

**NOTICE TO THE NEW HAMPSHIRE DIRECTOR OF CHARITABLE TRUSTS
PURSUANT TO NEW HAMPSHIRE RSA 7:19-b**

Re: The Prospect-Woodward Home d/b/a Hillside Village

This Notice and its appendices (the “*Notice*”) are submitted to the New Hampshire Attorney General, Director of Charitable Trusts (the “*Charitable Trusts Director*”) pursuant to New Hampshire RSA 7:19-b (the “*Change of Control Statute*”) by **The Prospect-Woodward Home d/b/a Hillside Village**, a New Hampshire voluntary corporation (“*Prospect-Woodward*”). This Notice is being submitted in connection with the proposed asset sale transaction described in Section III below (the “*Transaction*”). In support of this Notice, Prospect-Woodward respectfully provides the following information:

I. THE PARTIES TO THE TRANSACTION

A. THE PROSPECT-WOODWARD HOME d/b/a HILLSIDE VILLAGE

Prospect-Woodward is a New Hampshire voluntary corporation formed in 1874 under Chapter 130 of the General Statutes of New Hampshire and Chapter 6 of the Pamphlet Laws of 1872 (predecessor statutes to RSA 292). Prospect-Woodward also is a charitable organization exempt from federal income taxes as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “*Tax Code*”), and registered as a charitable trust with the Charitable Trusts Director. The current Articles of Agreement and Bylaws of Prospect-Woodward are attached as Appendix A and Appendix B, respectively.

Prospect-Woodward (previously named “Prospect Hill Home”) is the surviving entity of a 2016 merger (the “*Prospect-Woodward Merger*”) with The Woodward Home (“*Woodward*”), a New Hampshire voluntary, nonprofit corporation formed in 1932. The Charitable Trusts Director reviewed the Prospect-Woodward Merger for compliance with the Change of Control Statute, and issued a no action letter subject to conditions (the “*2016 No Action Letter*”). See Appendix C.

Prospect-Woodward owned and operated a 130-year old assisted living facility for seniors known as “Prospect Place,” located at 361 Court Street, Keene, New Hampshire. Woodward owned and operated a 75-year old assisted living facility for seniors known as the “Woodward Home,” located at 194-202 Court Street, Keene, New Hampshire. Both facilities became inadequate to meet modern safety regulations and the changing needs

and demands of today's seniors, and consequently suffered a significant drop in their census that jeopardized their sustainability. In 2015, Prospect-Woodward petitioned for, and received from, the 8th Circuit Court, Probate Division, Keene (the "*Probate Court*") *cy pres* relief to: (a) expand its charitable mission to include the development and operation of a continuing care retirement community ("*CCRC*"); (b) approve the reestablishment of the value of its donor-restricted endowment funds and authorize appropriations from such funds to support the expanded mission; and (c) approve the closure of Prospect Place upon completion of the CCRC and relocate any existing residents to the new CCRC (the "*2015 Probate Court Order*"). Following the Prospect-Woodward Merger in 2016, Prospect-Woodward closed Prospect Place and consolidated its assisted living operations in the Woodward Home while the CCRC was being constructed.

Following the preparation of feasibility, development and construction plans for the CCRC, Prospect-Woodward borrowed and used the proceeds of tax-exempt bonds issued by the New Hampshire Health and Education Facilities Authority in the original principal amount of \$93,015,000.00 (the "*Bonds*") to acquire 66 acres of land on Wyman Road in Keene and construct the facility known as "*Hillside Village*" ("*Hillside Village*"). Hillside Village is a CCRC offering residency and health care and other support services and activities to persons aged 62 years and older. Hillside Village is located at 95 Wyman Road and is comprised of 141 independent units, 43 assisted living units, 20 long-term nursing care units (licensed but not yet opened) and 18 memory care units. Hillside Village also contains a community center, health center, multiple dining rooms and other common spaces and amenities. Prospect-Woodward holds a Certificate of Authority issued by the New Hampshire Insurance Department, and a supported residential care license and a nursing facility license issued by the New Hampshire Department of Health and Human Services.

The most recent audited financial statements of Prospect-Woodward, and its Form 990 for the year ending December 31, 2020, are attached as Appendix D-1 and Appendix D-2, respectively.

B. COVENANT LIVING OF KEENE

Covenant Living of Keene is a New Hampshire nonprofit voluntary corporation formed on October 4, 2021 ("*Covenant-Keene*") to acquire and subsequently continue to operate the Hillside Village facility as a nonprofit CCRC, thereby continuing Prospect-Woodward's charitable mission and purpose in a substantially similar manner.

Covenant-Keene has filed an Application for Registration: Charitable Trust or Charitable Organization with the Charitable Trusts Director to be a registered health care charitable trust. The Articles of Agreement, as amended, of Covenant-Keene are attached as Appendix E.

Covenant-Keene was caused to be formed by Covenant Living Communities and Services, an Illinois not-for-profit corporation (“*Covenant Living*”). Covenant Living was formed in 1986 to formalize the administrative organization that operated, and continues to operate, a multi-institutional continuing care system of retirement communities, assisted living facilities and/or nursing homes on behalf of the Board of Benevolence of The Evangelical Covenant Church (the “Church”). Covenant Living also formed a subsidiary Illinois not-for-profit corporation, Covenant Living Services (“Covenant Services”), to provide management and oversight over Covenant Living’s expansion and diversification of its charitable services throughout the country to a broader population of seniors. Covenant Services is the original contracting party to the Transaction described in Section III below.¹

The Church was founded in 1885 and is comprised of approximately 770 member churches located throughout the United States and Canada. The Church first began caring for the sick and elderly when it opened its Home of Mercy in 1886, and it developed its first continuing care campus in Miami, Florida in the 1950s. Covenant Living now is the nation’s eighth largest nonprofit senior living services provider. It currently serves approximately 5,500 residents at 17 retirement communities in nine states, including Connecticut (Covenant Living of Cromwell), and has earned an A-investment rating from Fitch Ratings. Although Covenant Living was founded by the Church and the system of senior living communities it manages embodies the benevolence principles, and furthers the mission, of the Church, residents of Covenant facilities are not required to be members of the Church or to adhere to its faith.

Covenant Living or Covenant Services, as the case may be, serves as the sole corporate member of each of the nonprofit organizations operating senior living communities within the Covenant system. Covenant Living and its subsidiaries are exempt from federal income taxation under a group exemption ruling granted to the Church by the Internal Revenue Service. Covenant Living is governed by a board of directors comprised of between 13 and 16 individuals, some of whom serve *ex officio* and

¹ As described in Section III, Covenant Services has assigned all of its rights and obligations under the Asset Purchase Agreement to Covenant-Keene.

the remainder of whom are elected by the members of Covenant Living. The members of Covenant Living are the 13 elected and 4 *ex officio* members of the Board of Benevolence of the Church. The individuals serving on the board of directors of Covenant Living typically also serve on the governing boards of each of Covenant Living's subsidiaries. Following integration of the community into the Covenant Living System and a selection and orientation process, a resident representative of each life care community is invited to participate actively at the Covenant Living board of director meetings but is not entitled to vote.

Because Covenant-Keene is newly formed and has not yet begun operations, the most recent consolidated, audited financial statements of Covenant Living are attached as Appendix F.

II. BACKGROUND AND IMPERATIVES FOR THE TRANSACTION

A. CONSTRUCTION DISPUTE

During the construction of Hillside Village, disputes arose between Prospect-Woodward and its general contractor, MacMillin Company, LLC ("*MacMillin*"), regarding change order requests and MacMillin's performance. In May 2019 Prospect-Woodward engaged an independent engineering firm, Simpson Gumpertz & Heger ("*SGH*") to inspect MacMillin's work, including areas of the facility experiencing water infiltration and damage. SGH concluded that MacMillin's work did not fully comply with the construction plans and specifications or with industry standards, and the project architect refused to certify further payments under the construction contracts until those issues were resolved. SGH developed plans and specifications to address the areas of nonconformity (the "*Repair Scope*"), and Prospect-Woodward engaged Hutter Construction Company to provide a cost estimate for the Repair Scope. Hutter estimated that the cost of the Repair Scope, including a contingency for unknown defects, was approximately \$3.5 Million.

