 2008B Bonds shall be numbered consecutively upward from RB-1."

[Remainder of page intentionally left blank]

(b) The Series 2008A Bonds shall bear interest from the most recent interest payment date to which interest has been paid or provided for, or, if no interest has been paid, from the Delivery Date of the Series 2008A Bond. The Series 2008A Bonds shall bear interest on the basis of a 360 day year composed of twelve 30 day months payable each \_\_\_\_\_ 1 and each \_\_\_\_\_ 1, beginning \_\_\_\_\_ 1, 20\_\_, at the rates per annum and shall mature on September 1 in the years and principal amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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(c) The Series 2008B Bonds shall bear interest from the most recent interest payment date to which interest has been paid or provided for, or, if no interest has been paid, from the Delivery Date of the Series 2008B Bond. The Series 2008B Bonds shall bear interest on the basis of a 360 day year composed of twelve 30 day months payable each \_\_\_\_\_ 1 and each \_\_\_\_\_ 1, beginning \_\_\_\_\_ 1, 20\_\_, at the rates per annum and shall mature on September 1 in the years and principal amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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(d) The Series 2008 Bonds shall be issued in Authorized Denominations and shall initially be dated as of their Delivery Date. The Series 2008 Bonds are subject to prior redemption as herein set forth and shall be substantially in the form and tenor hereinabove recited with appropriate variations, omissions, and insertions as are permitted or required by this Bond Indenture.

(e) The principal of and premium, if any, on the Series 2008 Bonds shall be payable in lawful money of the United States of America at the Payment Office of the Bond Trustee, or at the designated corporate trust office of its successor, upon presentation and surrender of the Series 2008 Bonds. Payment of interest on any Series 2008 Bond shall be made to the person who is the registered owner thereof at the close of business on the Regular Record Date for such Interest Payment Date by check mailed by

the Bond Trustee on such Interest Payment Date to such registered owner at his or her address as it appears on the registration records kept by the Bond Trustee or by wire transfer of same day funds upon receipt by the Bond Trustee prior to the Regular Record Date of a written request by a registered owner of \$1,000,000 or more in aggregate principal amount of Bonds. The CUSIP number and appropriate dollar amounts for each CUSIP number shall accompany all payments of principal, premium, if any, and interest on the Series 2008 Bonds. Any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the registered owner of such Series 2008 Bond at the close of business on the Regular Record Date and shall be payable to the person who is the registered owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date shall be fixed by the Bond Trustee whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the Bondholder Representative and the registered owners of the Series 2008 Bonds not less than ten (10) days prior thereto by first class postage prepaid mail to each such registered owner as shown on the registration records, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. Alternative means of payment of interest may be used if mutually agreed upon between the owners of any Series 2008 Bonds and the Bond Trustee. All such payments shall be made in lawful money of the United States of America.

Notwithstanding the foregoing, payments of the principal of and interest on any Bonds that are subject to the book entry system as provided in Article II of this Bond Indenture shall be made in accordance with the rules, regulations and procedures established by the securities depository in connection with the book entry system.

**SECTION 2.04. EXECUTION OF BONDS, SIGNATURES.** The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Mayor or Vice Mayor and its seal, or a facsimile thereof, shall be thereunto affixed or imprinted and attested by the City Clerk of the City of Lake Wales, Florida or any designated Deputy Clerk. In case any officer who shall have signed any of the Bonds shall cease to hold such office and any of such Bonds shall have been authenticated by the Bond Trustee or delivered or sold, such Bonds with the signatures thereto affixed may, nevertheless, be authenticated by the Bond Trustee, and delivered, and may be sold by the Issuer, as though the person or persons who signed such Bonds had remained in office.

**SECTION 2.05. REGISTRATION AND EXCHANGE OF BONDS; PERSONS TREATED AS OWNERS.** The Issuer shall cause books for the registration and for the transfer of the Bonds as provided in this Bond Indenture to be kept by the Bond Trustee which is hereby appointed the bond registrar of the Issuer for the Bonds. Upon surrender for transfer of any fully registered Bond at the Payment Office of the Bond Trustee, duly endorsed for transfer or accomplished by an assignment duly

executed by the registered owner or his attorney duly authorized in writing, the Issuer shall execute and the Bond Trustee shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of a like series and aggregate principal amount for a like series, principal amount and maturity.

The Issuer shall execute and the Bond Trustee shall authenticate and deliver Bonds which the Bondholder making the exchange is entitled to receive, bearing numbers not contemporaneously outstanding. The execution by the Issuer of any fully registered Bond of any denomination shall constitute full and due authorization of such denomination and the Bond Trustee shall thereby be authorized to authenticate and deliver such Bond.

The Bond Trustee shall not be required to transfer or exchange any Bond after the mailing of notice calling such Bond or any portion thereof for redemption has been given as herein provided, nor during the period beginning at the opening of business fifteen days before the day of mailing by the Bond Trustee of a notice of prior redemption and ending at the close of business on the day of such mailing except for Bondholders of \$1,000,000 or more in aggregate principal amount of the Bonds.

As to any Bond, the Person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal of, or interest on, any Bond shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums paid.

The Bond Trustee shall require the payment by any Bondholder requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

**SECTION 2.06. LOST, STOLEN, DESTROYED, AND MUTILATED BONDS.** Upon receipt by the Bond Trustee of evidence satisfactory to it of the ownership of and the loss, theft, destruction, or mutilation of any Bond and, in the case of a lost, stolen, or destroyed Bond, of indemnity satisfactory to it, and upon surrender and cancellation of the Bond if mutilated, (i) the Issuer shall execute, and the Bond Trustee shall authenticate and deliver, a new Bond of the same series, date and maturity as the lost, stolen, destroyed or mutilated Bond in lieu of such lost, stolen, destroyed, or mutilated Bond or (ii) if such lost, stolen, destroyed, or mutilated Bond shall have matured or have been called for redemption, in lieu of executing and delivering a new Bond as aforesaid, the Issuer may pay such Bond. Any such new Bond shall bear a number not contemporaneously Outstanding. The applicant for any such new Bond may be required to pay all expenses and charges of the Issuer and of the Bond Trustee in connection with the issue of such new Bond. All Bonds shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing conditions are

exclusive with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Bonds, negotiable instruments, or other securities. If, after the delivery of such new Bond, a bona fide purchaser of the original Bond in lieu of which such duplicate Bond was issued presents for payment such original Bond, the Obligor or the Bond Trustee shall be entitled to recover upon such new Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefore to the extent of any loss, damage, cost or expense incurred by the Obligor or the Bond Trustee in connection therewith.

**SECTION 2.07. DELIVERY OF SERIES 2008 BONDS.** Upon the execution and delivery of this Bond Indenture, the Issuer shall execute and deliver to the Bond Trustee and the Bond Trustee shall authenticate the Series 2008 Bonds and deliver them to the initial purchasers thereof as directed by the Issuer and as hereinafter in this Section provided.

Prior to the delivery by the Bond Trustee of any of the Series 2008 Bonds there shall be filed with and delivered to the Bond Trustee at least:

(a) A certified copy of a resolution of the Issuer authorizing the execution and delivery of the Loan Agreement and this Bond Indenture, the Collateral Assignment, the Environmental Compliance Agreement, the Tax Compliance Agreement and the issuance of the Series 2008 Bonds.

(b) Original executed counterparts of the Loan Agreement, this Bond Indenture, the Master Indenture, the Supplemental Indenture and the Mortgage.

(c) The Series 2008 Notes, duly executed and authenticated and duly assigned and payable to the Bond Trustee.

(d) A request and authorization to the Bond Trustee on behalf of the Issuer and signed by its Mayor or Vice-Mayor to authenticate and deliver the Series 2008 Bonds to the purchasers therein identified upon payment to the Bond Trustee from the account of the Issuer a sum specified in such request and authorization plus accrued interest, if any, thereon to the date of delivery, together with instructions (which may be in the form of a separate certificate) as to the disposition of the proceeds of the Series 2008 Bonds.

(e) An Opinion of Bond Counsel addressed to the Bond Trustee (or a reliance letter relating thereto) to the effect that the Series 2008 Bonds have been duly and validly authorized, issued and delivered and constitute valid and binding special and limited obligations of the Issuer, enforceable against the Issuer in accordance with their terms and that the interest payable on the Series 2008A Bonds is excludable from gross income for federal income tax purposes as of the date hereof.

**SECTION 2.08. BOND TRUSTEE'S AUTHENTICATION CERTIFICATE.** The Bond Trustee's authentication certificate upon the Bonds shall be substantially in the form and tenor hereinbefore provided. No Bond shall be secured hereby or entitled to the benefit hereof, or shall be valid or obligatory for any purpose, unless the certificate of authentication, substantially in such form, has been duly executed by the Bond Trustee and such certificate of the Bond Trustee upon any Bond shall be conclusive evidence and the only competent evidence that such Bond has been authenticated and delivered hereunder. The Bond Trustee's certificate of authentication shall be deemed to have been duly executed by it if manually signed by an authorized signatory of the Bond Trustee, but it shall not be necessary that the same person sign the certificate of authentication on all of the Bonds issued hereunder.

**SECTION 2.09. ISSUANCE OF ADDITIONAL BONDS.** Additional Bonds are hereby authorized to be issued hereunder for the purposes set forth in Section 4.1 of the Loan Agreement. If the Obligor requests the issuance of any Additional Bonds, it shall file with the Issuer and the Bond Trustee a certificate specifying the amount of Additional Bonds to be issued, the purpose for such issuance and proof of compliance with all requirements for issuance Additional Indebtedness under the Master Indenture.

Thereupon, the Issuer may request the authentication and delivery of such Additional Bonds; provided that the Obligor and the Issuer shall have entered into an amendment to the Loan Agreement to provide, among other things, that the additional facilities, if any, being financed by the Additional Bonds constitutes a "project" within the meaning of the Act, for delivery of a Note or Notes entitled to the benefit and security of the Master Indenture in an amount at least sufficient to pay principal of, premium, if any, and interest on the Additional Bonds when due, for a deposit into the Debt Service Reserve Account of the Debt Service Reserve Fund relating to such Additional Bonds of additional Debt Service Reserve Fund Obligations which, together with amounts then contained therein or in the other accounts in the Debt Service Reserve Fund will equal the Debt Service Reserve Fund Requirement on all Bonds Outstanding at the date of issuance of such series of Additional Bonds and for such additional covenants and conditions as the Issuer and the Obligor deem desirable. Except as provided in the last sentence of Section 2.02 hereof, all Additional Bonds shall be secured in the same manner as and rank on a parity with the Series 2008 Bonds, but shall bear such date or dates, bear such interest rate or rates, have such maturity dates, redemption dates, options and premiums, and be issued at such prices as shall be approved in writing by the Issuer and the Obligor. Upon the execution and delivery of appropriate supplements to this Bond Indenture and the Master Indenture and amendments to the Loan Agreement, the Issuer may execute and deliver to the Bond Trustee, and the Bond Trustee shall authenticate, such Additional Bonds and deliver them to the initial purchasers thereof as directed by the Issuer.

**SECTION 2.10. REQUIREMENTS FOR AUTHENTICATION AND DELIVERY OF ADDITIONAL BONDS.** Whenever requesting the authentication and delivery under this Article II of any Additional Bonds the Issuer shall furnish the Bond Trustee the following:

(a) Obligor's Certificate. A certificate of the Obligor stating (i) that no default exists under the Obligor Documents or this Bond Indenture, (ii) that the Obligor approves the issuance and delivery of such Additional Bonds and (iii) any other matters to be approved by the Obligor pursuant to Section 4.1 of the Loan Agreement and this Section 2.10.

(b) Certified Resolution. A certified copy of a resolution of the Issuer authorizing the issuance of the Additional Bonds and the execution and delivery of the amendment to the Loan Agreement and a supplement to this Bond Indenture.

(c) Amendment to the Loan Agreement. An original executed counterpart of the amendment to the Loan Agreement providing for the repayment of the Additional Bonds.

(d) Supplemental Bond Indenture. An indenture supplemental hereto, designating the new series to be created and prescribing expressly or by reference with respect to the Bonds of such series:

(1) the principal amount of the Bonds of such series,

(2) the text of the Bonds of such series (which text shall be substantially in the form of the text of the Series 2008A Bonds or Series 2008B Bonds with such changes as shall be necessary to reflect the terms and details of the Additional Bonds),

(3) the maturity date or dates thereof,

(4) the place or places where principal, premium, if any, and interest are to be paid and where the Bonds are to be registerable, transferable, or exchangeable.

(5) the rate or rates of interest (or manner for establishing such rate or rates of interest in the case of variable rate Additional Bonds) and the date from which, and the date or dates on which, interest is payable,

(6) provisions as to redemption,

(7) provisions (if any) as to exchangeability,



(8) any other provisions necessary to describe and define such series within the provisions and limitations of this Bond Indenture, and

(9) any other provisions and agreements in respect thereof provided, or not prohibited, by this Bond Indenture.

(e) Supplement to Master Indenture. Original executed counterparts of a supplement to the Master Indenture authorizing the execution and delivery of an additional Note or Notes securing such Additional Bonds.

(f) Additional Notes. A Note or Notes executed by the Obligor which shall:

(1) require payment or payments of principal of, premium, if any, and interest in amounts and at times sufficient, together with any other funds available therefore, to permit the payments of principal of, premium, if any, and interest on the Additional Bonds, taking into account any mandatory sinking fund requirements (pursuant to the supplement to this Bond Indenture) which are required in respect of the Related Bonds (as defined in the Master Indenture), and

(2) require each payment on the Note to be made on the due date for the corresponding payment to be made on the related bonds of the Issuer.

(g) Debt Service Reserve Fund. For deposit into an existing Debt Service Reserve Account or a separate account in the Debt Service Reserve Fund relating to such Additional Bonds, Debt Service Reserve Fund Obligations which, together with the amounts then on deposit in such Account or in the other accounts in the Debt Service Reserve Fund, will equal the Debt Service Reserve Fund Requirement on Bonds to be Outstanding upon the issuance of the Additional Bonds.