MacMillin denied any wrongdoing or financial responsibility for the Repair Scope, and Prospect-Woodward consequently withheld final payments under its construction contract with MacMillin. In August 2019 MacMillin filed a complaint in the Cheshire County Superior Court of New Hampshire seeking recovery for breach of contract, unjust enrichment and other claims. The Superior Court granted MacMillin and certain of its subcontractors pre-judgment attachments and mechanics liens on the Hillside Village

property totaling approximately \$6.45 Million. Since the Court order *The Keene Sentinel*, the area's local newspaper, has reported regularly about this dispute and the financial challenges faced by Hillside Village.

Prospect-Woodward and MacMillin then stayed the Superior Court action to pursue contractually-mandated arbitration, the hearings for which were scheduled for March 2022 but have been stayed by the bankruptcy filing described below. Mediation and settlement discussions proved unproductive.

B. FINANCIAL CHALLENGES UPON OPENING

Hillside Village opened in phases beginning in January 2019. The opening was slower than planned, in part because of construction delays and the ongoing dispute with MacMillin. At the time of opening, MacMillin had not yet finished many of the living units and some of the common areas of Hillside Village, leading to numerous residencies being postponed. Furthermore, the Hillside Village residents that were able to move in experienced the inconvenience of ongoing construction and unfinished common amenities. As a result of the construction delays and certain changes to the project mandated by the City of Keene after construction commenced, Prospect-Woodward incurred additional debt in the amount of \$3 Million from Savings Bank of Walpole to fund the completion of construction. Hillside Village fully opened by August 1, 2019.

Although the delayed opening of the full facility and the existence of known construction defects negatively impacted the number of residents moving into Hillside Village during its first year, Prospect-Woodward closed on a sufficient number of independent units to pay off two of the three tranches of short-term Bond debt. When residents occupy independent living units in a CCRC, they typically pay a significant entrance fee – a portion of which usually is refundable after residency has ended depending upon the chosen residency plan – and monthly service fees. Under the terms of the loan documents pertaining to the Bonds, the initial entrance fees were to be used to retire the short-term Bonds; thereafter, the entrance fees would be available to pay debt service on the long-term Bonds, fund certain reserves and provide working capital for the ongoing operation of Hillside Village.

Hillside Village's efforts to recover from its opening year setbacks were dealt another significant and unexpected blow in February 2020 with the advent of the global COVID-19 pandemic. Like its peers in the senior living industry and aware of COVID-

19's deadly effect on older persons, Hillside Village invoked significant measures to protect the safety of its residents. Such measures included the cessation of communal dining and the reservation of the nursing area of its Health Center as a quarantine center. Following New Hampshire Governor Sununu's declaration of a state of emergency on March 13, 2020 and his issuance of a series of emergency orders, Hillside Village was required to isolate its residents from the threat of COVID-19 infection by suspending visitation by non-residents, including potential new residents desiring to visit the facility and attend information sessions. These measures continued until residents and staff were able to get vaccinated in February and March, 2021, and have been eased gradually since the state of emergency expired on June 11, 2021.

While these measures successfully protected the health of most of the Hillside Village residents, they (coupled with the unanticipated construction-related expenses) negatively impacted the ability of Prospect-Woodward to meet its occupancy and cash flow projections. In fiscal year 2019, Prospect-Woodward incurred a net operating loss of -\$5,155,678. In fiscal year 2020, it incurred a net operating loss of -\$6,942,736. As a result, Prospect-Woodward was unable to fully pay its semi-annual debt service payment on the Bonds due July 1, 2020, and the Bond Trustee was required to use the debt service reserve fund for the balance of the payment. Prospect-Woodward subsequently was unable make the scheduled January 1, 2021 and July 1, 2021 debt service payments on the Bonds, and remains in default.

Because the Bonds are publicly-traded, Prospect-Woodward was required to post public notices of its defaults on the EMMA electronic system maintained by the Municipal Securities Rulemaking Board. RSA 420-D:4 also required Prospect-Woodward to include a description of its financial challenges and defaults in the Disclosure Statement provided to prospective residents. Such public and targeted disclosures further dampened the interest of prospective residents in Hillside Village, thus diminishing the flow of entrance fee revenue and causing Prospect-Woodward's financial condition to further deteriorate.

C. MEASURES TAKEN BY PROSPECT-WOODWARD BOARD OF TRUSTEES TO ADDRESS FINANCIAL DISTRESS SITUATION

In the spring of 2020, the Prospect-Woodward Board of Trustees instructed its management company, Life Care Services, LLC ("*LCS*"), with the assistance of the underwriter for the Bonds, to revise Hillside Village's cash flow projections. Beginning in May 2020 the Board, with the assistance of its outside legal counsel Hinckley Allen,

engaged the Bond Trustee and its advisors in forbearance discussions. In October 2020, the Board engaged OnePoint Partners -- a professional consulting firm with considerable experience advising distressed senior living facilities ("*OnePoint*") -- to assist Prospect-Woodward with an evaluation of its operations and business prospects and to spearhead the forbearance discussions with the Bond Trustee. The Board subsequently named a principal of OnePoint, Toby Shea, as its Chief Restructuring Officer, and authorized a Task Force comprised of four Prospect-Woodward trustees (the "*Board Task Force*") to meet weekly and oversee OnePoint's efforts and make recommendations to the full Board of Trustees. Prospect-Woodward also engaged national counsel, Polsinelli, to provide expert restructuring legal advice. To facilitate their regulatory oversight, Prospect-Woodward informed and maintained communications with the New Hampshire Insurance Department, the Director, and the New Hampshire Health and Education Finance Authority regarding its financial challenges.

In December 2020, OnePoint reported to the Board Task Force that its preliminary analysis of Hillside Village's financial situation revealed a significant cash flow shortage that was not likely to be rectified by future operating revenues. It recommended that the Board consider preserving cash rather than making the January 1, 2021 Bond payment and evaluate all means by which Prospect-Woodward could infuse additional capital into Hillside Village. OnePoint also identified many hurdles and complexities, including the potential actions of creditors and the possibility of a reorganization filing under Chapter 11 of Title 11 of the federal Bankruptcy Code. The Board then instructed OnePoint to complete its analysis of Hillside Village's cash flow situation, operational challenges, market environment and business prospects.

In February 2021, following the completion of OnePoint's analysis, the Chief Restructuring Officer reported to the Prospect-Woodward Board of Trustees that Prospect-Woodward's cash reserves and business prospects were insufficient to: (i) address Hillside Village's ongoing operational expenses; (ii) pay for the Repair Scope; (iii) incur the potential cost and liability of the arbitration with MacMillan; and (iv) remedy its defaults and meet its ongoing debt service under the Bonds. This deficiency resulted from lower entrance fee revenue caused primarily by the construction issues and the COVID-19 pandemic, but the Chief Restructuring Officer also noted that Hillside Village faces market challenges not identified in its original feasibility study. Based on this report and the advice of its expert consultants, the Board concluded that the organization's charitable mission could be sustained and furthered only by soliciting a transaction which could infuse more capital into Hillside Village and reduce its debt. The Board also

concluded that such a transaction likely would require a Chapter 11 bankruptcy filing and an auction sale of Prospect-Woodward's assets. A confidential copy of the OnePoint report is attached as Appendix G.

Prospect-Woodward successfully reached an agreement in principle with the Bond Trustee regarding forbearance terms, which included the engagement of an investment banker to market Hillside Village, agreed-upon milestones, regular financial reporting and observance of a 26-week cash flow projection and budget. The Bond Trustee also agreed to fund the construction repairs to the Woodside Apartments component of Hillside Village. The forbearance agreement ultimately was executed on June 28, 2021. A confidential copy is attached as Appendix H.

In mid-February 2021 Prospect-Woodward engaged Grandbridge Real Estate Capital ("*Grandbridge*"), a commercial broker and investment banker experienced in the sale of distressed senior living facilities, to conduct the solicitation and evaluation of sealed bids for the potential purchase of Hillside Village. Grandbridge evaluated the current market value of Hillside Village, prepared financial models and detailed marketing materials, and solicited bids from various potential regional and national investors and/or operators in the senior living industry. Based on the forbearance negotiations with the Bond Trustee, the solicitation materials advised bidders that Prospect-Woodward likely would use a Chapter 11 bankruptcy auction sale process to complete any asset purchase and sale.