(h) Opinion as to Instruments Furnished to Bond Trustee, Etc. Opinion or Opinions of Counsel addressed to the Bond Trustee and acceptable to the Bond Trustee substantially to the effect that:

(1) all instruments furnished the Bond Trustee conform to the requirements of this Bond Indenture and constitute sufficient authority hereunder for the Bond Trustee to authenticate and deliver the Additional Bonds then applied for,

(2) all laws with respect to the form and execution by the Issuer of the supplement to this Bond Indenture, the amendment to the Loan Agreement, and the execution and delivery by the Issuer of the Additional Bonds then applied for have been complied with,

(3) the Issuer has power to issue such Additional Bonds and has taken all necessary action for that purpose,

(4) the Additional Bonds are valid and binding in accordance with their terms and are secured by the lien of this Bond Indenture, equally and ratably with all other Bonds theretofore issued and then Outstanding hereunder (except that one or more series of Bonds may be separately secured by a Credit Facility),

(5) the extent to which the interest on the Outstanding Bonds is then excludable from the gross income of the recipients thereof under the Code will not be impaired by the issuance of the Additional Bonds then applied for, and

(6) the additional Note referred to in paragraph (f) of this Section 2.10 and the supplement to the Master Indenture are valid and binding in accordance with their terms and the additional Note is entitled to the benefits of the Master Indenture, subject to reasonable bankruptcy and equity exceptions.

(h) Consents. Original executed counterparts of all required consents necessary for the issuance of Additional Bonds, if any.

**SECTION 2.11. CANCELLATION AND DESTRUCTION OF BONDS BY THE BOND TRUSTEE.** Whenever any Outstanding Bonds shall be delivered to the Bond Trustee for the cancellation thereof pursuant to this Bond Indenture, upon payment of the principal amount or interest represented thereby or for replacement pursuant to Section 2.06 hereof, such Bonds shall be promptly cancelled and treated in accordance with the Bond Trustee's standard retention policies. In the event of destruction of the Bonds by the Bond Trustee, a certificate of destruction evidencing such destruction shall be furnished by the Bond Trustee to the Issuer and the Obligor upon written request.

**SECTION 2.12. BOOK ENTRY ONLY SYSTEM.** The Bonds shall be initially issued in the form of a single fully registered Bond for each maturity of each series of the Bonds. After initial issuance, the ownership of the Bond shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 2.13 hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Issuer and the Bond Trustee shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds, except as provided in this Bond Indenture. Without limiting the immediately preceding sentence, the Issuer and the Bond Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Bondholder, as shown on the registration books, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a

Bondholder as shown in the registration books, of any amount with respect to principal of, premium, if any, or interest on, the Bonds. Notwithstanding any other provision of this Bond Indenture to the contrary, the Issuer and the Bond Trustee shall be entitled to treat and consider the person in whose name each Bond is registered in the registration books as the absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Bond Trustee shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective owners, as shown in the registration books as provided in this Bond Indenture, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of, premium, if any, and interest on, the Bonds to the extent of the sum or sums so paid. No person other than an owner, as shown in the registration books, shall receive a Bond certificate evidencing the obligation of the Issuer to make payments of principal, premium, if any, and interest, pursuant to this Bond Indenture. Upon delivery by DTC to the Bond Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Bond Indenture with respect to payment of interest to the registered owner at the close of business on the Record Date, the word "Cede & Co." in this Bond Indenture shall refer to such new nominee of DTC.

**SECTION 2.13. SUCCESSOR SECURITIES DEPOSITORY;  
TRANSFERS OUTSIDE BOOK ENTRY ONLY SYSTEM.**

(a) In the event that the Obligor determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Issuer to DTC (the "DTC Letter") and that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Issuer, at the direction of the Obligor, shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities Exchange Act of 1934, as amended, notify DTC and DTC Participants, identified by DTC, of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants, identified by DTC, of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants, identified by DTC, having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the registration books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Bondholders transferring or exchanging Bonds shall designate, in accordance with the provisions of this Bond Indenture.

(b) Upon the written request of a DTC Participant, the Bond Trustee, in accordance with the DTC Letter, shall withdraw such Bonds owned by such DTC Participant, and authenticate and deliver such Bonds fully registered to the assignees of DTC or its nominee. If the request for such withdrawal is not the result of any Issuer action or inaction, such withdrawal, authentication and delivery shall be at the cost and expense (including costs of printing, preparing and delivering such Bonds) of the [Persons requesting such withdrawal, authentication and delivery] [Obligated Group].

**SECTION 2.14. PAYMENTS TO CEDE & CO.** Notwithstanding any other provision of this Bond Indenture to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on, such Bond and all notices, transfers and deliveries with respect to such Bond shall be made and given, respectively, in the manner provided in the DTC Letter.

**SECTION 2.15. HAMLIN INVESTOR BONDS; CHANGE IN AUTHORIZED DENOMINATION; NEW CUSIP NUMBER.** If at any time the Bond Trustee receives written notice from Hamlin Capital that any Series 2008 Bond no longer constitutes a Hamlin Investor Bond, the Bond Trustee shall direct the Underwriter, at the expense of the Obligor, to apply for a separate CUSIP number or numbers for such Series 2008 Bonds. Such Series 2008 Bonds which no longer constitute Hamlin Investor Bonds shall thereafter at all times be in minimum denominations of \$100,000 and any integral multiple of \$5,000 in excess thereof

**ARTICLE III**  
**REVENUES AND FUNDS**

**SECTION 3.01. AGREEMENT TO ISSUE BONDS, APPLICATION OF BOND PROCEEDS.**

(a) The Issuer will sell and cause to be delivered to the initial purchasers thereof the Series 2008A Bonds and will deliver the proceeds thereof (\$\_\_\_\_\_) to the Bond Trustee (the "Series 2008A Bonds Proceeds"). The Issuer will sell and cause to be delivered to the initial purchasers thereof the Series 2008B Bonds and will deliver the proceeds thereof (\$\_\_\_\_\_) to the Bond Trustee (the "Series 2008B Bonds Proceeds"). Simultaneously with the sale of the of the Series 2008 Bonds, the Obligor will contribute the amount of \$\_\_\_\_\_ (the "Obligor Equity"). Such monies shall be applied as follows:

(i) Deposit \$\_\_\_\_\_ of the Series 2008A Bonds Proceeds and \$\_\_\_\_\_ of the Obligor Equity into the Operating Reserve Fund.

(ii) Deposit \$\_\_\_\_\_ of the Series 2008A Bonds Proceeds, \$\_\_\_\_\_ of the Series 2008B Bonds Proceeds and \$\_\_\_\_\_ of the Obligor Equity into the Cost of Issuance Fund.

(iii) Deposit \$\_\_\_\_\_ of the Series 2008A Bonds Proceeds and \$\_\_\_\_\_ of the Series 2008B Bonds Proceeds into the Funded Interest Account of the Construction Fund.

(iv) Deposit \$\_\_\_\_\_ of the Series 2008A Bonds Proceeds into the Debt Service Reserve Account of the Debt Service Reserve Fund related to the Series 2008A Bonds.

(v) Deposit the balance of the Series 2008A Bonds Proceeds (\$\_\_\_\_\_) to the Project Account of the Construction Fund.

(b) Additional Bonds may be issued upon the terms and conditions provided herein and in Sections 2.09 and 2.10 of this Bond Indenture to provide funds (i) to pay the Cost of financing, refinancing, acquiring, providing, constructing, enlarging, remodeling, renovating, improving, furnishing or equipping and refinancing the acquiring, constructing, equipping or completing any Project, (ii) to refund any Bonds theretofore issued and then Outstanding under this Bond Indenture or any other obligations that are permitted to be refunded pursuant to the Act, or (iii) for any combination of such purposes. In the event of the issuance of Additional Bonds for any such purposes, the amount of Additional Bonds issued may include the Costs of Issuance and sale of the Additional Bonds, capitalized interest for such period allowed by law,

reserve funds and such other costs reasonably related to the financing as shall be agreed upon by the Obligor and the Issuer.

**SECTION 3.02. CREATION OF THE BOND FUND.** There is hereby created by the Issuer and ordered established with the Bond Trustee a trust fund to be designated as the "City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project) Bond Fund" (the "Bond Fund"). There are hereby created by the Issuer and ordered established with the Bond Trustee four separate accounts within the Bond Fund to be designated as the Principal Account, the Interest Account, the Special Redemption Account and the Life Lease Fee Redemption Account respectively. Moneys on deposit in the Principal Account shall be used to pay the principal of and premium, if any, on the Series 2008 Bonds, when due and payable. Moneys on deposit in the Interest Account shall be used to pay the interest on the Series 2008 Bonds. Moneys on deposit in the Special Redemption Account shall be used to redeem the Series 2008 Bonds pursuant to Section 5.04 hereof. Moneys on deposit in the Life Lease Fee Redemption Account shall be used to redeem the Series 2008 Bonds pursuant to Section 5.02 hereof. Pursuant to supplemental bond indenture, the Issuer may provide for separate sub-accounts to secure separate series of Bonds.

**SECTION 3.03. PAYMENTS INTO THE BOND FUND.**

(a) There shall be deposited into the Interest Account all accrued interest received from the sale of the Bonds to the initial purchasers thereof. In addition, there shall also be deposited into the Principal Account or the Interest Account, as and when received, (i) all payments on the Notes, (ii) all other moneys required to be deposited therein pursuant to the Loan Agreement, (iii) all monies transferred to the Bond Fund from the Debt Service Reserve Fund pursuant to Section 3.14 hereof, and (iv) all other moneys received by the Bond Trustee when accompanied by directions that such moneys are to be paid into the Principal Account or the Interest Account. There also shall be retained or deposited in the Principal Account or the Interest Account all interest and other income received on investments or moneys required to be transferred thereto, in accordance with Section 6.02 hereof. The Issuer hereby covenants and agrees that so long as any of the Bonds are Outstanding it will deposit, or cause to be deposited, into the Principal Account or the Interest Account for its account sufficient sums from revenues and receipts derived from the Loan Agreement promptly to meet and pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable.

(b) There shall be deposited into the Special Redemption Account the monies described in Section \_\_\_\_ of the Supplemental Indenture. All interest and other income received on investments or moneys required to be transferred thereto, in accordance with Section 6.02 hereof, shall be retained in such account.

(c) There shall be deposited into the Life Lease Fee Redemption Account the monies described in Section \_\_\_\_ of the Supplemental Indenture. All interest and other

income received on investments or moneys required to be transferred thereto, in accordance with Section 6.02 hereof, shall be retained in such account

**SECTION 3.04. USE OF MONEYS IN THE BOND FUND; CUSTODY.**

Except as provided in Section 8.05 hereof, moneys in the Principal Account or the Interest Account shall be used solely for the payment of the principal of, premium, if any, and interest on the Bonds on a pro rata basis. The Bond Fund shall be in the custody of the Bond Trustee but in the name of the Issuer, and the Issuer hereby authorizes and directs the Bond Trustee to withdraw sufficient funds from the Principal Account or the Interest Account of the Bond Fund to pay the principal of, premium, if any, and interest on the Bonds as the same come due and payable, which authorization and direction the Bond Trustee hereby accepts. The Issuer hereby authorizes the Bond Trustee to withdraw funds from the Special Redemption Account and the Life Lease Fee Redemption Account to redeem Outstanding Bonds as directed by the Obligor.

**SECTION 3.05. CREATION OF THE CONSTRUCTION FUND.**

(a) There is hereby created and established with the Bond Trustee a trust fund designated as the "City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project) Construction Fund" (the "Construction Fund"). There are hereby created by the Issuer and ordered established with the Bond Trustee two separate accounts within the Construction Fund to be designated as the Funded Interest Account and the Project Account. Moneys in (i) the Project Account of the Construction Fund shall be used to pay Costs of a Project, and (ii) the Funded Interest Account shall be used to pay interest accruing on a portion of the Series 2008 Bonds through \_\_\_\_\_, 2010; provider, however, to the extent monies remain in the Funded Interest Account after \_\_\_\_\_, 2010, such monies shall be transferred to the Interest Account of the Bond Fund. Under no circumstances shall moneys in the Construction Fund be used to pay Cost of Issuance.

(b) In the event there are insufficient moneys in the Interest Account of the Bond Fund to pay interest on the Bonds when due, the Bond Trustee shall transfer moneys in the Funded Interest Account of the Construction Fund to the Interest Account of the Bond Fund to pay such interest when due. Moneys in the Funded Interest Account of the Construction Fund may also be used to pay investment management fees as set forth in a written request of the Obligor to the Bond Trustee with the prior written consent of the Bondholder Representative. Upon the maturity or sale of a Premium Security, the Bond Trustee shall transfer the appropriate amount of premium as set forth in Section 6.01 hereof to the account in which such Premium Security was held. All Surplus Construction Fund Money remaining in the Construction Fund after the Completion Certificate is filed with the Bond Trustee and payment of all other costs then due and payable shall be transferred to the Principal Account and shall be used to redeem Bonds in accordance with Section 5.06 hereof.

(c) Payments from the Construction Fund shall be made in accordance with Article IV of the Loan Agreement. Upon receipt of the required requisition, the Bond Trustee shall pay the amount requested to the extent that the Obligor is entitled to payment pursuant to the Loan Agreement.

(d) If an Event of Default occurs under this Bond Indenture, and the Bond Trustee declares the principal of all Bonds and the interest accrued thereon to be due and payable, no moneys may be paid out of the Construction Fund by the Bond Trustee during the continuance of such an Event of Default; provided, however, that if such an Event of Default shall be waived and such declaration shall be rescinded by the Bond Trustee (with the consent of the Bondholder Representative), the Bondholder Representative or the holders and owners of the Bonds pursuant to the terms of this Bond Indenture, the full amount of any such remaining moneys in the Construction Fund may again be disbursed by the Bond Trustee in accordance with the provisions of the Loan Agreement and this Bond Indenture.

**SECTION 3.06. COST OF ISSUANCE FUND.** There is hereby created and established with the Bond Trustee a trust fund designated as the "City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project) Cost of Issuance Fund" (the "Cost of Issuance Fund"). The Bond Trustee shall disburse moneys in the Cost of Issuance Fund as provided in Article IV of the Loan Agreement. Moneys in the Cost of Issuance Fund may be used only for payment of the Cost of Issuance. Six months after the issuance of a series of Bonds (including the Series 2008 Bonds), any moneys remaining in the Cost of Issuance Fund representing proceeds of such Bonds shall be transferred first, to the Project Account of the Construction Fund prior to the Completion Date of any Project and second, to the Interest Account of the Bond Fund, and thereafter no such moneys shall be used to pay Cost of Issuance.

**SECTION 3.07. CREATION OF REBATE FUND; DUTIES OF BOND TRUSTEE; AMOUNTS HELD IN REBATE FUND.**

(a) There is hereby created and established with the Bond Trustee a trust fund to be held in trust to be designated "City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project) Rebate Fund" (the "Rebate Fund").

(b) Section 148(f) of the Code, as implemented by Sections 1.148-1 to 1.148-11 of the Income Tax Regulations (the "Rebate Provisions") requires that, among other requirements and with certain exceptions, the Issuer pay to the United States of America the Rebate Amount. The Issuer hereby covenants that it will make payments of the Rebate Amount as directed by the Obligor (but only from moneys provided to the Issuer by or on behalf of the Obligor for such purposes), if any, required to be made to the United States pursuant to the Code in order to establish or maintain the exclusion of the interest on the Tax Exempt Bonds from gross income for federal income tax



purposes. The Obligor shall timely make or cause to be made all necessary calculations of the Rebate Amount as required to comply with the Rebate Provisions and shall deposit or cause the Bond Trustee to deposit into the Rebate Fund from investment earnings on moneys deposited in the other funds and accounts created hereunder, or from any other funds held by the Bond Trustee in its capacity as Bond Trustee and available for such purpose, or, with the consent of the Bondholder Representative, from other moneys paid by the Obligor to the Bond Trustee for such purpose, the amount necessary to increase the balance in the Rebate Fund to the Rebate Amount. The Obligor shall certify in writing the Rebate Amount, if any (and if none is due, that none is due), and the calculations determining the same to the Bond Trustee, and shall instruct the Bond Trustee in writing to make from the Rebate Fund (or to the extent necessary, from other funds of the Obligor delivered to the Bond Trustee) all required payments to the United States of America of the Rebate Amount as shall be required to satisfy the Rebate Provisions, and to the extent the funds held by the Bond Trustee in the Rebate Fund are not sufficient to make payments of such Rebate Amount, the Obligor shall pay to the Bond Trustee an amount necessary to make up such deficiency. In complying with the foregoing, the Obligor may rely upon any instructions from and any Opinions of Bond Counsel, including, without limitation, a letter to be delivered by Bond Counsel to the Issuer, the Obligor and the Bond Trustee on the date of issuance of the Bonds, and upon any certificates, opinions or calculations prepared by certified public accountants or other consultants reasonably selected by the Obligor.

The Bond Trustee shall cooperate with the Obligor in complying with the requirements of this Section and shall promptly provide to the Obligor, upon its request, any information in the possession of the Bond Trustee concerning the investment of Gross Proceeds of the Bonds and all other information in the possession of the Bond Trustee of benefit to the Obligor in complying with the requirements of this Section. "Gross Proceeds" as to any series of Tax Exempt Bonds, for purposes of this Section include (a) proceeds of such Bonds, (b) amounts received from the Obligor pursuant to the Loan Agreement with respect to such Bonds, (c) all funds in accounts subject to the lien of this Bond Indenture allocable to the Bonds, and (d) other amounts that the Issuer may advise the Bond Trustee to treat as Gross Proceeds, and investment earnings on all of the foregoing.

Prior to making any distribution from the Rebate Fund held under this Bond Indenture, the Bond Trustee shall determine, from written calculations provided hereunder by the Obligor, whether funds remaining therein subject to the terms of this Bond Indenture shall be sufficient to pay the Rebate Amount when due and shall advise the Obligor of the deficiency, if any, which the Obligor shall promptly pay to the Bond Trustee. Payments to be made to the United States of America as required hereunder may be made directly by the Bond Trustee from the Rebate Fund, or any other fund or account held under this Bond Indenture, or, with the consent of the Bondholder Representative, from funds provided by the Obligor upon, and in such amounts as

provided in written instruction from the Obligor to the Bond Trustee, notwithstanding any other provisions herein to the contrary.

If any amount allocable to the Bonds shall remain in the Rebate Fund after payment in full of all Tax Exempt Bonds issued hereunder and after payment in full to the United States of the Rebate Amount with respect to the Tax Exempt Bonds in accordance with the terms hereof, the Bond Trustee shall, upon the written request of the Obligor, [distribute such amount to the Obligor].

Notwithstanding any other provisions of this Bond Indenture, including in particular Article VII of this Bond Indenture, the obligation to pay the Rebate Amount to the United States and to comply with all other requirements of this Section 3.07 shall survive the defeasance or payment in full of the Bonds.

All funds and accounts created hereunder shall be impressed with a lien to secure prompt payment of the Rebate Amount which shall be prior to the lien created hereunder for the benefit of the Owners and further by a lien to reimburse the Bond Trustee for any expense (including reasonable attorneys' fees) incurred by it pursuant to this Section, which lien shall also be prior to the lien created hereunder for the benefit of the Owners.

Under no circumstances whatsoever shall the Bond Trustee be liable to the Issuer, the Obligor or any Owner for any loss of the status of interest on the Bonds as excludable from gross income for federal income tax purposes, or any claims, demands, damages, liabilities, losses, costs or expenses resulting therefrom or in any way connected therewith, resulting from a failure to comply with Section 148(f) of the Code so long as the Bond Trustee has, pursuant to the terms of this Section 3.07, in good faith acted in accordance with the written directions of the Obligor.

(c) Notwithstanding any provision of this Bond Indenture to the contrary, the Bond Trustee shall not be liable or responsible for any calculation or determination which may be required in connection with or for the purpose of complying with the Rebate Provisions, including, without limitation, the calculation of amounts required to be paid to the United States under the provisions of the Rebate Provisions and the fair market value of any investment made hereunder, it being understood and agreed that the sole obligation of the Bond Trustee with respect to investments of funds hereunder shall be to invest the moneys received by the Bond Trustee pursuant to the instructions of the Obligor given in accordance with Section 6.01 hereof. The Bond Trustee shall have no responsibility for determining whether or not the investment made pursuant to the direction of the Obligor or any of the instructions received by the Bond Trustee under this Section 3.07 comply with the requirements of the Rebate Provisions and shall have no responsibility for monitoring the obligations of the Obligor or the Issuer for compliance with the provisions of this Bond Indenture with respect to the Rebate Provisions.

(d) Any moneys remaining in the Rebate Fund after redemption and payment of all of the Tax Exempt Bonds and payment and satisfaction of any rebatable arbitrage and all amounts owing by the Obligor under the Loan Agreement shall be withdrawn and paid to [the Obligor upon its written request].

Notwithstanding any of the provisions of this Section, the Bond Trustee shall have no duty or responsibility with respect to the Rebate Fund except to follow the specific written instructions of the Obligor.

**SECTION 3.08. BOND TRUSTEE'S AND PAYING AGENTS' FEES, CHARGES, AND EXPENSES.** Pursuant to the provisions of the Loan Agreement, the Obligor has agreed to pay to the Bond Trustee and to each Paying Agent, commencing with the effective date of the Loan Agreement and continuing until the principal of, premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the provisions of this Bond Indenture, the reasonable and necessary fees and expenses (including reasonable attorneys fees) of the Bond Trustee and each Paying Agent, as and when the same become due, upon the submission by the Bond Trustee and each Paying Agent of a statement therefor.

**SECTION 3.09. MONEYS TO BE HELD IN TRUST.** All moneys required to be deposited with or paid to the Bond Trustee under any provision of this Bond Indenture (except moneys in the Rebate Fund) shall be held by the Bond Trustee in trust for the purposes specified in this Bond Indenture, and except for moneys deposited with or paid to the Bond Trustee for the redemption of Bonds for which the notice of redemption has been duly given, shall, while held by the Bond Trustee, constitute part of the Trust Estate and be subject to the lien hereof.

**SECTION 3.10. REPAYMENT TO THE OBLIGOR FROM THE FUNDS.** Any amounts remaining in the Bond Fund or Construction Fund after payment in full of the Bonds (or after making provision for such payment), the fees and expenses of the Bond Trustee and the Paying Agents (including attorneys fees, if any), the Administration Expenses, and all other amounts required to be paid hereunder and under the Loan Agreement shall be paid to the Obligor upon the termination of the Loan Agreement.

**SECTION 3.11. NONPRESENTMENT OF BONDS.** In the event that any Bonds shall not be presented for payment when the principal thereof or interest thereon becomes due, either at maturity, the date fixed for redemption thereof, or otherwise, if funds sufficient for the payment thereof shall have been deposited into the Bond Fund or otherwise made available to the Bond Trustee for deposit therein as provided in Section 3.03 hereof, all liability of the Issuer to the owner or owners thereof for the payment of such Bonds shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Bond Trustee to hold such fund or funds, without

liability for interest thereon, for the benefit of the owner or owners of such Bonds, who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his or their part under this Bond Indenture or on, or with respect to, said Bonds, and all such funds shall remain uninvested. If any Bond shall not be presented for payment within the period of two years following the date of final maturity of such Bond, the Bond Trustee shall, upon request in writing by the Obligor and 30 days after notifying the Bondholder Representative of such request, return such funds to the Obligor free of any trust or lien and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Obligor. In either event, the Bond Trustee shall have no further responsibility with respect to such moneys or payment of such Bonds. Thereafter, the Bondholders shall be entitled to look only to the Obligor for payment, and then only to the extent of the amount so repaid by the Bond Trustee. The Obligor shall not be liable for any interest on any sums paid to it.

**SECTION 3.12. CREATION OF THE DEBT SERVICE RESERVE FUND; CUSTODY OF DEBT SERVICE RESERVE FUND.**

(a) There is hereby created and established with the Bond Trustee a trust fund designated as the "City of Lake Wales, Florida Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project) Debt Service Reserve Fund" (the "Debt Service Reserve Fund"). Within the Debt Service Reserve Fund there is hereby created and established a separate Series 2008A Debt Service Reserve Account.

(b) Moneys on deposit in the Debt Service Reserve Fund shall be used to provide a reserve for the payment of the principal of and interest on the Bonds. Moneys on deposit in the Series 2008A Debt Service Reserve Account shall be used solely to provide a reserve for the payment of the principal of and interest on the Series 2008A Bonds.

(c) The Debt Service Reserve Fund and the Debt Service Reserve Accounts therein shall be in the custody of the Bond Trustee but in the name of the Issuer, and the Issuer hereby authorizes and directs the Bond Trustee to transfer sufficient moneys from the applicable Debt Service Reserve Account of the Debt Service Reserve Fund to the Bond Trustee for deposit to the Bond Fund to pay the principal of and interest on the Bonds of the related series for the purposes herein described, which authorization and direction the Bond Trustee hereby accepts. In the event there shall be a deficiency in the Principal Account or the Interest Account on any payment date for any series of Bonds, the Bond Trustee shall promptly make up such deficiency from the applicable Debt Service Reserve Account of the Debt Service Reserve Fund.

**SECTION 3.13. PAYMENTS INTO THE DEBT SERVICE RESERVE FUND.** In addition to the deposits required by Section 3.01 hereof, there shall be deposited into the appropriate Debt Service Reserve Account of the Debt Service Reserve Fund any Debt Service Reserve Fund Obligations delivered by the Obligor to the Bond

Trustee pursuant to Section 5.9 of the Loan Agreement. In addition, there shall be deposited into the appropriate Debt Service Reserve Account of the Debt Service Reserve Fund all moneys required to be transferred thereto pursuant to Section 6.02 hereof, and all other moneys received by the Bond Trustee when accompanied by directions that such moneys are to be paid into such Debt Service Reserve Account of the Debt Service Reserve Fund. There shall also be retained in each Debt Service Reserve Account of the Debt Service Reserve Fund all interest and other income received on investments of Debt Service Reserve Fund moneys in such Debt Service Reserve Account to the extent provided in Section 6.02 hereof.

**SECTION 3.14. USE OF MONEYS IN THE DEBT SERVICE RESERVE FUND.**

(a) Moneys in the Debt Service Reserve Fund shall be used solely for the payment of the principal of and interest on the Bonds in the event moneys in the Bond Fund and the Funded Interest Account are insufficient to make such payments when due, whether on an interest payment date, redemption date, maturity date, acceleration date or otherwise; provided that moneys on deposit in a Debt Service Reserve Account of the Debt Service Reserve Fund shall be used only to make such payments with respect to the related series of Bonds.

(b) Upon the occurrence of an Event of Default of which the Bond Trustee is deemed to have notice hereunder and the election by the Bond Trustee of the remedy specified in Section 8.02(a) hereof, any Debt Service Reserve Fund Obligations in the Debt Service Reserve Fund shall, subject to the provisions of Section 3.07 hereof, be transferred by the Bond Trustee to the Principal Account and applied in accordance with Section 8.05 hereof. In the event of the redemption of any series of Bonds, any Debt Service Reserve Fund Obligations on deposit in the applicable Debt Service Reserve Account of the Debt Service Reserve Fund in excess of the Debt Service Reserve Fund Requirement on the Bonds of such series to be Outstanding immediately after such redemption may, subject to the provisions of Section 3.07 hereof, be transferred to the Principal Account and applied to the payment of the principal of the series of Bonds to be redeemed in whole. On \_\_\_\_ 15 and \_\_\_\_ 15 in each year, any earnings on the Debt Service Reserve Fund Obligations on deposit in a Debt Service Reserve Account of the Debt Service Reserve Fund that are in excess of the Debt Service Reserve Fund Requirement for such Debt Service Reserve Account shall be transferred during the construction period for any Project into the Funded Interest Account of the Construction Fund created in connection with the issuance of Bonds for such Project or, if after the completion of such construction period, into the Interest Account of the Bond Fund.

(c) On the final maturity date of any series of Bonds, any Debt Service Reserve Fund Obligations in a Debt Service Reserve Account of the Debt Service Reserve Fund in excess of the Debt Service Reserve Fund Requirement after giving effect to such maturity may, upon the direction of the Obligor, be used to pay the principal of and

interest on such series of Bonds on such final maturity date.