Grandbridge completed the bid solicitation process in June, 2021, resulting in eight proposals in the form of letters of intent. The process included two rounds of submissions with interceding diligence inquiries of, and site visits by, bidders. The Board Task Force evaluated each proposal, along with diligence responses, with the assistance of Grandbridge, OnePoint and legal counsel, and reported its findings to the full Board of Trustees. A confidential copy of the Grandbridge bid process report is attached as Appendix I. The Board determined that the proposal from Covenant Services was the highest and best offer, and provided the best opportunity to continue Prospect-Woodward's charitable mission and fulfill its obligations to Hillside Village residents and the communities it serves generally. With the assistance of Polsinelli and Hinckley Allen, Prospect-Woodward negotiated and entered into a binding purchase and sale agreement with Covenant Services dated August 17, 2021 (the "*Purchase Agreement*"). A copy of the Purchase Agreement is attached as Appendix J.

D. BANKRUPTCY SALE PROCESS

On August 30, 2021, Prospect-Woodward filed a Voluntary Petition for Relief under Chapter 11 of Title 11 of the U.S. Bankruptcy Code (the “*Bankruptcy Petition*”) with the U.S. Bankruptcy Court for the District of New Hampshire (the “*Bankruptcy Court*”).

In September 2021, the Bankruptcy Court issued an order approving the bidding procedures by which Prospect-Woodward proposed to sell substantially all of its assets. As part of the order, the Bankruptcy Court approved the Purchase Agreement as the “Stalking Horse Bid,” established a deadline for the submission of higher and better bids, and scheduled a sale auction should one become necessary.

Pursuant to the Bankruptcy Court order, Prospect-Woodward again engaged Grandbridge to solicit bids from prospective senior living investors and operators and to contact all parties who previously expressed interest in Hillside Village. Grandbridge updated its marketing materials and established a due diligence site for qualified bidders, and solicited prior bidders and other potential national and regional CCRC investors and operators. A copy of the solicitation materials is attached as Appendix K.

Despite these vigorous marketing efforts, no additional bids were submitted by the October 29, 2021 deadline. Therefore, on November 22, 2021, the Bankruptcy Court issued an order authorizing the sale of Prospect-Woodward’s assets pursuant to the terms of the Covenant Purchase Agreement. A copy of the sale order is attached as Appendix L.

III. SUMMARY OF THE TRANSACTION

The material terms of the Purchase Agreement and the proposed Transaction are summarized below.

A. SALE OF ASSETS; ASSIGNMENT TO COVENANT-KEENE.

The Purchase Agreement provides for the sale by Prospect-Woodward to Covenant Services or its assignee (i.e. Covenant-Keene) of substantially all of its tangible assets, including the land on which Hillside Village is situated and subsequently-acquired abutting acreage, the buildings and improvements comprising the CCRC facility, and all equipment, inventory, intellectual property and records pertaining to the operation of Hillside Village (the “*Assets*”). The Assets being transferred to Covenant-

Keene do not include any cash or cash equivalents of Prospect-Woodward, except for any escrowed funds which may be released to Prospect-Woodward or its assignee under certain Resident Option Agreements. Covenant Services has assigned all of its rights and obligations under the Purchase Agreement to Covenant-Keene. See Assignment and Assumption Agreement attached as Appendix M.

B. MONETARY CONSIDERATION.

In exchange for the Assets, Covenant-Keene will pay Prospect-Woodward a purchase price of Thirty-Three Million Dollars (\$33,000,000.00) in readily available funds (the “Purchase Price”). Covenant Living and members of its Obligated Group expect to close on a taxable loan of up to \$40 Million in late January and will lend the proceeds to Covenant-Keene to fund the Purchase Price and general initial capital and operating costs.

C. ASSUMPTION OF OBLIGATIONS TO RESIDENTS; FACILITY REPAIRS; EMPLOYMENT OFFERS.

1. Assumption of Obligations to Residents. Covenant-Keene will assume all of Prospect-Woodward’s obligations under the residence and care agreements with prior and current residents (the “Residency Agreements”), including entrance fee refund obligations and obligations to refund reservation deposits. The Purchase Agreement also commits Covenant-Keene to honor the obligation to legacy residents of Prospect-Woodward’s prior facilities as set forth in the 2015 Probate Court Order.

2. Repair Scope. Although Covenant-Keene is not assuming any liabilities under Prospect-Woodward’s construction contract with MacMillin or any other construction-related contract, it has acknowledged that the Hillside Village facility will require additional repairs following the closing. See Appendix O. The Repair Scope and construction issues were fully disclosed by Prospect-Woodward through Grandbridge during the solicitation and bidding process.

3. Employment Offers; PTO Payment. The Purchase Agreement obligates Covenant-Keene to offer at-will employment to Prospect-Woodward employees according to Covenant Living’s standard employment terms and screening processes, and to pay up to \$200,000 in paid time-off accrued and owing to Prospect-Woodward employees at the time of closing.

D. DONOR-RESTRICTED FUNDS.

Prospect-Woodward will transfer to Covenant-Keene all of the donor-restricted funds held by Prospect-Woodward (the “*Restricted Funds*”), subject to Covenant-Keene’s ongoing obligation to honor such restrictions and its statutory duty to manage the Restricted Funds in accordance with RSA 292-B, the Uniform Prudent Management of Institutional Funds Act (“UPMIFA”). A current accounting of the Restricted Funds is attached as Appendix N.

E. CONDITIONS TO CLOSING; CLOSING DATE.

1. Conditions to Closing. The proposed Transaction is conditioned upon the following:

(a) *Bankruptcy Court Sale Order*. Prospect-Woodward successfully obtained the sale order of the Bankruptcy Court, as described above, in satisfaction of this condition to closing. See Appendix L.

(b) *Regulatory and Governmental Approvals*. The Transaction must be reviewed and approved by: (i) the New Hampshire Director of Charitable Trusts under RSA 7:19-b; (ii) the New Hampshire Insurance Commissioner under RSA 420-D:13; and (iii) the Probate Court under RSA 547:3, II(a), RSA 547:3-d and RSA 292-B. Furthermore, Covenant-Keene must receive all consents and approvals necessary for the operation of the CCRC, including but not limited to a written license granted by the City of Keene for the use and operation of the underground walkway connecting the Hillside Village Health Center and the remaining common areas. There cannot exist at Closing any order restraining or prohibiting the consummation of the Transaction. The parties are filing all necessary applications and petitions for the foregoing approvals, and are not presently aware of any impediment to their issuance.

(c) *Title Update*. An update to title to the Hillside Village land and facility must be conducted and be satisfactory to Covenant-Keene. Prospect-Woodward is not aware of any liens or other encumbrances on title since the delivery of the title insurance commitment to Covenant-Keene.

3. Closing Date. Section 2.6 of the Purchase Agreement requires the closing of the Transaction (the “*Closing*”) to occur within seven (7) days of satisfaction or waiver of all conditions to Closing, and in no event later than March 31, 2022.

IV. FULFILLMENT OF FIDUCIARY AND STATUTORY DUTIES

A. FURTHERANCE OF THE CHARITABLE MISSION

1. Charitable Mission Supported and Furthered. A primary fiduciary role of the Prospect-Woodward Board of Trustees (sometimes referred to as the “*Board*”) is to ensure that the proposed Transaction furthers the organization’s charitable mission. Because of the unforeseen challenges faced by Prospect-Woodward upon the opening of Hillside Village, and based on the advice of its expert advisors (*See e.g.* confidential Appendix G), the Board concluded that it had to solicit a purchaser who could acquire and continue the charitable operation of Hillside Village in a more sustainable manner. The Prospect-Woodward Board’s due diligence and the solicitation and bidding processes conducted by Grandbridge, as described above, revealed that Covenant Services was the most qualified bidder to continue Prospect-Woodward’s charitable mission after the Closing. The Covenant Living system of senior living facilities, of which Covenant Services is a part, has been operated on a nonprofit, charitable basis for decades. Covenant Living caused Covenant-Keene to be formed for the primary purpose of acquiring and continuing to operate the Hillside Village facility. Covenant-Keene’s charitable mission – as stated in its amended Articles of Agreement (Article 3) – nearly mirrors the charitable purposes stated in the Prospect-Woodward Articles of Agreement. A critical element of the Purchase Agreement is Covenant-Keene’s obligation to continue to meet the housing, services and care obligations to Hillside Village residents under the Residency Agreements, which obligations reflect the core of Prospect-Woodward’s charitable mission. *See Appendix J*, Purchase Agreement, Section 2.3(a).