(d) If at any time moneys in a Debt Service Reserve Account in the Debt Service Reserve Fund are sufficient to pay the principal or redemption price of all Bonds of the related series, the Bond Trustee may use the moneys on deposit in the Debt Service Reserve Fund to pay such principal or redemption price of such related series of Bonds

## **ARTICLE IV**

### **COVENANTS OF THE ISSUER**

#### **SECTION 4.01. PERFORMANCE OF COVENANTS; AUTHORITY.**

The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Bond Indenture, in any and every Bond and in all proceedings of the Issuer pertaining hereto; provided, however, that except for the covenant of the Issuer set forth in Section 4.02 hereof relating to payment of the Bonds, the Issuer shall not be obligated to take any action or execute any instrument pursuant to any provision hereof until it shall have been requested to do so by the Obligor, by the Bondholder Representative or by the Bond Trustee, or shall have received the instrument to be executed and at the option of the Issuer shall have received from the party requesting such execution assurance satisfactory to the Issuer that the Issuer shall be reimbursed for its reasonable expenses incurred or to be incurred in connection with taking such action or executing such instrument. The Issuer covenants that it is duly authorized under the laws of the State, including particularly and without limitation the Act, to issue the Series 2008 Bonds and to execute this Bond Indenture, and to pledge the revenues and receipts hereby pledged, and to assign its rights under and pursuant to the Loan Agreement and the Notes in the manner and to the extent herein set forth, that all action on its part and to the extent herein set forth, that all action on its part for the issuance of the Series 2008 Bonds and the execution and delivery of this Bond Indenture has been duly and effectively taken and will be duly taken as provided herein, and that the Series 2008 Bonds in the hands of the owners thereof are and will be valid and enforceable limited obligations of the Issuer according to the import hereof, except as enforcement thereof and hereof may be limited by bankruptcy, insolvency, moratorium, reorganization and other similar laws affecting the rights of creditors and by the application of general principles of equity, if such remedies are pursued.

**SECTION 4.02. PAYMENTS OF PRINCIPAL, PREMIUM, IF ANY, AND INTEREST.** The Issuer will promptly pay or cause to be paid the principal of, premium, if any, and interest on all Bonds issued hereunder according to the terms hereof. The principal, premium, if any, and interest payments are payable solely from revenues and other amounts derived from the Notes, and from the other security pledged hereby, which revenues and security are hereby specifically pledged to the payment thereof in the manner and to the extent herein specified. Nothing in the Bonds or in this Bond Indenture shall be considered or construed as pledging any funds or assets of the Issuer other than those pledged hereby.

**SECTION 4.03. SUPPLEMENTAL BOND INDENTURES: RECORDATION OF BOND INDENTURE AND SUPPLEMENTAL BOND INDENTURES.** The Issuer will execute and deliver all indentures supplemental hereto, and will cause this Bond Indenture, the Loan Agreement, and all supplements hereto and thereto, as well as all security instruments and financing statements relating thereto, to be

filed in each office required by law in order to publish notice of the liens created by this Bond Indenture and the Loan Agreement. The Bond Trustee, at the Obligor's expense, will cause all continuation statements and all supplements to any financing statement or continuation statement and other instruments as may be required, at all times to be recorded, registered and filed in such manner and in such places as may be required by law in order fully to preserve and protect the security of the Bondholders and all rights of the Bond Trustee hereunder. It shall be the responsibility of the Obligor to provide such financing statements to the Bond Trustee in a timely manner.

**SECTION 4.04. LIEN OF BOND INDENTURE.** The Issuer hereby agrees not to create any lien having priority or preference over the lien of this Bond Indenture upon the Trust Estate or any part thereof, other than the security interest granted by it to the Bond Trustee, except as otherwise specifically provided in Article VIII hereof. The Issuer agrees that no obligations the payment of which is secured by payments or other moneys or amounts derived from the Loan Agreement and the other sources provided herein will be issued by it except in accordance with Sections 2.09 and 2.10 of this Bond Indenture.

**SECTION 4.05. RIGHTS UNDER THE LOAN AGREEMENT.** The Issuer will observe all of the obligations, terms and conditions required on its part to be observed or performed under the Loan Agreement. The Issuer agrees that wherever in the Loan Agreement it is stated that the Issuer will notify the Bond Trustee, give the Bond Trustee some right or privilege, or in any way attempts to confer upon the Bond Trustee the ability for the Bond Trustee to protect the security for payment of the Bonds, that such part of the Loan Agreement shall be as though it were set out in this Bond Indenture in full.

The Issuer agrees that the Bond Trustee as assignee of the Loan Agreement may enforce, in its name or in the name of the Issuer, all rights of the Issuer (except those rights to indemnification and payment under Sections 5.7, 7.5 and 9.5 thereof) and all obligations of the Obligor under and pursuant to the Loan Agreement for and on behalf of the Bondholders, whether or not the Issuer is in default hereunder.

**SECTION 4.06. TAX COVENANTS.** The Issuer (to the extent within its power or direction) shall not knowingly and intentionally use or permit the use of any proceeds of Tax Exempt Bonds or any other funds of the Issuer, directly or indirectly, in any manner, and shall not knowingly and intentionally take or permit to be taken any other action or actions, which would adversely affect the exclusion of the interest on any Tax Exempt Bond from gross income for federal income tax purposes. [The Issuer shall promptly provide the Bond Trustee and the Bondholder Representative with copies of any and all notices and or correspondence which it receives from the Internal Revenue Service regarding the Bonds.]



The Bond Trustee agrees to comply with the provisions of any statute, regulation or ruling that may apply to it as Bond Trustee hereunder and relating to reporting requirements or other requirements necessary to preserve the exclusion from federal gross income of the interest on the Bonds. If the Obligor shall fail to perform its obligations as described in Section 3.07, the Bond Trustee from time to time may cause a firm of attorneys, consultants or independent accountants or an investment banking firm to supply the Bond Trustee, on behalf of the Issuer and the Obligor, with such information as the Bond Trustee, on behalf of the Issuer, may reasonably request in order to determine in a manner reasonably satisfactory to the Bond Trustee, on behalf of the Issuer, all matters relating to (a) the actuarial yields on the Tax Exempt Bonds as the same may relate to any data or conclusions necessary to verify that the Tax Exempt Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Code, and (b) compliance with the rebate requirements of Section 148(f) of the Code. Payment for costs and expenses incurred in connection with supplying the foregoing information shall be paid by the Obligor.

Notwithstanding any provision of this Section, if the Obligor provides to the Bond Trustee and the Issuer an Opinion of Bond Counsel to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion of interest on the Tax Exempt Bonds from federal gross income, the Bond Trustee and the Issuer may conclusively rely on such opinion in complying with the provisions of this Bond Indenture, and the covenants under this Bond Indenture may be deemed to be modified to that extent. Under such circumstance, the Bond Trustee shall promptly provide notice of such deemed modification to the Bondholder Representative.

**SECTION 4.07. CHANGE IN LAW.** To the extent that published rulings of the Internal Revenue Service, or amendments to the Code or the Regulations modify the covenants of the Issuer that are set forth in this Bond Indenture or that are necessary for interest on any issue of the Tax Exempt Bonds to be excludable from gross income for federal income tax purposes, the Issuer, upon receiving the written Opinion of Bond Counsel to such effect, will comply, at the expense of the Obligor, with such modifications and direct the Bond Trustee to take such action as may be required to comply with such modifications.

**ARTICLE V**  
**REDEMPTION OF BONDS**

**SECTION 5.01. OPTIONAL REDEMPTION OF SERIES 2008 BONDS.**

The Series 2008 Bonds are subject to optional redemption, in whole or in part, and if in part, in inverse order of mandatory sinking fund installments, and by lot within a maturity, and in Authorized Denominations, by the Issuer, acting at the direction of the Obligor, on \_\_\_\_\_ 1, 2016, and any Business Day thereafter at the redemption prices, expressed as a percentage of the principal amount of Series 2008 Bonds to be redeemed set forth below, plus accrued interest thereon to the applicable redemption date:

Redemption Period (both dates included)	Redemption Price
_____ 1, 2016 to _____ 31, 2017	102%
_____ 1, 2017 to _____ 31, 2018	101%
_____ 1, 2018 and thereafter	100%

**SECTION 5.02. OPTIONAL REDEMPTION FROM LIFE LEASE FEES.**

An aggregate principal amount of the Series 2008 Bonds up to \$ \_\_\_\_\_ are subject to optional redemption in whole or in part at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date on the first Business Day of each fiscal quarter, to the extent monies are on deposit in the Life Lease Fee Redemption Account of the Bond Fund pursuant to Section 3.03 of the Master Indenture.

**SECTION 5.03. MANDATORY REDEMPTION UPON CERTAIN EVENTS OR CHANGE IN LAW.** The Bonds shall be subject to mandatory redemption at the direction of the Obligor prior to their scheduled maturities, in whole or in part (proportionally among each Series) at a redemption price equal to the principal amount thereof plus accrued interest from the most recent Interest Payment Date to the redemption date on any date following the occurrence of any of the following events:

(a) in case of damage or destruction to, or condemnation of, any property, plant, and equipment of any Obligated Group Member, to the extent that the net proceeds of insurance or condemnation award exceed the Threshold Amount (as defined in the Master Indenture) and the Obligor has determined not to use such net proceeds or award to repair, rebuild or replace such property, plant, and equipment; or

(b) as a result of any changes in the Constitution or laws of the State of Florida or of the United States of America or of any legislative, executive, or administrative action (whether state or federal) or of any final decree, judgment, or order of any court or administrative body (whether state or federal), the obligations of the Obligor under the Loan Agreement have become, as established by an Opinion of Counsel, void or

unenforceable in each case in any material respect in accordance with the intent and purpose of the parties as expressed in the Loan Agreement.

**SECTION 5.04. MANDATORY REDEMPTION FROM EXCESS CASH FLOW.** The Series 2008 Bonds are subject to mandatory redemption on the first Business Day of each [April] and [October], in part, in order of the next succeeding mandatory sinking fund installments, from the Excess Cash Flow deposited in the Special Redemption Account of the Bond Fund as required by Section \_\_\_\_ of the Supplemental Indenture.

**SECTION 5.05. MANDATORY SINKING FUND REDEMPTION OF SERIES 2008 BONDS.**

(a) The Series 2008 Bonds maturing on September 1, 20\_\_ are subject to mandatory sinking fund redemption at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date. As and for a sinking fund for the redemption of Series 2008 Bonds maturing on September 1, 20\_\_, the Obligor shall cause to be deposited into the Principal Account of the Bond Fund a sum which is sufficient to redeem on September 1 of each of the following years (after credit as provided below) the following principal amounts of Series 2008 Bonds maturing on September 1, 20\_\_, plus accrued interest to the redemption date:

<u>Year</u>	<u>Amount</u>
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\*Maturity

(b) On or before the thirtieth day prior to each sinking fund payment date, the Bond Trustee shall proceed to select for redemption (by lot in such manner as the Bond Trustee may determine) from all Series 2008 Bonds Outstanding maturing on September 1, 20\_\_ or September 1, 20\_\_, as the case may be, a principal amount of such Series 2008 Bonds equal to the aggregate principal amount of such Series 2008 Bonds redeemable with the required sinking fund payment, and shall call such Series 2008 Bonds or portions thereof (\$5,000 or any integral multiple thereof) for redemption from the sinking fund on the next September 1, 20\_\_, and give notice of such call.

(c) At the option of the Obligor to be exercised by delivery of a written certificate to the Bond Trustee on or before the forty-fifth day next preceding any sinking fund redemption date, it may (i) deliver to the Bond Trustee for cancellation Series 2008 Bonds or portions thereof maturing on September 1, 20\_\_ or September 1, 20\_\_, as the case may be, in an aggregate principal amount desired by the Obligor, or (ii) specify a

principal amount of Series 2008 Bonds or portions thereof maturing on September 1, 20\_\_ or September 1, 20\_\_, as the case may be, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Bond Trustee at the request of the Obligor and not theretofore applied as a credit against any sinking fund redemption obligation. Each such Series 2008 Bond or portion thereof so delivered or previously redeemed shall be credited by the Bond Trustee at 100% of the principal amount thereof against the obligation of the Issuer to redeem Series 2008 Bonds on such sinking fund redemption date. Any excess shall be credited against the next sinking fund redemption obligation to redeem Series 2008 Bonds. In the event that the Obligor shall avail itself of the provisions of clause (i) of the second sentence of this paragraph, the certificate required by the second sentence of this paragraph shall be accompanied by the Series 2008 Bonds or portions thereof to be canceled.

**SECTION 5.06. MANDATORY REDEMPTION FROM SURPLUS CONSTRUCTION FUND MONIES.** The Series 2008 Bonds are subject to mandatory redemption in whole or in part on any date for which timely notice of redemption can be given by the Bond Trustee following the Completion Date at a redemption price equal to the aggregate principal amount of the Series 2008 Bonds to be redeemed plus accrued interest to the redemption date, without premium, to the extent Surplus Construction Fund Moneys are transferred to the Principal Account of the Bond Fund.

**SECTION 5.07. MANDATORY REDEMPTION UPON DETERMINATION OF TAXABILITY.** The Series 2008A Bonds are subject to mandatory redemption in whole, or in part to the extent necessary to preserve the exclusion from gross income of the interest on the Series 2008A Bonds, on any date for which timely notice of redemption can be given by the Bond Trustee following a Determination of Taxability at a redemption price equal to 103% of the aggregate principal amount of the Series 2008A Bonds to be redeemed plus accrued interest to the redemption date.

**SECTION 5.08. METHOD OF SELECTION OF BONDS IN CASE OF PARTIAL REDEMPTION.**

[TO BE UPDATED FOR PRIORITY OF REDEEMING B BONDS FIRST, IF DESIRED]

(a) Except to the extent otherwise provided for herein, in the event that less than all of the Outstanding Bonds of a series or portions thereof of a particular series are to be redeemed, the Obligor may select the particular maturities of such series to be redeemed. If less than all Bonds of a single maturity are to be redeemed, they shall be selected by the Securities Depository or by lot in such manner as the Bond Trustee may determine.

(b) If a Bond is of a denomination larger than the minimum Authorized Denomination, a portion of such Bond may be redeemed, but Bonds shall be redeemed only in the principal amount of an Authorized Denomination and no Bond may be redeemed in part if the principal amount to be Outstanding following such partial redemption is not an Authorized Denomination.

**SECTION 5.09. NOTICE OF REDEMPTION.** Bonds shall be called for redemption by the Bond Trustee as herein provided upon receipt by the Bond Trustee at least 45 days prior to the redemption date of a certificate of the Obligor specifying the principal amount of Bonds to be called for redemption, the applicable redemption price or prices and the provision or provisions of this Bond Indenture pursuant to which such Bonds are to be called for redemption. The provisions of the preceding sentence shall not apply to the redemption of Bonds pursuant to sinking fund redemption and such Bonds shall be called for redemption by the Bond Trustee without the necessity of any action by the Obligor or the Issuer. In case of every redemption, the Bond Trustee shall cause notice of such redemption to be given by mailing by first class mail, postage prepaid, a copy of the redemption notice to the owners of the Bonds designated for redemption in whole or in part, at their addresses as the same shall last appear upon the registration books, in each case not more than 60 nor less than 30 days prior to the redemption date. In addition, notice of redemption shall be sent by first class or registered mail, return receipt requested, or by over night delivery service (1) contemporaneously with such mailing: (A) to any owner of \$1,000,000 or more in principal amount of Bonds; (B) Bondholder Representative; and (C) to at least two or more information services of national recognition that disseminate redemption information with respect to municipal bonds; and (2) to any securities depository registered as such pursuant to the Securities Exchange Act of 1934, as amended, that is an owner of Bonds to be redeemed so that such notice is received at least two days prior to such mailing date. An additional notice of redemption shall be given by certified mail, postage prepaid, mailed not less than 60 nor more than 90 days after the redemption date to any owner of Bonds selected for redemption that has not surrendered the Bonds called for redemption, at the address as the same shall last appear upon the registration books and a copy of each such notice shall be sent to the Bondholder Representative.

All notices of redemption shall state:

- (1) the redemption date,
- (2) the redemption price,
- (3) the identification, including complete designation (including series) and issue date of the Bonds and the CUSIP number (and in the case of partial redemption, certificate number and the respective principal amounts, interest rates and maturity dates) of the Bonds to be redeemed,

(4) the condition for redemption, if any,

(5) that on the redemption date the redemption price will become due and payable upon each such Bonds, and that interest thereon shall cease to accrue from and after said date, and

(6) the name and address of the Bond Trustee and any Paying Agent for such Bonds, including the place where such Bonds are to be surrendered for payment of the redemption price and the name and phone number of a contact person at such address, provided, however, that failure to give any such notice, or any defect therein, shall not affect the validity of any proceedings for the redemption of such Bonds for which notice has been given.

**SECTION 5.10. BONDS DUE AND PAYABLE ON REDEMPTION DATE; INTEREST CEASES TO ACCRUE.** On or before the business day prior to the redemption date specified in the notice of redemption, an amount of money sufficient to redeem all Bonds called for redemption at the appropriate redemption price, including accrued interest to the date fixed for redemption, shall be deposited with the Bond Trustee. On the redemption date the principal amount of each Bond to be redeemed, together with the accrued interest thereon to such date and redemption premium, if any, shall become due and payable; and from and after such date, notice having been given and deposit having been made in accordance with the provisions of this Article V, then, notwithstanding that any Bonds called for redemption shall not have been surrendered, no further interest shall accrue on any such Bonds. From and after such date of redemption (such notice having been given and such deposit having been made), the Bonds to be redeemed shall not be deemed to be Outstanding hereunder, and the Issuer shall be under no further liability in respect thereof.

**SECTION 5.11. CANCELLATION.** All Bonds which have been redeemed shall be cancelled by the Bond Trustee and treated as provided in Section 2.11 hereof.

**SECTION 5.12. PARTIAL REDEMPTION OF FULLY REGISTERED BONDS.** Upon surrender of any fully registered Bond for redemption in part only, the Issuer shall execute and the Bond Trustee shall authenticate and deliver to the owner thereof, at the expense of the Obligor, a new Bond or Bonds of the same series and of the same maturity of Authorized Denominations in an aggregate principal amount equal to the unredeemed portion of the Bond surrendered.

**SECTION 5.13. PURCHASE IN LIEU OF REDEMPTION.** With the prior written consent of the Bondholder Representative, the Obligor shall have the option to cause the Bonds to be purchased in lieu of redemption pursuant to this Article V. Such option may be exercised by delivery to the Bond Trustee on or prior to the Business Day preceding the redemption date of a written notice of the Obligor, with the written consent of the Bondholder Representative, specifying that the Bonds shall not be redeemed, but

instead shall be subject to purchase pursuant to this Section 5.13. Upon delivery of such notice, the Bonds shall not be redeemed but shall instead be subject to mandatory tender at the Purchase Price (as defined below) on the date that would have been the redemption date. Any payment for Bonds purchased in lieu of redemption shall be credited against the next mandatory sinking fund payment for the Bonds. For purposes of this Section 5.13, "Purchase Price" shall mean the price negotiated with the Bondholder Representative in connection with delivery of the Bondholder Representative's consent.

## **ARTICLE VI INVESTMENTS**

**SECTION 6.01. INVESTMENT OF BOND FUND AND CONSTRUCTION FUND MONEYS.** Any moneys held as part of the Bond Fund, Debt Service Reserve Fund or Construction Fund shall be invested or reinvested by the Bond Trustee at the written request and direction of the Obligor (upon which the Bond Trustee is entitled to rely) in Permitted Investments. All Permitted Investments shall be either subject to redemption at any time at a fixed value at the option of the owner thereof or shall mature or be marketable not later than the business day prior to the date on which the proceeds are expected to be expended. For the purpose of any investment or replacement under this Section, the Permitted Investments shall be deemed to mature at the earliest date on which the Obligor is, on demand, obligated to pay a fixed sum in discharge of the whole of such obligation. The Bond Trustee may make any and all investments permitted by the provisions of this Section through its trust department. In order to comply with the directions of the Obligor, the Bond Trustee may sell, at the best price obtainable, or present for redemption, or may otherwise cause liquidation prior to their maturities, any of the obligations in which funds have been invested, and the Bond Trustee shall not be liable for any loss or penalty of any nature resulting therefrom. In order to avoid loss in the event of any need for funds, the Obligor may instruct the Bond Trustee, in lieu of a liquidation or redemption of investments in the fund or account needing funds, to exchange such investment for investments in another fund or account that may be liquidated at no, or at reduced, loss. The Bond Trustee shall be under no liability for interest on any moneys received hereunder unless specifically agreed to in writing. Notwithstanding anything to the contrary in this Section 6.01, (i) the Obligor shall not direct the Bond Trustee to purchase any Premium Security unless the written instructions of the Obligor to make such purchase set forth the amount of premium on such Premium Security, and (ii) the Obligor shall not direct the Bond Trustee to sell any Premium Security, unless prior to such sale, the Obligor has directed the Bond Trustee as to the amount of realized premium on such Premium Security to be transferred from the Funded Interest Account to the account in which such Premium Security was held.

**SECTION 6.02. ALLOCATION AND TRANSFERS OF INVESTMENT INCOME.** Any investments in any Fund shall be held by or under the control of the Bond Trustee and shall be deemed at all times a part of the Fund from which the investment was made. Any loss resulting from such investments shall be charged to such Fund. The Bond Trustee shall not be liable for any loss or penalty resulting from any such investment made in accordance with any permitted direction by an Obligor or for the Bonds becoming "arbitrage bonds" by reason of any such investment. Any interest or other gain from any fund from any investment or reinvestment pursuant to Section 6.01 hereof shall be allocated and transferred as follows:



(a) Any interest or other gain realized as a result of any investments or reinvestments of moneys in the Funded Interest Account of the Construction Fund shall be credited to the Funded Interest Account of the Construction Fund until such Funded Interest Account of the Construction Fund expires.

(b) Any interest or other gain realized as a result of any investments or reinvestments of moneys in the Project Account of the Construction Fund shall be retained in that account until such account expires.

(c) Any interest or other gain realized as a result of any investments or reinvestments of moneys in the Principal Account and the Interest Account of the Bond Fund shall be credited at least semiannually to the Interest Account unless a deficiency exists in any Debt Service Reserve Account of the Debt Service Reserve Fund, in which case such interest or other gain shall be paid into such Debt Service Reserve Account forthwith.

(d) Any interest or other gain realized as a result of any investments or reinvestments of moneys in the Special Redemption Account and Life Lease Fee Redemption Account of the Bond Fund shall be retained in that account.

(e) Any interest or other gain realized as a result of any investments or reinvestments of moneys in a Debt Service Reserve Account of the Debt Service Reserve Fund shall be credited to any Debt Service Reserve Account of the Debt Service Reserve Fund if a deficiency exists therein at that time. If a deficiency does not exist in a Debt Service Reserve Account of the Debt Service Reserve Fund at that time, such interest or other gain on other amounts paid into such Debt Service Reserve Account shall be paid during the construction period for any Project for deposit into the Funded Interest Account of the Construction Fund created in connection with the issuance of Bonds for such Project or if after the completion of such construction period, for deposit into the Interest Account of the Bond Fund, in each case at least semiannually.

The Bond Trustee shall sell and reduce to cash a sufficient portion of such investments whenever the cash balance in any fund is insufficient for the purposes of such fund.

### **SECTION 6.03. VALUATION OF PERMITTED INVESTMENTS.**

Accounting and valuation of Permitted Investments in any Fund or Account will be performed as follows:

(a) On a monthly basis the Bond Trustee shall furnish to the Obligor a full and complete statement of all receipts and disbursements of Permitted Investments in any Fund and Account covering such period.

(b) The Bond Trustee shall also furnish on May 1 of each year a statement of the assets contained in each Fund and Account. Assets will be valued at market value as of December 31, by the Bond Trustee in such statement in accordance with the normal valuation procedures of the Bond Trustee.

**ARTICLE VII**  
**DISCHARGE OF BOND INDENTURE**

**SECTION 7.01. DISCHARGE OF THE BOND INDENTURE.** If, when the Bonds secured hereby shall become due and payable in accordance with their terms or otherwise as provided in this Bond Indenture and the whole amount of the principal of, premium, if any, and interest due and payable upon all of the Bonds shall be paid, or provision shall have been made for the payment of the same, together with all other sums payable hereunder (including but not limited to the fees and expenses of the Bond Trustee and any Paying Agent, in accordance with Section 3.08 hereof), then the right, title and interest of the Bond Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, upon the written request of the Issuer or of the Obligor, and upon receipt of an Opinion of Counsel to the effect that all conditions precedent herein provided relating to the satisfaction and discharge of this Bond Indenture have been complied with, the Bond Trustee shall execute such documents as may be reasonably required by the Issuer and shall turn over to the Obligor any surplus in the Bond Fund, Debt Service Reserve Fund and Construction Fund.

All Outstanding Bonds of any one or more series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in this Section if (i) in case said Bonds are to be redeemed on any date prior to their maturity, the Obligor shall have given to the Bond Trustee in form satisfactory to it irrevocable written instructions to give on a date in accordance with the provisions of Section 5.09 hereof notice of redemption of such Bonds on said redemption date, such notice to be given in accordance with the provisions of Section 5.09 hereof, (ii) there shall have been deposited with the Bond Trustee (or another Paying Agent) either moneys in an amount which shall be sufficient, or Government Obligations which shall not contain provisions permitting the redemption thereof at the option of the issuer, or any other Person other than the holder thereof, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Bond Trustee or any Paying Agent at the same time (including the Bond Fund and Debt Service Reserve Fund), shall be sufficient, in the opinion of an independent certified public accountant, to pay when due the principal of, premium, if any, and interest due and to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and (iii) in the event that said Bonds are not by their terms subject to redemption within the next 45 days, the Obligor shall have given the Bond Trustee in form satisfactory to it irrevocable written instructions to give, as soon as practicable in the same manner as the notice of redemption is given pursuant to Section 5.09 hereof, a notice to the owners of such Bonds that the deposit required by subclause (ii) above has been made with the Bond Trustee (or another Paying Agent) and that said Bonds are deemed to have been paid in accordance with this Section and stating such maturity or redemption date upon which moneys are to

be available for the payment of the principal of, premium, if any, and interest on said Bonds. Neither the Government Obligations nor moneys deposited with the Bond Trustee pursuant to this Section nor principal or interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest on said Bonds; provided any such cash received from such principal or interest payments on such Government Obligations deposited with the Bond Trustee, if not then needed for such purpose, shall, at the written direction of the Obligor, either (1) be reinvested, to the extent practicable, in Government Obligations of the type described in clause (ii) of this paragraph maturing at the times and in amounts sufficient to pay when due the principal of, premium, if any, and interest to become due on said Bonds on or prior to such redemption date or maturity date thereof, as the case may be or (2) be used to pay principal and/or interest on the Bonds. At such time as any Bond shall be deemed paid as aforesaid, it shall no longer be secured by or entitled to the benefits of this Bond Indenture, except for the purpose of any payment from such moneys or Government Obligations deposited with the Bond Trustee and the purpose of transfer and exchange pursuant to Section 2.05 hereof.

The release of the obligations of the Issuer under this Section shall be without prejudice to the rights of the Bond Trustee to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable and necessary expenses, charges and other disbursements incurred on or about the administration of the trust hereby created and the performance of its powers and duties hereunder.

**ARTICLE VIII**  
**DEFAULTS AND REMEDIES**

**SECTION 8.01. EVENTS OF DEFAULT.** If any of the following events occur, it is hereby defined as and shall be deemed an "Event of Default":

(a) Default in the payment of the principal of or premium, if any, on any Bond when the same shall become due and payable, whether at the stated maturity thereof, or upon proceedings for redemption or as required by the sinking fund provisions hereof or otherwise.

(b) Default in the payment of any installment of interest on any Bond when the same shall become due and payable.

(c) Declaration under the Master Indenture that the principal of, and accrued interest on, any Obligation issued thereunder is immediately due and payable.

(d) Failure by the Issuer in the performance or observance of any other of the covenants, agreements or conditions on its part in this Bond Indenture or in the Bonds contained, which failure shall continue for a period of 60 days after written notice specifying such failure and requesting that it be remedied, is given to the Issuer and the Obligor by the Bond Trustee or to the Issuer, the Obligor and to the Bond Trustee by either the owners of not less than a majority in Aggregate Principal Amount of the Bonds Outstanding or the Bondholder Representative.

**SECTION 8.02. REMEDIES ON EVENTS OF DEFAULT.** Upon the occurrence of an Event of Default, the Bond Trustee shall have the following rights and remedies:

(a) The Bond Trustee shall, in the event that the payment of the principal of and accrued interest on any Note has been declared due and payable immediately by the Master Trustee, by notice in writing given to the Issuer and the Obligor, declare the principal amount of all Bonds then Outstanding and the interest accrued thereon to be immediately due and payable and said principal and interest shall thereupon become immediately due and payable. Upon any declaration of acceleration hereunder, the Bond Trustee shall give notice to the Bondholder Representative or Bondholders in the same manner as a notice of redemption under Article V hereof, stating the date upon which the Notes and the Bonds shall be payable.