2. Meeting Community Needs; Improving Access to Quality and Efficient Physical and Mental Health Care Services. In determining that the proposed Transaction is in the best interest of Prospect-Woodward, the Prospect-Woodward Board of Trustees also concluded that the Transaction will be in the best interest of the community that it serves. As noted above, Covenant-Keene will assume all of the obligations of Prospect-Woodward under the Residency Agreements to provide care and services to Hillside Village residents. Given the significant negative impact of the COVID-19 pandemic on Prospect-Woodward’s operations, including the resulting scarcity of skilled health care

and other workers, and the typical delayed need for nursing services experienced by residents of CCRCs who must be able to live independently to be admitted, Prospect-Woodward has not yet made its licensed nursing beds operational. Covenant-Keene has significant financial, clinical and strategic resources available to it through Covenant Living, and plans to fully open the Hillside Village Health Center – including the nursing beds – following the Closing. The Covenant Living programs which will be available to Hillside Village include whole person wellness and memory care support.

B. STEWARDSHIP OF CHARITABLE ASSETS

Another primary fiduciary role of the Prospect-Woodward Board of Trustees is to serve as good stewards of Prospect-Woodward’s charitable assets. The Prospect-Woodward Trustees fulfilled this role by: (a) successfully navigating through Prospect-Woodward’s financial distress and the Chapter 11 bankruptcy process; (b) negotiating provisions of the Purchase Agreement that protect its charitable assets and ensure their use in furtherance of its mission; and (c) conducting due diligence through its expert consultants on the financial strength of Covenant-Keene and Covenant Living.

1. Preservation of Charitable Assets. As described in Section II above, the Prospect-Woodward Board of Trustees began preserving the organization’s charitable assets as soon as it became clear in the spring of 2020 that its financial challenges were significant. The Board retained its cash reserves by forgoing Bond payments so that it could continue to operate Hillside Village and serve the needs of its residents while it negotiated the forbearance agreement with the Bond Trustee. The Prospect-Woodward Board of Trustees also engaged OnePoint and appointed one of its principals, Toby Shea, as Chief Restructuring Officer to ensure that it protected the organization’s charitable assets to the fullest extent possible during the period of financial distress.

2. Dedication of Charitable Assets to Mission. As noted above, the amended Articles of Agreement of Covenant-Keene obligate the purchaser to acquire and operate Hillside Village for the benefit of seniors in the greater Keene area. During the bidding process, the Prospect-Woodward Board of Trustees confirmed that Covenant-Keene would honor all obligations to Hillside Village residents. *See* confidential copy of Supplement to Letter of Intent dated June 10, 2021 attached as Appendix O. The Purchase Agreement also obligates Covenant-Keene to assume all obligations to Hillside Village residents under the Residency Agreements. *See* Appendix J, Purchase Agreement, Section 2.3(a).

3. Restricted Funds Retained. Section 2.1(i) expressly states that the Restricted Funds will be transferred to Covenant-Keene subject to the existing donor restrictions. The Probate Court action described below will further ensure that the Restricted Funds continue to be used only for the benefit of Hillside Village and its residents.

4. Covenant's Financial Strength. The Prospect-Woodward Board of Trustees' due diligence on Covenant Services and Covenant Living, conducted through its experts OnePoint and Grandbridge, revealed that the purchaser is a very experienced operator of nonprofit senior living facilities. Covenant Living is the 8th largest nonprofit senior living services provider in the nation, and has earned an A- investment rating from Fitch Ratings. Its financial resources are substantial (See Appendix F), and Covenant Services did not require a financing condition in the Purchase Agreement. The Board confirmed Covenant's financial resources during the bidding process. See Appendix O.

Covenant Living also has experience in the successful purchase of a distressed senior living community through the bankruptcy process. In October 2019, a Covenant Living subsidiary successfully purchased Inverness Village, located in Tulsa, Oklahoma, pursuant to an order of the U.S. Bankruptcy Court of the Northern District of Oklahoma. The community has 60 residential cottages and garden homes, 196 independent living beds, 31 assisted living units, 12 memory support units and 44 skilled nursing beds on 55 acres with an abutting 135 acres of undeveloped land for potential future expansion. Since the acquisition, Inverness has met or exceeded financial goals relating to net operating income and new resident admissions.

5. Fair Value for Transfer of Assets. The Prospect-Woodward Board of Trustees is confident that the Purchase Price, coupled with the assumption by Covenant-Keene of resident and certain other obligations, constitute fair value for the transfer of the Assets as required by RSA 7:19-b(II)(d). As described above, Grandbridge conducted two thorough national bid solicitations: one before the filing of the Bankruptcy Petition to establish the stalking horse bid, and the second after the filing of the Bankruptcy Petition pursuant to a thorough bid procedures order of the Bankruptcy Court. See Appendix P. Both processes involved solicitation of reputed national senior living operators and lenders, advertisements, targeted marketing and a thorough bidders package and due diligence room for qualified bidders. Given the assessment of estimated value provided by Grandbridge before the solicitation process, the advice of its experts, the acquiescence of the Bond Trustee and of residents' counsel to the terms of the Purchase Agreement, and the absence of objections to the Bankruptcy Court sale order (other than with respect

to matters unrelated to the Transaction), the Prospect-Woodward Board believes that the Purchase Price generated by such a vigorous, arms-length process reflects the fair market value of the Assets under the current circumstances.

C. DUTY OF CARE: DUE DILIGENCE

1. Engagement of Consultants. To assist it in fulfilling its fiduciary roles, the Prospect-Woodward Board of Trustees engaged and considered the advice of the following experts.

(a) *OnePoint Partners and Toby B. Shea, CFA.* The Prospect-Woodward Board of Trustees engaged OnePoint Partners (“OnePoint”) to provide advisory services that included a root cause analysis and assessment of current operations and finances, followed by long-term strategic and operational recommendations accompanied by financial projections and modeling. The OnePoint team serving the Community has deep experience in advising clients on their future state strategy, including work with distressed situations. Collectively over the past eleven years, the OnePoint team has been involved in a financial advisory or chief restructuring capacity in more than twenty (20) distressed situations. The OnePoint team also has served as financial advisors for parties acquiring senior living communities in financial distress. Principals of OnePoint include Mr. Toby Shea and Mr. Tom Brod.

Under its contract with Prospect-Woodward, OnePoint provides the services of Mr. Shea to serve as Prospect-Woodward’s Chief Restructuring Officer (“CRO”). The CRO is responsible for oversight of and communication with the Hillside Village’s management company regarding operations, budgeting, cash management, resident communications and similar matters. The CRO also is responsible for: (i) leading the Community’s restructuring and transaction activities and team of advisors; (ii) strategic analysis; (iii) informing and making recommendations to the Board of Trustees so that the Board can make timely decisions regarding restructuring and related strategic and financial transactions; (iv) implementing those Board decisions; and (v) communicating with stakeholders.

Mr. Shea is an experienced finance and strategy advisor dedicated to serving the senior living industry. He provides operational, financial and industry expertise to management, boards, and investors developed through a diverse set of experiences including more than 14 years in the capital markets, first as a direct lender (commercial banking) and then as an investment banker. Before starting what is now OnePoint, Mr.

Shea served as Chief Financial Officer of a senior living and care system in Massachusetts, providing an important operational perspective. He is a Registered Municipal Advisor with the Securities Exchange Commission (SEC) and Municipal Securities Rulemaking Board (MSRB).

(b) *Grandbridge Real Estate Capital, LLC.* Grandbridge is a national real estate investment services and brokerage firm and a subsidiary of Truist Bank. Grandbridge was engaged by Prospect-Woodward as its exclusive commercial real estate broker to conduct the solicitation of bids for the acquisition of Hillside Village both before and after the filing of the Bankruptcy Petition, perform all related marketing and due diligence services, and prepare appropriate solicitation materials. The Grandbridge principals assigned to this engagement, David Kliewer and Allen McMurtry, have extensive experience in the marketing and sale of distressed senior living facilities.