The provisions of the preceding paragraph, however, are subject to the condition that if, after the payment of the principal of, and accrued interest on, the Notes and the Bonds has been declared due and payable immediately, the declaration of the acceleration of the Notes shall be annulled in accordance with the provisions of the Master Indenture, the declaration of the acceleration of the Bonds shall be automatically annulled, and the

Bond Trustee shall promptly give written notice of such annulment to the Issuer, the Bondholder Representative and the Obligor and notice to Bondholders in the same manner as a notice of redemption under Article V hereof; but no such annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon;

(b) The Bond Trustee may, by mandamus, or other suit, action or proceeding at law or in equity, enforce the rights of the Bondholders, and require the Issuer or the Obligor or both of them to carry out the agreements with or for the benefit of the Bondholders and to perform its or their duties under the Act, the Loan Agreement and this Bond Indenture.

(c) The Bond Trustee may, by action or suit in equity, require the Issuer to account as if it were the trustee of an express trust for the Bondholders but any such judgment against the Issuer shall be enforceable only against the funds and accounts hereunder in the hands of the Bond Trustee.

(d) The Bond Trustee may, by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders.

(e) The Bond Trustee may, upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Bond Trustee and the Bondholders, have appointed a receiver or receivers of the Trust Estate upon a showing of good cause with such powers as the court making such appointment may confer.

No right or remedy is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

If any Event of Default shall have occurred and if requested by the Bondholder Representative or the owners of at least a majority in Aggregate Principal Amount of Bonds then Outstanding and indemnified as provided in Section 9.01(m) hereof (except the remedy under Section 8.02(a) above, for which no indemnity may be required), the Bond Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Section as it, being advised by counsel, shall deem most expedient in the interests of such Bondholders.

**SECTION 8.03. MAJORITY OF BONDHOLDERS MAY CONTROL PROCEEDINGS.** Anything in this Bond Indenture to the contrary notwithstanding the Bondholder Representative or the owners of at least a majority in Aggregate Principal Amount of the Bonds then Outstanding shall have the right, at any time, to the extent permitted by law, by an instrument or instruments in writing executed and delivered to the Bond Trustee, to direct the time, method, and place of conducting all proceedings, to be taken in connection with the enforcement of the terms and conditions of this Bond

Indenture, or for the appointment of a receiver, and any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions hereof [and provided, further, that notwithstanding anything to the contrary in this Bond Indenture, the Issuer shall have the sole ability to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of Section 4.9 of the Loan Agreement.] The Bond Trustee shall not be required to act on any direction given to it pursuant to this Section until indemnity as set forth in Section 9.01(m) hereof is provided to it by the Bondholder Representative or such Bondholders.

**SECTION 8.04. RIGHTS AND REMEDIES OF BONDHOLDERS.** No owner of any Bond shall have any right to institute any suit, action, or proceeding in equity or at law for the enforcement of this Bond Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other applicable remedy hereunder, unless a default has occurred of which the Bond Trustee has been notified as provided in Section 9.01 hereof, or of which by said Section it is deemed to have notice, nor unless such default shall have become an Event of Default and the Bondholder Representative or the owners of at least a majority in Aggregate Principal Amount of Bonds then Outstanding shall have made written request to the Bond Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit, or proceeding in their own names, nor unless they have also offered to the Bond Trustee indemnity as provided in Section 9.01(m) hereof, nor unless the Bond Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit, or proceeding in its own name; and such notification, request, and offer of indemnity are hereby declared in every case at the option of the Bond Trustee to be conditions precedent to the execution of the powers and trusts of this Bond Indenture, and to any action or cause of action for the enforcement of this Bond Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more owners of the Bonds shall have the right in any manner whatsoever to affect, disturb, or prejudice the lien of this Bond Indenture by his, her, its, or their action or to enforce any right hereunder except in the manner herein provided and that all proceedings at law or in equity shall be instituted, had, and maintained in the manner herein provided and for the equal benefit of the owners of all Bonds then Outstanding. Nothing in this Bond Indenture contained shall, however, affect or impair the right of any owner of Bonds to enforce the payment of the principal of, premium, if any, or interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal of, premium, if any, and interest on each of the Bonds to the respective owners of the Bonds at the time and place, from the source and in the manner herein, and in the Bonds expressed.

#### **SECTION 8.05. APPLICATION OF MONEYS.**

(a) Subject to the provisions of subparagraph (c) hereof, all moneys received by the Bond Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and the expenses, liabilities, and advances incurred or made by the Bond Trustee, be deposited into the Bond Fund, and all moneys so deposited into the Bond Fund and all moneys held in or deposited into the Bond Fund during the continuance of an Event of Default and available for payment of the Bonds under the provisions of Section 3.04 hereof shall (after payment of the fees and expenses of the Bond Trustee and any reasonable fees due its counsel) be applied as follows:

(i) Unless the principal of all of the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST: To the payment to the Persons entitled thereto of all installments of interest then due on the Bonds in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege; and

SECOND: To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Bond Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due at the rate of interest borne by such Bonds and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto, without any discrimination or privilege.

(ii) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal then due and unpaid upon all of the Bonds (together with first, the interest, and second, interest on overdue installments of principal at the rate of interest borne by each Bond), without preference or priority of any Bond over any other Bond, or of any series of Bonds over any other series of Bonds, to the Persons entitled thereto without any discrimination or privilege.



(iii) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article then, subject to the provisions of paragraph (ii) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of the foregoing paragraph (i) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Bond Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Bond Trustee shall apply such moneys, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Bond Trustee shall give such notice as it may deem appropriate of the deposit of any such moneys and of the fixing of any such date, and shall not be required to make payment to the owner of any unpaid Bond until such unpaid Bond shall be presented to the Bond Trustee for appropriate endorsement or for cancellation if fully paid.

(c) Notwithstanding the foregoing, any moneys transferred into any Account of the Bond Fund from any Debt Service Reserve Account of the Debt Service Reserve Fund shall be (i) held by the Bond Trustee separate and apart from any other moneys in such Account of the Bond Fund, and (ii) applied solely to payment of principal of and interest on the series of Bonds related to such Debt Service Reserve Account.

(d) Whenever all of the Bonds and interest thereon have been paid under the provisions of this Section and all expenses and fees of the Bond Trustee and the Paying Agents and all Administration Expenses have been paid, any balance remaining in any funds shall be paid to the Obligor as provided in Section 3.10 hereof.

**SECTION 8.06. BOND TRUSTEE MAY ENFORCE RIGHTS WITHOUT BONDS.** All rights of action and claims under this Bond Indenture or any of the Bonds Outstanding hereunder may be enforced by the Bond Trustee without the possession of any of the Bonds or the production thereof in any trial or proceedings relative thereto; and any suit or proceeding instituted by the Bond Trustee shall be brought in its name as Bond Trustee, without the necessity of joining as plaintiffs or defendants any owners of the Bonds and any recovery of judgment shall be for the ratable benefit of the owners of the Bonds, subject to the provisions of this Bond Indenture.

**SECTION 8.07. BOND TRUSTEE TO FILE PROOFS OF CLAIM IN RECEIVERSHIP, ETC.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition, or other judicial proceedings affecting the Obligor, the Bond Trustee shall, to the extent permitted by law, be entitled

to file such proofs of claims and other documents as may be necessary or advisable in order to have claims of the Bond Trustee and of the Bondholders allowed in such proceedings for the entire amount due and payable by the Issuer under this Bond Indenture or by the Obligor at the date of the institution of such proceedings and for any additional amounts which may become due and payable by it after such date, without prejudice, however, to the right of the Bondholder Representative or any Bondholder to file a claim in his, her or its own behalf.

No provision of this Bond Indenture empowers the Bond Trustee to authorize, consent to, accept or adopt on behalf of any Bondholder any plan or reorganization, arrangement, adjustment or composition affecting any of the rights of any Bondholders, or authorizes the Bond Trustee to vote in respect of the claim in any proceeding described in this Section.

In the event the Bond Trustee or the Bondholder Representative incurs expenses or renders services in any proceedings affecting the Obligor and described in this Section, the expenses so incurred and compensation for services so rendered are intended to constitute expenses of administration under the United States Bankruptcy Code or equivalent law.

**SECTION 8.08. DELAY OR OMISSION NO WAIVER.** No delay or omission of the Bond Trustee, the Bondholder Representative or of any Bondholder to exercise any right or power accruing upon any default or Event of Default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default or Event of Default, or acquiescence therein; and every power and remedy given by this Bond Indenture may be exercised from time to time and as often as may be deemed expedient.

**SECTION 8.09. DISCONTINUANCE OF PROCEEDINGS ON DEFAULT, POSITION OF PARTIES RESTORED.** In case the Bond Trustee shall have proceeded to enforce any right under this Bond Indenture, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Bond Trustee, then and in every such case the Issuer and the Bond Trustee shall be restored to their former positions and rights hereunder with respect to the Trust Estate, and all rights, remedies, and powers of the Bond Trustee shall continue as if no such proceedings had been taken.

**SECTION 8.10. ENFORCEMENT OF RIGHTS.** The Bond Trustee, as pledgee and assignee for security purposes of all the right, title, and interest of the Issuer in and to the Loan Agreement (except those rights under Section 5.7, 7.5, and 9.5 thereof) and the Notes shall, upon compliance with applicable requirements of law and except as otherwise set forth in this Article VIII, be the sole real party in interest in respect of, and shall have standing, exclusive of the Bondholder Representative and the owners of Bonds to enforce each and every right granted to the Issuer under the Loan Agreement and

under the Notes. The Issuer and the Bond Trustee hereby agree, without in any way limiting the effect and scope thereof, that the pledge and assignment hereunder to the Bond Trustee of any and all rights of the Issuer in and to the Notes and the Loan Agreement shall constitute an agency appointment coupled with an interest on the part of the Bond Trustee which, for all purposes of this Bond Indenture, shall be irrevocable and shall survive and continue in full force and effect notwithstanding the bankruptcy or insolvency of the Issuer or its default hereunder or on the Bonds. Subject to Section 9.01 hereof, in exercising such right and the rights given the Bond Trustee under this Article VIII, the Bond Trustee shall take such action as, in the judgment of the Bond Trustee, would best serve the interests of the Bondholders, taking into account the provisions of the Master Indenture, together with the security and remedies afforded to owners of Notes.

**SECTION 8.11. UNDERTAKING FOR COSTS.** All parties to this Bond Indenture agree, and each Holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Bond Indenture, or in any suit against the Bond Trustee for any action taken or omitted by it as Bond Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Bond Trustee, to any suit instituted by any Bondholder, or group of Bondholders, holding in aggregate more than [10%] in principal amount of the Outstanding Bonds, or to any suit instituted by a Bondholder for the enforcement of the payment of the principal of (or premium, if any) or interest on any Bond on or after the respective maturities thereof expressed in such Bond (or, in the case of redemption, on or after the redemption date).

**SECTION 8.12. WAIVER OF EVENTS OF DEFAULT.** The Bond Trustee may in its discretion, but only with the consent of the Bondholder Representative, waive any Event of Default hereunder and its consequences, and shall do so upon the written request of the Bondholder Representative and the Owners of a majority in aggregate principal amount of the Bonds then Outstanding; provided, however, that the Bond Trustee may not waive an Event of Default described in subparagraph (a) of Section 8.01 hereof without the written consent of the registered owners of all Bonds then Outstanding; and provided, further, that notwithstanding anything to the contrary in this Bond Indenture, the Issuer, but only with the consent of the Bondholder Representative shall have the sole ability to waive any Event of Default in connection with the covenants and obligations of the Obligor under Section 4.9 of the Loan Agreement].

**ARTICLE IX**  
**CONCERNING THE BOND TRUSTEE AND PAYING**  
**AGENTS**

**SECTION 9.01. DUTIES OF THE BOND TRUSTEE.** The Bond Trustee hereby accepts the trust imposed upon it by this Bond Indenture and agrees to perform said trusts, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Bond Indenture against the Bond Trustee:

(a) The Bond Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Bond Indenture. In case an Event of Default has occurred (which has not been cured) the Bond Trustee shall exercise such of the rights and powers vested in it by this Bond Indenture and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) The Bond Trustee may execute any of the trusts or powers hereof and perform any of its duties hereunder, either directly or by or through attorneys, agents, receivers, or employees, and the Bond Trustee shall not be responsible for any misconduct or negligence on the part of any receiver, agent or attorney appointed with due care by it hereunder, and shall be entitled to act upon an Opinion of Counsel concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers, and employees as may reasonably be employed in connection with the trust hereof. The Bond Trustee shall not be responsible for any loss or damage resulting from any action or non-action taken by or omitted to be taken in good faith in reliance upon such Opinion of Counsel.

(c) The Bond Trustee shall not be responsible for any recital herein or in the Bonds (except in respect to the certificate of authentication by the Bond Trustee endorsed on the Bonds and the acceptance of the trusts hereunder).

(d) The Bond Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder or the proceeds thereof, or for any moneys disbursed by the Bond Trustee in accordance with this Bond Indenture. The Bond Trustee makes no representations as to the validity or sufficiency of this Bond Indenture or the Bonds. The Bond Trustee is not a party to, is not responsible for, and makes no representations with respect to matters set forth in any preliminary or final official statement, or similar document prepared and distributed in connection with the sale of the Bonds. The Bond Trustee may become the owner of the Bonds with the same rights which it would have if not Bond Trustee.

(e) The Bond Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram, teletransmission or other paper or document reasonably believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any request or direction of the Issuer or the Obligor mentioned herein shall be sufficiently evidenced by a written request, order, or consent signed in the name of the Issuer or Obligor, by the Issuer Representative, or Obligor, as the case may be. Any action taken by the Bond Trustee pursuant to this Bond Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bonds shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in place thereof.