(c) *Hinckley Allen & Snyder, LLP; Mark S. McCue, Esq., Partner.* The regional law firm of Hinckley Allen, with a team led by partner Mark S. McCue, has served as outside general counsel to Prospect-Woodward for many years. Attorney McCue has practiced corporate law for more than thirty-five years, and focuses on governance, corporate and transactional matters for nonprofit clients in the health care and senior living industries. Attorney McCue advised the Prospect-Woodward Board of Trustees regarding the legality of the Transaction, due diligence, charitable asset protection, fiduciary obligations of the Prospect-Woodward Board of Trustees, and compliance with regulatory processes. He also assisted in the negotiation of the Purchase Agreement and the satisfaction of Closing conditions on behalf of Prospect-Woodward. Hinckley Allen also serves as local counsel to Prospect-Woodward in the Bankruptcy Court proceedings.

(d) *Polsinelli; Bobby Guy, Esq., Shareholder; Jeremy R. Johnson, Esq., Shareholder.* In November, 2020, the Prospect-Woodward Board of Trustees engaged the national law firm of Polsinelli to provide outside legal counsel regarding restructuring and bankruptcy. Attorney Guy has considerable experience in health care transactions, and advised the Board regarding the bidding and solicitation process and led the negotiation of the Purchase Agreement. Attorney Johnson focuses his practice in financial restructuring and insolvency matters. He advised the Board regarding insolvency options and duties, negotiated the forbearance agreement with the Bond Trustee, prepared the Bankruptcy Petition and related documents, and serves as lead counsel for Prospect-Woodward in the Bankruptcy Court proceedings.

(e) *James M. Callahan, Esq.* The Prospect-Woodward Board of Trustees engaged Attorney James Callahan of the Atkins Callahan law firm in Peterborough, New Hampshire to serve as special counsel to the Board. Attorney Callahan has practiced corporate and transactional law for over thirty-five years and previously represented The Woodward Home with regard to the Prospect-Woodward Merger. Attorney Callahan advised the Board regarding its fiduciary duties, and assisted it in evaluating conflicts of interest.

(f) *ACcommunications; Ann Carter, MBA.* Prospect-Woodward engaged Ann Carter of ACcommunications based in Wellesley Hills, Massachusetts to assist in strategic communications with the media, Hillside Village residents and other constituents in connection with the Transaction.

2. Notification and Input of Community Served. As required by New Hampshire RSA 7:19-b(II)(g), Prospect-Woodward communicated to the public about the proposed Transaction and its terms, together with an analysis of how it will benefit the communities in Prospect-Woodward's service area -- and its Board of Trustees considered any feedback -- as follows. This communication process began in November 2020 with a letter from the Prospect-Woodward Board Chair and Executive Director to Hillside Village residents explaining the organization's financial challenges and noting the engagement of OnePoint. A copy of this letter is attached as Appendix Q.

Upon learning of Prospect-Woodward's financial challenges, the Hillside Village Residents Association's Resident Advisory Council formed a Task Force (the "*Resident Task Force*"). See Resident Advisory Council Annual Report 2019-2021, pages 14-17, attached as Appendix R. On January 7, 2021 the Prospect-Woodward Board Task Force and legal counsel met with the Resident Task Force to discuss Hillside Village's financial challenges and the steps to be taken by the Board to address them. Thereafter, OnePoint, at times accompanied by the Board Chair, Nancy Crawford, communicated regularly with the Resident Task Force. Additionally, OnePoint and the Board Chair conducted meetings on behalf of the Board with Hillside Village residents, and disseminated minutes of such meetings and "frequently-asked questions." See Appendix S. In February 2021 and March 2021 OnePoint also participated in an interview for *The Keene Sentinel* and *The Union Leader*, respectively, which published articles about Prospect-Woodward's need to solicit the resources of another senior living operator and the

possibility of a Chapter 11 bankruptcy proceeding to restructure Hillside Village's debt. See [Appendix T](#).

In February, 2021 the Resident Task Force engaged Attorney Joseph Foster to represent it and the residents' interest. Attorney Foster is a former state Attorney General and focuses his practice in restructuring and insolvency matters. Prospect-Woodward's bankruptcy counsel, Jeremy Johnson, was in regular communications with Attorney Foster, and Attorney Foster was provided the opportunity to review the bidder proposal summaries prior to the Prospect-Woodward Board's approval of the Purchase Agreement in August, 2021. To avoid impairing the bidding and solicitation process, however, Attorney Foster agreed not to disclose the identity of the bidders and pricing or other sensitive information. Therefore, although the Hillside Village residents' interests were well-represented, the identity of the purchaser and certain terms of the Purchase Agreement could not be disclosed to residents before the Purchase Agreement was signed and the Bankruptcy Petition filed.

Despite the limitations on disclosure imposed by the sensitive nature of the bidding process and the desire to maximize the Purchase Price, the Prospect-Woodward Board was well-informed and mindful of the residents' primary desire: "residents desire no less than what we were promised when we bought in." See [Appendix R](#), RAC Annual Report, page 17. During the bid solicitation process, the Board required every potential bidder to state expressly its intentions regarding the Residency Agreements and other obligations to residents. Covenant Services' willingness to undertake all outstanding obligations to Hillside Village's residents, and thus satisfy the primary concern of the Hillside Village community, was a critical factor in the Board's acceptance of its proposal.

The terms of the Purchase Agreement became public upon the filing of the Bankruptcy Petition on August 30, 2021. On September 1, 2021, the Prospect-Woodward Board Chair, OnePoint principal Tom Brod, and Attorney Johnson met in person with Hillside Village residents to describe the material terms of the Purchase Agreement, discuss the bankruptcy process, and explain the process used by the Board to select Covenant Services as the stalking horse bidder. [*The presentation utilized slides 4-6 and 14 from the presentation slides to the Board attached at Appendix Y.*] On September 13, 2021 the Covenant Living Chief Executive Officer and its Vice President of Marketing met in person with Hillside Village residents to introduce Covenant Living and respond to questions and concerns submitted by residents in advance of the meeting. The resident questions submitted to Covenant Living and the slide deck and video used by Covenant

Living in its presentation to Hillside Village residents is attached confidentially as Appendix U. On November 13, 2021, the Covenant Living Board of Directors and members of senior management traveled to Keene to tour the Hillside Village facility and meet and present to Hillside Village residents at a luncheon event. Both visits were well-received by residents.

To fulfill its statutory duty under RSA 7:19-b(II)(g), at least a quorum of the Prospect-Woodward Board of Trustees will attend or view the public hearing to be held by the Charitable Trusts Director. At its December 15, 2021 regular meeting, the Board then will consider the testimony, consider any modifications that should be made to the Purchase Agreement, and then vote to ratify the Purchase Agreement.

3. Decision-Making Process. The Prospect-Woodward Board of Trustees exercised its fiduciary duty of due care in identifying and selecting Covenant Services as the purchaser of the Assets, in negotiating the terms of the Purchase Agreement, and in considering the advice of experts it engaged to assist the Board in connection with the proposed Transaction.

The Board's due diligence began in earnest after the engagement of OnePoint and Polsinelli in November, 2020. At the recommendation of its consultants, the Prospect-Woodward Board formed the Board Task Force comprised of four of its trustees, including the Board Chair and Secretary. See Minutes of November 18, 2020 Board Meeting attached confidentially as Appendix V. The Board Task Force has met weekly with its consultants and legal counsel since November 23, 2020 to review the organization's finances, operations, resident needs and legal issues. Based on preliminary and final presentations by OnePoint and the CRO in December, 2020 and February, 2021, respectively, and the legal advice of Polsinelli and Hinckley Allen, the Board embarked on a process to identify a qualified operator which could continue the Hillside Village operations and Prospect-Woodward's charitable mission in a sustainable manner. Thereafter, the Board Task Force added the implementation and oversight of the solicitation process to its weekly agenda.

Following the second round of the bid solicitation process in June, 2021, the Board Task Force evaluated the bid proposals and recommended Covenant Services to the full Prospect-Woodward Board of Trustees based on the advice of its consultants, its due diligence on Covenant Living, and Covenant Living's compatible charitable mission, extensive experience, considerable resources and willingness to honor the Residency

Agreements and continue to serve Hillside Village's residents and the seniors of the Greater Keene area. See confidential Second Round Bid Summary attached as Appendix W. At a special meeting of the Board held on June 17, 2021, the Board Task Force, with the assistance of its consultants, presented its evaluation of the bids and its recommendation and the Board voted unanimously to accept Covenant's letter of intent and negotiate the Purchase Agreement with Covenant Services. See Minutes of June 17, 2021 Board meeting attached confidentially as Appendix X.