(f) As to the existence or nonexistence of any fact or matter or as to the sufficiency or validity of any instrument, paper, or proceeding, the Bond Trustee shall be entitled to rely and shall be protected in acting or refraining to act upon a certificate signed on behalf of the Issuer or the Obligor by the Issuer Representative or Obligor or such other person as may be designated for such purpose by a resolution of the Issuer as sufficient evidence of the facts therein contained, and prior to the occurrence of a default of which the Bond Trustee has been notified as provided in subsection (h) of this Section, or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction, or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Bond Trustee to do things enumerated in this Bond Indenture shall not be construed as a duty (except as otherwise herein provided) and the Bond Trustee shall not be answerable for other than its own negligence or willful misconduct, except that:

(1) the Bond Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bond Trustee was negligent in ascertaining the pertinent facts;

(2) the Bond Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Bondholder Representative or the Bondholders of at least a majority in Aggregate Principal Amount of the Outstanding Bonds relating to the time, method, and place of conducting any proceeding for any remedy available to the Bond Trustee, or exercising any trust or power conferred upon the Bond Trustee, under this Bond Indenture; and

(3) the Bond Trustee shall not be liable if the Bond Trustee reasonably relies in good faith upon a Certificate of the Obligated Group Representative delivered pursuant to this Bond Indenture or an Opinion of Counsel.

(h) The Bond Trustee shall not be required to take notice or be deemed to have notice of any default or Event of Default except for (i) Events of Default specified in Section 8.01(a) or (b) hereof, (ii) the failure of the Master Trustee to make any payments due to the Bond Trustee under the Master Indenture, (iii) the failure of the Obligor to make any payments due to the Bond Trustee under the Loan Agreement, (iv) the failure of the Master Trustee or the Obligor to file any financial statements, certificates or documents specifically required to be filed with the Bond Trustee pursuant to the provisions of this Bond Indenture, the Master Indenture, the Loan Agreement, the Mortgage or any of the other documents executed in connection with the Bonds or the Notes, or (v) any other event of which a Responsible Officer of the Bond Trustee has actual knowledge and which, with the giving of notice or lapse of time or both would constitute an Event of Default under this Bond Indenture, the Master Indenture, the Loan Agreement, the Mortgage or any of the other documents executed in connection with the Bonds, unless specifically notified by written direction by the Master Trustee, the Obligor, the Bondholder Representative or any owner of the Bonds.

(i) All moneys received by the Bond Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received, but need not be segregated from other funds except to the extent required by this Bond Indenture or law.

(j) At any and all reasonable times the Bond Trustee, the Bondholder Representative and their duly authorized agents, attorneys, experts, engineers, accountants, and representatives shall have the right, but shall not be required, to inspect any Project, including all books, papers, and records of the Issuer and the Obligor pertaining to any Project and the Bonds.

(k) The Bond Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises, and no provision of this Bond Indenture shall require the Bond Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have grounds for believing that repayment of such funds or indemnity satisfactory against such risk or liability is not assured to it.

(l) Notwithstanding anything in this Bond Indenture contained, the Bond Trustee shall have the right, but shall not be required, to demand in respect of the authentication of any Bonds, the withdrawal of any cash, or any action whatsoever within the purview of this Bond Indenture, any showings, certificates, opinion, appraisals, or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Bond Trustee deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Bond Trustee.

(m) Before taking any action under this Section or Article VIII hereof, the Bond Trustee may require that indemnity reasonably satisfactory to it be furnished to it for the reimbursement of its reasonable fees, costs, liabilities and all expenses (including reasonable attorneys fees) which it may incur and to protect it against all liability, except liability which may result from its negligence or willful misconduct, by reason of any action so taken.

(n) Except as provided in Section 9.01(a) above, it shall not be the duty of the Bond Trustee, except as expressly provided herein, to see that any duties or obligations imposed herein or in the Loan Agreement upon the Issuer, the Obligor, or other Persons are performed, and the Bond Trustee shall not be liable or responsible because of the failure of the Issuer, the Obligor, or other Persons to perform any act required of them pursuant to the terms of this Bond Indenture.

(o) In acting or omitting to act pursuant to the provisions of the Loan Agreement, the Bond Trustee shall be entitled to and be protected by the rights and immunities accorded to it by the terms of this Bond Indenture.

(p) In the event the Bond Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of holders of Bonds, each representing less than a majority in aggregate principal amount of the Bonds Outstanding, the Bond Trustee, in its sole discretion, may determine what action, if any, shall be taken.

(q) The Bond Trustee is authorized, at any time and from time to time, at the Obligor's expense, to file any initial financing statements and amendments thereto and continuations thereof covering any collateral provided by the Obligor, and to request other secured parties of the Obligor to provide accountings, confirmations of collateral and confirmations of statements of account concerning the Obligor.

(r) The Bond Trustee's immunities and protections from liability in connection with the performance of its duties under this Bond Indenture shall extend to the Bond Trustee's officers, directors, agents and employees. Such immunities and protections, together with the Bond Trustee's right to compensation, shall survive the Bond Trustee's resignation or removal and final payment of the Bonds.

**SECTION 9.02. FEES AND EXPENSES OF BOND TRUSTEE AND PAYING AGENT.** The Issuer agrees, but solely from any funds received from the Obligor, pursuant to the Loan Agreement,

(a) to pay to the Bond Trustee, each Paying Agent and all other agents their reasonable and necessary fees for services rendered hereunder as and when the same become due and all expenses (including attorneys fees) reasonably and necessarily made or incurred by the Bond Trustee, such Paying Agent or such other agent in connection

with such services as and when the same become due as provided in Section 3.08 hereof; and

(b) to reimburse the Bond Trustee upon its request for all reasonable expenses, disbursements, and advances incurred or made by the Bond Trustee in accordance with any provisions of this Bond Indenture (including the reasonable compensation, expenses, and disbursements of its agents and counsel), except any such expense, disbursement, or advance as may be attributable to the negligence or bad faith of the Bond Trustee.

**SECTION 9.03. RESIGNATION OR REPLACEMENT OF BOND TRUSTEE.** The present or any future Bond Trustee may resign by giving to the Issuer, the Obligor, the Bondholder Representative and each Bondholder thirty days' notice of such resignation. Such resignation shall not be effective until such time as a successor Bond Trustee shall have accepted its appointment. The present or any future Bond Trustee may be removed (a) at any time by an instrument in writing executed by the the Bondholder Representative or owners of at least a majority in Aggregate Principal Amount of Bonds Outstanding or (b) if an Event of Default hereunder has not occurred and is continuing, by an instrument in writing executed by the Obligor with the consent of the Bondholder Representative.

In case the present or any future Bond Trustee shall at any time resign or be removed or otherwise become incapable of acting, a successor may be appointed by the Bondholder Representative or the owners of at least a majority in Aggregate Principal Amount of the Bonds Outstanding by an instrument or concurrent instruments signed by such Bondholder Representative or Bondholders, or their attorneys in fact duly appointed; provided that the Issuer may, by an instrument executed by order of the Issuer, appoint a successor until a new successor shall be appointed by the Bondholder Representative or the Bondholders as herein authorized. The Issuer upon making such appointment shall forthwith give notice thereof to the Bondholder Representative, to each Bondholder and to the Obligor, which notice may be given concurrently with the notice of resignation given by any resigning Bond Trustee. Any successor so appointed by the Issuer shall immediately and without further act be superseded by a successor appointed in the manner above provided by the Bondholder Representative or the owners of at least a majority in Aggregate Principal Amount of the Bonds Outstanding. In the event that the Issuer does not so act within thirty days after notice of resignation, the Bond Trustee shall have the right to petition a court of competent jurisdiction to appoint a successor Bond Trustee.

Every successor Bond Trustee shall always be a bank, banking corporation or trust company duly organized under the laws of the United States of America or any state or territory thereof, with trust powers in good standing, qualified to act hereunder, and having a combined capital and surplus of not less than \$75,000,000. Any successor appointed hereunder shall execute, acknowledge, and deliver to the Issuer, the Bondholder Representative and the predecessor Bond Trustee an instrument accepting



such appointment hereunder and thereupon such successor shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its predecessor in the trust hereunder with like effect as if originally named as Bond Trustee herein; but the Bond Trustee retiring shall, nevertheless, on the written demand of its successor, execute and deliver an instrument conveying and transferring to such successor, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the predecessor, who shall, upon payment of the expenses, charges and other disbursements which are due and owing to it pursuant to Sections 3.08 and 9.02 hereof, duly assign, transfer and deliver to the successor all properties and moneys held by it under this Bond Indenture. Should any instrument in writing from the Issuer be required by any successor for more fully and certainly vesting in and confirming to it all of such estates, properties, rights, powers, and trusts, the Issuer shall, on request of such successor, make, execute, acknowledge, and deliver the deeds, conveyances, and necessary instruments in writing.

The notices herein provided for shall be given by mailing a copy thereof to the Obligor, the Bondholder Representative and the registered owners of the Bonds at their addresses as the same shall last appear on the registration books. The instruments evidencing the resignation or removal of the Bond Trustee and the appointment of a successor hereunder, together with all other instruments provided for in this Section shall be filed and/or recorded by the successor Bond Trustee in each recording office where this Bond Indenture shall have been filed and/or recorded.

**SECTION 9.04. CONVERSION, CONSOLIDATION OR MERGER OF BOND TRUSTEE.** Any bank, banking corporation or trust company into which the Bond Trustee merges or is consolidated, or to which it (or a receiver on its behalf) may sell or transfer its corporate trust business as a whole, or substantially as a whole, shall be the successor of the Bond Trustee under this Bond Indenture with the same rights, powers, duties, and obligations and subject to the same restrictions, limitations, and liabilities as its predecessor, all without the execution or filing of any papers or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In case any of the Bonds to be issued hereunder shall have authenticated, but not delivered, any successor Bond Trustee may adopt the certificate of any predecessor Bond Trustee, and deliver the same as authenticated; and, in case any of such Bonds shall not have been authenticated, any successor Bond Trustee may authenticate such Bonds in the name of such successor Bond Trustee.

**SECTION 9.05. DESIGNATION AND SUCCESSION OF PAYING AGENT.** The Bond Trustee and any other banks or trust companies, if any, designated as Paying Agent or Paying Agents in any supplemental indenture providing for the issuance of Additional Bonds, shall be the Paying Agent or Paying Agents for the applicable series of Bonds.

Any bank or trust company with or into which any Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Bond Indenture. If the position of Paying Agent shall become vacant for any reason, the Issuer shall, within thirty days thereafter, appoint such bank or trust company as shall be specified by the Obligor and located in the same city as such Paying Agent to fill such vacancy; provided, however, that if the Issuer shall fail to appoint such Paying Agent within said period, the Bond Trustee shall make such appointment.

The Paying Agents, if any, shall enjoy the same protective provisions in the performance of their duties hereunder as are specified in Section 9.01 hereof with respect to the Bond Trustee insofar as such provisions may be applicable.

**ARTICLE X**  
**SUPPLEMENTAL BOND INDENTURES AND**  
**AMENDMENTS TO THE LOAN AGREEMENT**

**SECTION 10.01. SUPPLEMENTAL INDENTURES NOT REQUIRING CONSENT OF BONDHOLDERS.** The Issuer and the Bond Trustee may, with the consent of the Bondholder Representative, but without the consent of, or notice to, the Bondholders, enter into such indentures or agreements supplemental hereto (which supplemental indentures or agreements shall thereafter form a part hereof) for any one or more or all of the following purposes:

(a) To add to the covenants and agreements in this Bond Indenture contained other covenants and agreements thereafter to be observed for the protection or benefit of the Bondholders.

(b) To cure any ambiguity, or to cure, correct, or supplement any defect or inconsistent provision contained in this Bond Indenture, or to make any provisions with respect to matters arising under this Bond Indenture or for any other purpose if such provisions are necessary or desirable and do not, in the judgment of the Bond Trustee, adversely affect the interests of the owners of Bonds.

(c) To subject to this Bond Indenture additional revenues, properties, or collateral.

(d) To qualify this Bond Indenture under the Trust Indenture Act of 1939, if such be hereafter required in the Opinion of Counsel.

(e) To set forth the terms and conditions of Additional Bonds issued pursuant to Sections 2.09 and 2.10 hereof.

(f) To satisfy any requirements imposed by a Rating Agency if necessary to maintain the then current rating on the Bonds.

(g) To maintain the extent to which the interest on the Tax Exempt Bonds is not includable in the gross income of the recipients thereof, if in the Opinion of Bond Counsel such supplemental indenture or agreement is necessary.

**SECTION 10.02. SUPPLEMENTAL BOND INDENTURES REQUIRING CONSENT OF BONDHOLDERS.** Exclusive of supplemental bond indentures covered by Section 10.01 hereof, and subject to the consent of the Bondholder Representative, the owners of not less than a majority in Aggregate Principal Amount of the Bonds of all series then Outstanding affected thereby, in case one or more but less than all series of Bonds then Outstanding hereunder are so affected, shall have the right, from time to time, to consent to and approve the execution by the Issuer and the Bond Trustee of such

indenture or indentures supplemental hereto as shall be deemed necessary or desirable by the Issuer for the purpose of modifying, altering, amending, adding to, or rescinding, any of the terms or provisions contained in this Bond Indenture; provided, however, that without the consent of the Bondholder Representative or 66 2/3% of the owners of the Aggregate Principal Amount of Bonds at the time Outstanding nothing herein contained shall permit, or be construed as permitting any of the following:

(a) An extension of the maturity of, or a reduction of the principal amount of, or a reduction of the rate of, or extension of the time of payment of interest on, or a reduction of a premium payable upon any redemption of, any Bond.

(b) The deprivation of the owner of any Bond then Outstanding of the lien created by this Bond Indenture (other than as originally permitted hereby).

(c) A privilege or priority of any Bond or Bonds, over any other Bond.

(d) A reduction in the Aggregate Principal Amount of the Bonds required for consent to any supplemental indenture.

Upon the execution of any supplemental bond indenture pursuant to the provisions of this Section, this Bond Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Bond Indenture of the Issuer, the Bond Trustee and all owners of Bonds then Outstanding shall thereafter be determined, exercised, and enforced hereunder, subject in all respects to such modifications and amendments.

If at any time the Issuer shall request the Bond Trustee to enter into such supplemental bond indenture for any of the purposes of this Section, the Bond Trustee shall, upon being satisfactorily indemnified with respect to costs, fees and expenses (including reasonable attorneys fees), cause notice of the proposed execution of such supplemental bond indenture to be mailed to the Bondholder Representative and the registered owners of the Bonds at their addresses as the same last appear on the registration books. Such notice shall briefly set forth the nature of the proposed supplemental bond indenture and shall state that copies thereof are on file at the designated office of the Bond Trustee for inspection by the Bondholder Representative and all Bondholders. If, within sixty days or such longer period as shall be prescribed by the Issuer following the giving of such notice, the Bondholder Representative or the owners of not less than a majority in Aggregate Principal Amount of the Bonds Outstanding at the time of the execution of any such supplemental bond indenture shall have consented to and approved the execution thereof as herein provided, no owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Bond Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

**SECTION 10.03. EXECUTION OF SUPPLEMENTAL BOND INDENTURE.** The Bond Trustee is authorized to join with the Issuer in the execution of any such supplemental bond indenture and to make further agreements and stipulations which may be contained therein, but the Bond Trustee shall not be obligated to enter into any such supplemental bond indenture which affects its rights, duties, or immunities under this Bond Indenture. The Bond Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel stating that the execution and delivery of a supplemental bond indenture is authorized or permitted by this Bond Indenture and has been effected in compliance with the provisions hereof. In connection with a supplemental bond indenture entered into pursuant to Section 10.01(b) hereof, the Bond Trustee may in its discretion determine whether or not in accordance with such provision the Bondholders would be affected by modification or amendment of this Bond Indenture, and any such determination shall be binding and conclusive upon the Issuer, the Obligor, and Bondholders. The Bond Trustee may receive an Opinion of Counsel as conclusive evidence as to whether the Bondholders would be so affected by any such modification or amendment to this Bond Indenture.

Any supplemental bond indenture executed in accordance with the provisions of this Article shall thereafter form a part of this Bond Indenture; and all the terms and conditions contained in any such supplemental bond indenture as to any provision authorized to be contained therein shall be deemed to be part of this Bond Indenture for any and all purposes. In case of the execution and delivery of any supplemental bond indenture, express reference may be made thereto in the text of the Bonds issued thereafter, if any, if deemed necessary or desirable by the Bond Trustee.

**SECTION 10.04. CONSENT OF OBLIGOR.** Anything herein to the contrary notwithstanding, a supplemental bond indenture under this Article shall not become effective unless and until the Obligor shall have consented in writing to the execution and delivery of such supplemental bond indenture unless the Obligor is in default under the Loan Agreement or an Event of Default described under Section 8.01(a), (b) or (c) hereunder has occurred and is continuing, in which case no consent of the Obligor shall be required. The Bond Trustee shall cause notice of the proposed execution of any supplemental indenture together with a copy of the proposed supplemental bond indenture to be mailed to the Obligor at least fifteen days prior to the proposed date of execution of such supplemental bond indenture.

**SECTION 10.05. AMENDMENTS, ETC., OF THE LOAN AGREEMENT NOT REQUIRING CONSENT OF BONDHOLDERS.** The Issuer and the Bond Trustee shall, with the consent of the Bondholder Representative, but without the consent of or notice to the Bondholders, consent to any amendment, change, or modification of the Loan Agreement as may be required (i) by the provisions of the Loan Agreement and this Bond Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission, (iii) in connection with the issuance of Additional Bonds as herein provided,

(iv) to satisfy any requirements imposed by a Rating Agency if necessary to maintain the then current rating on the Tax Exempt Bonds, (v) to maintain the extent to which the interest on the Bonds is not includable in the gross income of the recipients thereof, if in the Opinion of Bond Counsel such amendment is necessary and (vi) in connection with any other change therein which does not adversely affect the Bond Trustee or the owners of the Bonds.

**SECTION 10.06. AMENDMENTS, ETC., OF THE LOAN AGREEMENT REQUIRING CONSENT OF BONDHOLDERS.** Except for the amendments, changes, or modifications as provided in Section 10.05 hereof, neither the Issuer nor the Bond Trustee shall consent to any other amendment, change, or modification of the Loan Agreement without the giving of notice to and the written approval or consent of the Bondholder Representative or the owners of not less than a majority in Aggregate Principal Amount of the Bonds at the time Outstanding given and procured as provided in Section 10.02 hereof. If at any time the Issuer and the Obligor shall request the consent of the Bond Trustee to any such proposed amendment, change, or modification of the Loan Agreement, the Bond Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change, or modification to be given in the same manner as provided in Section 10.02 hereof. Such notice shall briefly set forth the nature of such proposed amendment, change, or modification and shall state that copies of the instrument embodying the same are on file at the designated office of the Bond Trustee for inspection by all Bondholders.

In executing any amendment, change or modification of the Loan Agreement, the Bond Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel stating that the execution and delivery of such amendment, change, modification of the Loan Agreement is authorized or permitted by this Bond Indenture and the Loan Agreement and has been effected in compliance with the provisions of this Bond Indenture and the Loan Agreement. The Bond Trustee may, but shall not be obligated to, enter into any such amendment, change, or modification which affects the Bond Trustee's own rights, duties or immunities. In connection with any amendment, change or modification in connection with Section 10.05(vi), the Bond Trustee may in its discretion determine whether or not in accordance with such provision the Bond Trustee or the Bondholders would be prejudiced by such amendment, change, modification. Any such determination shall be binding and conclusive on the Issuer, the Obligor, and the Bondholders. The Bond Trustee may receive an Opinion of Counsel as conclusive evidence as to whether the Bondholders would be so affected by any such amendment, change, or modification of the Loan Agreement.

## **ARTICLE XI**

### **MISCELLANEOUS**

**SECTION 11.01. EVIDENCE OF SIGNATURE OF BONDHOLDERS AND OWNERSHIP OF BONDS.** Any request, consent, or other instrument which this Bond Indenture may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or of the ownership of Bonds shall be sufficient (except as otherwise herein expressly provided) if made in the following manner, but the Bond Trustee may, nevertheless, in its discretion, require further or other proof in cases where it deems the same desirable:

(a) The fact and date of the execution by any Bondholder or his attorney of such instrument may be proved by the certificate of any officer authorized to take acknowledgments in the jurisdiction in which he purports to act that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before a notary public.

(b) The ownership of any fully registered Bond and the amount and numbers of such Bonds and the date of holding the same shall be proved by the registration books of the Issuer kept by the Bond Trustee.

Any request or consent of the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the Issuer or the Bond Trustee in accordance therewith.

**SECTION 11.02. NO PERSONAL LIABILITY.** No recourse under or upon any obligation, covenant or agreement contained in this Bond Indenture, or in any Bond hereby secured, or under any judgment obtained against the Issuer, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of this Bond Indenture, shall be had against any elected official, officer, director, agent or employee, as such, past, present or future, of any of the Issuer, the Bond Trustee or Polk County, Florida, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the holder of any Bond issued hereunder or otherwise of any sum that may be due and unpaid by the Issuer upon any such Bond. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such person to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Issuer or any receiver thereof or for or to the holder of any Bond issued hereunder or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, is hereby

expressly waived and released as a condition of and consideration for the execution of this Bond Indenture and the issue of such Bonds.

**SECTION 11.03. LIMITED OBLIGATION.** The Issuer, Polk County, Florida, the State, or any political subdivision thereof, except the Issuer to the limited extent set forth herein, shall not be liable for the payment of the principal of, premium, if any, or interest on any of the Bonds issued hereunder. The Bonds are special and limited obligations of the Issuer payable solely from the revenues, receipts and resources of the Issuer pledged to their payment and not from any other revenues, funds or assets of the Issuer. None of the Bonds issued hereunder shall be construed or constitute an indebtedness of the Issuer or an indebtedness or obligation (special, moral or general) of Polk County, Florida, the State or any political subdivision thereof within the meaning of any constitutional or statutory provision or limitation whatsoever.

**SECTION 11.04. PARTIES INTERESTED HEREIN.** With the exception of rights herein expressly conferred on the Obligor, nothing in this Bond Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person other than the Issuer, the Bond Trustee, the Paying Agents, the provider(s) of any Credit Facility for the Bonds, the Bondholder Representative and the owners of the Bonds, any right, remedy, or claim under or by reason of this Bond Indenture, and any covenants, stipulations, promises, and agreements in this Bond Indenture contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Bond Trustee, the Paying Agents, the provider(s) of any Credit Facility for the Bonds, the Bondholder Representative and the owners of the Bonds.

**SECTION 11.05. CREDIT FACILITY PROVIDERS DEEMED OWNERS.** For all purposes hereof including, without limitation, Articles VII and X of this Bond Indenture, so long as a provider of a Credit Facility securing any Bond is not in default with respect to its obligations under such Credit Facility, such provider shall be deemed to the Owner of such Bonds and entitled to provide all consents and control all remedies with respect thereto to the exclusion of the Bondholders thereof so long as its Credit Facility is in effect.

**SECTION 11.06. TITLES, HEADINGS, ETC.** The titles and headings of the articles, sections, and subdivisions of this Bond Indenture have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions hereof.

**SECTION 11.07. SEVERABILITY.** In the event any provision of this Bond Indenture shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 11.08. GOVERNING LAW.** This Bond Indenture shall be governed and construed in accordance with the laws of the State of Florida.



**SECTION 11.09. EXECUTION OF COUNTERPARTS.** This Bond Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 11.10. NOTICES.** Any notice, request or other communication under this Loan Agreement shall be given in writing and shall be deemed to have been given by either party to the other party at the addresses shown below upon any of the following dates:

(a) The date of notice by facsimile, electronic mail or similar communications, which is confirmed promptly in writing;

(b) Three Business Days after the date of the mailing thereof, as shown by the post office receipt if mailed to the other party hereto by registered or certified mail;

(c) The date of the receipt thereof by such other party if not given pursuant to (a) or (b) above.

The address for notice for each of the parties shall be as follows:

Issuer: City of Lake Wales, Florida  
201 West Central Avenue  
Lake Wales, FL 33853  
Attention: City Manager  
Telephone: 863/678-4182  
Facsimile: 863/678-4180

Obligor: Water's Edge of Lake Wales, LLC  
1669 Clearwater Harbor Drive  
Largo, FL 33770  
Attention: President  
Telephone: 727/463-3277  
Facsimile: 727/581-8365

Bond Trustee and  
Paying Agent: Wells Fargo Bank, National Association  
9062 Old Annapolis Road – MAC N2702-011  
Columbia, Maryland 21045  
Attention: Corporate Trust Services  
Telephone: 410/884-2187  
Facsimile: 410/715-3791

Bondholder  
Representative

Hamlin Capital Management, LLC  
477 Madison Avenue, Suite 520  
New York, New York 10022  
Attention: Joseph J. Bridy  
Phone: 212/752-8777  
Fax: 212/752-5698

Underwriter

Raymond James & Associates  
Healthcare Finance Group  
880 Carillon Parkway  
St. Petersburg, FL 33716  
Attention: Paul J.M. Towell, Director  
Telephone: 727/567-5552  
Facsimile: 727/567-8315

Notwithstanding the foregoing, notices to the Bond Trustee shall be effective only upon receipt.

**SECTION 11.11. PAYMENTS DUE ON HOLIDAYS.** If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Bond Indenture, shall be a legal holiday or a day on which banking institutions in Columbia, Maryland, are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized by law to remain closed with the same force and effect as if done on the nominal date provided in this Bond Indenture.

**IN WITNESS WHEREOF**, the parties hereto have caused this Bond Indenture to be executed by its duly authorized officers, all as of the date first above written.

**CITY OF LAKE WALES, FLORIDA**

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

ATTEST:

By: \_\_\_\_\_  
City Clerk

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Bond Trustee**

By: \_\_\_\_\_  
Authorized Signatory

**FORM OF UNDERWRITER'S DISCLOSURE STATEMENT  
AND  
TRUTH-IN-BONDING STATEMENT**

\_\_\_\_\_, 2008

City of Lake Wales, Florida

Re: City of Lake Wales, Florida Retirement Facility Revenue Bonds  
(Water's Edge of Lake Wales, LLC Project), Series 2008

Ladies and Gentlemen:

In connection with the proposed issuance by the City of Lake Wales, Florida (the "City") of \$\_\_\_\_\_ aggregate principal amount of its Retirement Facility Revenue Bonds (Water's Edge of Lake Wales, LLC Project), Series 2008 referred to above (the "Series 2008 Bonds"), Raymond James & Associates (the "Underwriter") is purchasing the Series 2008 Bonds on the date hereof. The Series 2008 Bonds are being sold pursuant to a Bond Purchase Agreement, dated the date hereof, among the City, the Underwriter and Water's Edge of Lake Wales, LLC (the "Borrower"), which will embody the negotiations in respect thereof.

The purpose of this letter is to furnish, pursuant to the provisions of Section 218.385, Florida Statutes, certain information with respect to the arrangements contemplated for the underwriting of the Series 2008 Bonds as follows:

(a) The nature and estimated amount of expenses to be incurred by the Underwriter in connection with the purchase of the Series 2008 Bonds, are set forth in Schedule I attached hereto.

(b) No person has entered into an understanding with the Underwriter, or to the knowledge of the Underwriter, with the City for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the City, the Borrower and the Underwriter or to exercise or attempt to exercise any influence to effect any transaction in the placement of the Series 2008 Bonds.

(c) The Underwriter will be paid a total fee of \$\_\_\_\_\_ as compensation for selling the Series 2008 Bonds to the initial purchasers thereof.

(d) No other fee, bonus or other compensation is estimated to be paid by the Underwriter in connection with the issue of the Series 2008 Bonds, to any person not regularly employed or retained by the Underwriter (including any "finder") as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Underwriter, as set forth in paragraph (a) above.

(e) The name and address of the Underwriter is:

Raymond James & Associates  
880 Carillon Parkway  
St. Petersburg, Florida 33716

(f) The City is proposing to issue \$\_\_\_\_\_ of the Series 2008 Bonds for the principal purposes of (i) financing the costs of acquisition, construction and installation of certain senior care and living facilities, (ii) capitalizing interest and funding certain reserve funds, and (iii) paying costs associated with the issuance of such bonds. These obligations are expected to be repaid over a period of approximately \_\_\_\_\_ years. At a true interest cost of \_\_\_\_\_%, total interest paid over the life of the obligations (excluding accrued interest) will be approximately \$\_\_\_\_\_.

(g) The source of repayment or security of the Series 2008 Bonds is the Trust Estate, which consists primarily of payments made by the Borrower. No revenues or funds of the City shall be applied to pay debt service on the Series 2008 Bonds.

We understand that you do not require any further disclosure from the Underwriter, pursuant to Section 218.385, Florida Statutes.

Very truly yours,

**Raymond James & Associates**

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

## **Schedule I**

### **Underwriter's Expenses**

<u>Expense Item</u>	<u>Total Amount</u>	<u>Per Bond (\$1,000)</u>
CUSIP		
PSA		
DTC		
Miscellaneous*		
Total		

\*Includes printing, shipping, conference calls, etc.