Prospect-Woodward then negotiated the terms of the Purchase Agreement through legal counsel, and the final terms were presented to the Board of Trustees at its August 17, 2021 meeting for approval. A copy of the presentation materials sent to the Prospect-Woodward Board of Trustees in advance of its meeting is attached confidentially as Appendix Y. Following active deliberation and questioning, the Prospect-Woodward Trustees unanimously approved the Purchase Agreement and authorized the filing of this Notice. A copy of the Prospect-Woodward Board of Trustees August 17, 2021 meeting minutes is attached confidentially as Appendix Z.

4. Transaction Permitted by Law. As noted above, the Prospect-Woodward Board of Trustees engaged Hinckley Allen to advise it about the legality of the proposed Transaction as contemplated by the terms of the Purchase Agreement, among other matters. Hinckley Allen has advised the Prospect-Woodward Board of Trustees that the proposed Transaction is permitted by applicable law, provided that before the Closing Prospect-Woodward obtains the approval of the Probate Court for the transfer of its Restricted Funds and the Assets to Covenant-Keene and successfully completes the change of control processes with the Charitable Trusts Director under RSA 7:19-b and with the New Hampshire Insurance Commissioner under RSA 420-D:13.

D. DUTY OF LOYALTY

The Prospect-Woodward Board of Trustees observed its duty of loyalty in selecting Covenant Services as the stalking horse in the bankruptcy proceedings and in considering and approving the Purchase Agreement. The Board confirmed that no conflicts of interest existed. Prior to the selection of Covenant Services and the approval of the Purchase Agreement, Attorneys Callahan and McCue confirmed with the Charitable Trusts Director that the Trustees who also are residents of Hillside Village do not have a "financial interest" in the proposed Transaction as that term is defined in RSA 7:19-a. The resident Trustees receive from Hillside Village services available to the

general public, and meet all of its published eligibility criteria (including the payment of entrance and monthly service fees). Therefore, the Transaction does not constitute a pecuniary benefit transaction despite the service of residents on the Prospect-Woodward Board of Trustees.

V. TRUSTEE CERTIFICATION

Attached as Appendix AA is the certification of all of the Trustees of Prospect-Woodward affirming that the standards set forth in New Hampshire RSA 7:19-b(II) have been considered in good faith and met, subject to consideration of public testimony at the Charitable Trusts Director's upcoming hearing and modification and/or ratification of the Purchase Agreement thereafter.

VI. STATEMENT OF COVENANT-KEENE

Covenant-Keene is an "acquirer" as that term is defined by New Hampshire RSA 7:19-b(I)(b). Covenant-Keene is a New Hampshire voluntary corporation and is registering with the Charitable Trusts Director as a health care charitable trust; therefore, RSA 7:19-b(II)(f) is not applicable to the Transaction. As required by New Hampshire RSA 7:19-b(III), attached as Appendix BB is a statement of Covenant-Keene specifying the manner in which it proposes to continue to fulfill the charitable objects of Prospect-Woodward.

[The Remainder of this Page Intentionally Is Left Blank – Signature Page Follows]

Respectfully submitted by the duly-authorized representative of the undersigned
this 24th day of November, 2021.

THE PROSPECT-WOODWARD HOME
d/b/a HILLSIDE VILLAGE

By: 
Nancy Crawford
Board Chair, duly-authorized

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APPENDIX A
Prospect-Woodward Amended and Restated Articles of Agreement

State of New Hampshire

Recording fee: \$25.00
Use black print or type.

Form NP-3
RSA 292:7

AFFIDAVIT OF AMENDMENT OF

Prospect Hill Home, now known as The Prospect-Woodward Home
A NEW HAMPSHIRE NONPROFIT CORPORATION

I, Kimball B. Temple, M.D., the undersigned, being the President
(Note 1) of the above named New Hampshire nonprofit corporation, do hereby certify that a meeting was
held for the purpose of amending the articles of agreement and the following amendment(s) were
approved by a majority vote of the corporation's Trustees. (Note 2)

Articles ~~2~~ through 9 of the Articles of Agreement of Prospect Hill Home, are
replaced in their entirety with the attached Amended and Restated Articles of Agreement of The
Prospect-Woodward Home, containing Articles I through X.

Article 10 has been added

[If more space is needed, attach additional sheet(s).]

A true record, attest: Kimball B Temple
(Signature)

Print or type name: Kimball B. Temple, M.D.

Title: President

Date signed: 6/28/16

- Notes: 1. Clerk, secretary or other officer.
2. Enter either "Board of Directors" or "Trustees".

DISCLAIMER: All documents filed with the Corporation Division become public records and will be available for
public inspection in either tangible or electronic form.

Mailing Address - Corporation Division, NH Dept. of State, 107 N Main St, Rm 204, Concord, NH 03301-4989
Physical Location - State House Annex, 3rd Floor, Rm 317, 25 Capitol St, Concord, NH

File a copy with Clerk of the town/city of the principal place of business

State of New Hampshire
Form NP 3 - Affidavit of Amendment 5 Page(s)



T1618344019

**AMENDED AND RESTATED
ARTICLES OF AGREEMENT
Of
THE PROSPECT-WOODWARD HOME**

(f/k/a PROSPECT HILL HOME)

The following constitutes the amendment and full restatement of all of the Articles of Agreement of The Prospect Hill Home, a New Hampshire voluntary corporation, originally filed with the New Hampshire Secretary of State on March 15, 1951, as subsequently amended.

**ARTICLE I:
Name**

The name of this corporation is "THE PROSPECT-WOODWARD HOME".

**ARTICLE II:
Purposes**

The corporation is organized exclusively to establish and maintain housing and care for elderly persons in the greater Keene, New Hampshire area, including, if feasible, the development and operation of a continuing care retirement community offering a continuum of residential life care through independent, assisted living, protective and/or nursing units designed to address the housing and health care needs of elderly persons, and to provide, to the extent possible, financial security to the residents of its facilities by: (i) maintaining the residency, at less than its regular charges, of any resident who becomes unable to pay such charges, and (ii) operating such facilities at the lowest feasible cost to residents and not for profit.

In limitation of, and not in addition to, the purposes stated above, the Corporation will be operated exclusively in such a manner so that the Corporation remains a charitable organization qualified as an entity exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended (the "Code"), and is not a private foundation pursuant to Section 509(a) of the Code.

**ARTICLE III
Powers**

The corporation will have all of the powers and rights conferred to corporations under New Hampshire law and, subject to the limitation in Article 2 above, the power to do all acts and things reasonably incident or desirable to further the purposes described in Article 2, including but not limited to the power to receive by purchase, gift, grant, devise, bequest or in any other lawful manner any real or personal property and to hold, use, improve, operate, manage, lease, convey, convert and invest or otherwise dispose of

by gift, sale, lease or otherwise any real or personal property, and to participate jointly with others in connection with any act or thing in which this corporation is empowered to engage.

Unless explicitly provided otherwise in writing by a testator or donor, a gift or contribution made to the corporation will not be an “endowment,” as that term is defined in Section 2 of RSA 292 B, the New Hampshire Uniform Prudent Management of Institutional Funds Act or the corresponding provision of any future New Hampshire law (referred to in these Articles of Agreement as “UPMIFA”). Thus, the corporation’s expenditure or accumulation of such a gift or contribution shall not be subject to the endowment expenditure restrictions set forth in Section 4 of UPMIFA.

ARTICLE IV: Governance

The corporation will be governed by a Board of Trustees, the election and duties of which are set forth in the corporation’s Bylaws. The Board of Trustees will manage the corporation exclusively for the purposes set forth in these Articles of Agreement and in accordance with the provisions of the Bylaws.

ARTICLE V: Tax-Exempt Qualifications

The corporation is intended to qualify at all times as an organization exempt from federal income taxation under Section 501(c)(3) of the Code and as a public charity under Section 509(a) of the Code. Therefore:

(a) No part of the net earnings of the corporation will inure to the benefit of, or be distributable to, its members, trustees, officers, or other private persons, except that the corporation will be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article 2 above.

(b) No substantial part of the activities of the corporation will be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation will not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(c) Notwithstanding any other provision of these Articles, the corporation will not carry on any other activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code, or corresponding section of any future federal tax code, or (ii) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Code, or corresponding section of any future federal tax code.

**ARTICLE VI:
Business Address**

The initial address at which the business of this corporation is to be carried on is:
194-202 Court Street, Keene, New Hampshire 03431.

**ARTICLE VII:
No Stock, Shares or Membership Certificates**

The corporation is not a membership corporation and will have no capital stock,
and will not issue shares or membership certificates.

**ARTICLE VIII:
Limitation on Liability**

No trustee or officer of the corporation will be liable to the corporation for
monetary damages for breach of fiduciary duty as a director or an officer except with
respect to:

1. Any breach of the trustee's or officer's duty of loyalty to the
corporation or its members;
2. Acts or omissions which are not in good faith or which involve
intentional misconduct or a knowing violation of law; and/or
3. Any transaction from which the trustee, officer, or both, derived an
improper personal benefit.

If, under New Hampshire law, a voluntary corporation may exempt trustees and officers
from additional liability than that set forth above, the trustees and officers of the
corporation will be so exempted.

**ARTICLE IX:
Dissolution**

The provisions for disposition of the corporation's assets in the event of
dissolution are:

Upon the dissolution of the corporation, and following the payment or making of
provisions for payment of all of the corporation's liabilities, its remaining assets will be
distributed by the Board of Trustees to a charitable organization described in Section
501(c)(3) and exempt from taxes under Section 501(a) of the Code and which the Board
of Trustees determines is best able to carry on the charitable purposes of the corporation.
If no such organization exists or is willing to receive the assets, the corporation's assets
will be distributed only for one or more other exempt purposes within the meaning of
Section 501(c)(3), or will be distributed to the United States government, or to a state or

local government, solely for a public purpose. The dissolution of the corporation and the distribution of its assets will be conducted by the Board of Trustees in accordance with any then-applicable law or regulation.

**ARTICLE X:
Amendment; Severability**

These Articles of Agreement may be amended by the following described vote of the Board of Trustees at a meeting duly called for that purpose and by recording a certified copy of such vote as specified in RSA 292:7: (i) if before July 1, 2018, by an affirmative vote of at least eighty percent (80%) of all of the Trustees; and (ii) if on or after July 1, 2018 by an affirmative vote of at least sixty-seven percent (67%) of all of the Trustees.

If any provision of these Articles of Agreement is contrary to New Hampshire law or otherwise unenforceable, the Articles will remain in effect and will be construed as if the unenforceable or unlawful provision was omitted.

EFFECTIVE DATE OF AMENDMENT AND RESTATEMENT: July 1, 2016

APPENDIX B
Prospect-Woodward Bylaws

THE PROSPECT-WOODWARD HOME
AMENDED AND RESTATED BYLAWS

ARTICLE I
Name, Business Address and Purposes

The name, business address and purposes of the Corporation will be as set forth in the Articles of Agreement, as amended from time to time.

ARTICLE II
Board of Trustees

Section 1. Authority. The management of the affairs, business, and property of the Corporation shall be vested in the Board of Trustees, as described in the Articles of Agreement.

Section 2. Composition; Election and Terms; Vacancy. The Board of Trustees will consist of at least eleven (11) individuals and no more than fifteen (15) individuals, plus the Immediate Past Chair as a non-voting Board member. The Executive Director of the Corporation will attend all meetings of the Board of Trustees at its invitation, and will participate in a management capacity without vote. The terms of the elected Trustees will be three (3) years and will be staggered so that approximately one-third (1/3) of the terms expire each year. At its annual meeting the Board shall elect Trustees to fill expired terms on the Board from a slate presented by the Governance Committee. Trustees may be elected to no more than two (2) successive terms, provided that a former trustee who remains off the Board for at least one full year again will become eligible for election to the Board. If a vacancy occurs on the Board prior to the end of a Trustee's term, the Board may elect at any time a successor to complete the unexpired term of the departing Trustee, and such partial term shall not count as one of the two successive terms allowed.

The organization shall endeavor to recruit nominees who have general interest(s) in the organization or specific interest in the areas of senior housing and supportive care and services to seniors. The Governance Committee will develop and maintain criteria and procedures for the identification and recruitment of candidates for election by the Board to serve as Trustees. Such criteria and procedures should be designed to seek a broad diversity of experience, talent and perspective, and include representation from the communities served by the Corporation.

Section 3. Qualifications of Board. To encourage diversity of discussion and connection with its constituents, no more than five (5) Trustees may be of the same immediate family or related by blood or marriage. No employee of the Corporation will hold the position of chair or presiding officer of the Board of Trustees. Trustees will serve on the Board only for the charitable purposes of the organization;

persons having other expressed or intended reasons for being a trustee will not be elected nor permitted to serve as Trustees. The Trustees may be residents of any state or country.

Section 4. Powers and Duties of the Trustees. The Board of Trustees will be responsible for ensuring that the mission of the Corporation is furthered and that its assets are used and invested prudently. The Board of Trustees will have and may exercise all of the powers available to the Corporation under applicable law for the management of its affairs. The Board of Trustees may delegate its powers if such delegation of authority is not inconsistent with its fiduciary duties, the laws of the State of New Hampshire, with the Articles of Agreement, or with these Bylaws. Without limiting the generality of the foregoing or the powers conferred by the Articles of Agreement or other provisions of these Bylaws, the Board will: (a) have access to the books and records of the Corporation; (b) have the power to determine the responsibilities of the Executive Director and the employment contract terms for the position, and hire, establish the salary of, and evaluate the performance of the Executive Director; (c) advise and determine the investments of the funds of the Corporation and instruct the Treasurer in the investment of such funds; (d) approve the annual operating and capital budgets and any proposed material deviations from those budgets; (e) review the year-end financial statements of the Corporation on an annual basis; and (f) establish and enforce such policies as may be required by law or as the Board deems to be desirable in the management and operation of the Corporation.

Section 5. Removal. Any Trustee may be removed from office with or without cause by a two-thirds (2/3) vote of the Board of Trustees, provided that the Trustee whose removal is sought receives prior notice of such action and has an opportunity to address the Board orally or in writing prior to such removal vote.

Section 6. Absences. Any Trustee having excessive absences from meetings of the Board of Trustees ("excessive absences" defined as unexcused absence for three (3) consecutive meetings, or absence for six (6) meetings in any twelve-month period whether excused or unexcused), may be asked to resign by the Executive Committee (if any) or if there is no Executive Committee, by the Board Chair. Any such request to resign shall be sent to that Trustee in writing by the Board Chair.

Section 7. No Compensation. Members of the Board of Trustees will not receive compensation for their services as Trustees; however, a Trustee may receive reimbursement of direct out-of-pocket expenses for efforts made on behalf of the Corporation.

Section 8. Committees. The Board of Trustees may establish committees of the corporation from time to time in its discretion. The purposes, membership, terms and powers of such committees will be determined by the Board and set forth in a charter or other written direction from the Trustees. Committee members will be appointed by the Chairs of the respective committees, subject to the approval of the Board. Trustees and will serve at the discretion of the Board, and any vacancies occurring between annual meetings of the Board will be filled by the Board Chair. Committees of the Board may include members who are not Trustees, provided that the majority of the committee's members are Trustees. Unless otherwise determined by the Trustees, each committee will follow the procedures set forth in these Bylaws.

ARTICLE III
Meetings of the Board of Trustees

Section 1. Annual Meeting of the Board of Trustees. An annual meeting of the Board of Trustees will be held during the second quarter of the calendar year for the purpose of electing Trustees and officers and appointing committee members, and for the transaction of such other business as may come before the meeting.

Section 2. Regular Meetings. Regular meetings of the Board of Trustees may be held at such times and at such places as the Board may from time to time determine, and, if so determined, no notice thereof need be given.

Section 3. Special Meetings. Special meetings of the Board of Trustees will be held at any time or place whenever called by the Board Chair, the Secretary upon request of the Board Chair, or by the Secretary upon the written request of a majority of the Board of Trustees.

Section 4. Notice of Annual and Special Meetings. Written notice of any annual or special meeting must be delivered to, or sent by mail, postage prepaid, or by electronic mail ("email"), telecopier, facsimile communication, overnight carrier, or similar means of communication, to each Trustee at his or her address on file with the Corporation at least seven (7) days prior to the date of such meeting.

Any meeting of the Board of Trustees may be held without such written notice providing all of the Trustees are present or those not present have waived written notice thereof. The attendance of a Trustee at a meeting will constitute a waiver of notice of such meeting unless the Trustee attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Special meetings will be held at the time and place specified in the notice, and business transacted thereat will be confined to the specific purpose or purposes stated in the notice of the meeting and matters reasonably incident thereto.

Section 5. Meetings by Electronic Conference. Members of the Board of Trustees or any committee designated by the Board may participate in a meeting of the Board or committee by means of a conference telephone, videoconference, or similar communications equipment by which all persons participating in the meeting can communicate with each other at the same time. Participation by these means will constitute presence in person at a meeting.

Section 6. Quorum of Trustees. At any meeting of the Board of Trustees, a majority of the number of Trustees fixed pursuant to Section 2 of Article II above will be necessary to constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time without further notice. At such adjourned meeting at which a quorum will be present, such quorum then will be able to vote on all matters that could have been voted on at the original meeting.

Section 7. Votes. Each Trustee, with the exception of the Immediate Past Chair, will have one vote on all matters to be considered by the Board of Trustees, and the vote of a majority of the Trustees

present at any properly constituted meeting will be necessary to adopt proposals, except as provided by statute, the Articles of Agreement, or these Bylaws.

Section 8. Super-Majority Vote. Notwithstanding the foregoing, a vote of at least sixty-seven percent (67%) or more of all eligible votes (i.e. the votes of all then elected and serving Trustees, and not just those of the Trustees present at the meeting and constituting a quorum) cast in favor of the action or decision will be required for any of the following proposed actions:

(a) *Capital Expenditures; Debt.* Any unbudgeted capital expenditure or incurrence of debt, either in a singular instance or in a series of related transactions, in excess of Twenty-five Thousand Dollars (\$25,000.00), excluding capital expenditures or indebtedness required for the Hillside Village continuing care retirement community project (hereinafter "Hillside Village");

(b) *Merger.* Merger or reorganization with another organization;

(c) *Hiring/Termination of Senior Management.* The hiring or termination of the Executive Director;

(d) *Budgets.* The approval of operating and capital budgets for the Combined Facility (the former Prospect Place facility and the former Woodward Home facility) and related operations and for the operation of the Hillside Village continuing care retirement community project post-construction, but exclusive of the construction of the Hillside Village project;

(e) *Litigation.* The commencement of litigation, the costs of which could exceed Ten Thousand Dollars (\$10,000.00);

(f) *Dissolution.* The dissolution or other cessation of operations of the Corporation; and

(g) *Amendment to Governing Documents.* Any amendment to the Articles of Agreement or Bylaws of the Corporation.

Section 9. Action Approved in Writing. Any action approved in writing by all Trustees will be valid, regardless of whether a meeting of the Board of Trustees has taken place. Email or other electronic transmissions intended to constitute the consent and signature of the sender and otherwise complying with New Hampshire RSA 294-E will constitute a writing for the purpose of this provision.

ARTICLE IV Officers

Section 1. Composition and Election. The officers of the Corporation will consist of a Chair of the Board, a Vice Chair of the Board, a Treasurer, a Secretary, the Immediate Past Chair, and such other

officers as the Board of Trustees may determine and elect from time to time. Each of the Chair and Vice Chair of the Board will be a member of the Board of Trustees. Other officers may be, but will not be required to be, members of the Board of Trustees. Two or more offices may be held by the same person. No employee of the Corporation will hold the position of officer of the Corporation. Officers will serve the Corporation only for the charitable purposes of the Corporation; persons having other expressed or intended reasons for being an officer will not be elected nor permitted to serve as officer of the Corporation.

Officers will be elected by the Board of Trustees at its annual meeting. The Board may elect officers to fill vacant positions at any properly constituted meeting of the Board.

Section 2. Term of Office. Officers each will serve a two-year term and until their successors are elected unless sooner removed by death, resignation or removal by the Board of Trustees. The Board may re-elect officers to serve successive terms.

Section 3. Removal of Officers. The Board of Trustees, by a vote of the majority of Trustees present in person at any meeting thereof called for the purpose, may remove from office, with or without cause, any officer or agent elected by it, which removal will be immediately effective upon receipt by the officer or agent of written notice thereof.

ARTICLE V

Duties of Officers

Section 1. The Chair of the Board. The Chair of the Board will preside over all meetings of the Board of Trustees and will have the power to appoint the Chair of each Board Committee (except the Executive Committee, if any). The Chair of the Board will have such other executive responsibility as the Board of Trustees may, from time to time, designate.

Section 2. Vice Chair. The Vice Chair shall perform the duties of the Chair in the event of a vacancy in the office of Chair of the Board, or of the absence or inability of the Chair to serve. The Vice Chair shall automatically become the Chair of the Board upon the expiration of the term of the Chair or upon resignation or removal of the Chair.

Section 3. Treasurer. The Treasurer of the Corporation will be the principal financial officer of the Corporation. He or she will have and exercise under the supervision of the Board of Trustees all of the powers and duties commonly incident to his or her office. The Treasurer will deposit, or cause to be deposited, the funds of the Corporation in one or several accounts, in one or more state or federally-chartered banks or duly established savings and loan associations or trust companies as the Board of Trustees may, from time to time, designate. The Treasurer will render or cause to be rendered, at stated periods as the Board of Trustees will determine, a written account of the finances of the Corporation. He or she will keep or cause to be kept accurate books of account of all Corporation transactions, which books will be the property of the Corporation and, together with all other of its property in his or her possession, will be subject at all times to the inspection and control of the Board of Trustees.

The Treasurer will oversee the timely filing of any required financial reports and statements, sign documents and make tax and other filings, and perform such other duties and will have such other powers as the Board of Trustees may, from time to time, designate.

Section 4. The Secretary. The Secretary of the Corporation will keep accurate minutes and records of the Corporation in books provided for that purpose of all proceedings at the meetings of the Board of Trustees. The Secretary will file any certificates required of a secretary by any statute, federal or state. The Secretary will give and serve all notices required by any statute, the Articles of Agreement or these Bylaws to members of this Corporation and the Board of Trustees. The Secretary will be the official custodian of the records and any seal of this Corporation. He or she will submit to the Board of Trustees any communication which will be addressed to him or her as Secretary of the Corporation. The Secretary will attend to all correspondence of the Corporation and will exercise all the duties normally incident to the office of secretary.

The Secretary will perform all the duties commonly incident to his or her office, as well as such other duties as the Board of Trustees may from time to time designate.

Section 5. Assistant Secretary. If the Board of Trustees elects an Assistant Secretary, that officer may perform all duties that the Secretary is authorized to perform under applicable law, under these Bylaws and under any resolution of the Board of Trustees that is consistent with applicable law and with these Bylaws.

Section 6. Secretary Pro Tempore. In the absence of the Secretary and Assistant Secretary from any meeting, a Secretary Pro Tempore may be elected.

Section 7. Immediate Past Chair. The Immediate Past Chair shall be a non-voting member of the Board for a period of one-year after the expiration of his/her term as the Chair.

ARTICLE VI

Executive Director and Management Company

Section 1. Executive Director (Hillside Village). The Executive Director of Hillside Village may be hired by the Board of Trustees or by the management company (see Section 2 below). The Executive Director will be the chief executive officer of the Corporation in the operation of Hillside Village, and will have both day-to-day and long-term responsibility for the management and operations of Hillside Village by the Corporation, consistent with the strategic plan, policies and budgets established by the Board. The Executive Director will perform the duties set forth in his or her employment contract, if any, as well as such other specific duties as the Board may designate. The Executive Director will be expected to attend all Board meetings as a resource and to report on the operation of Hillside Village and to address questions, although the Executive Director will be excused for any evaluation of his or her performance. The Executive Director will also be expected to attend any committee meetings in an advisory capacity at the request of the committee chair or in his or her discretion.

Section 2. Management Company. The Board, in its discretion, may elect to engage a management company for the operation of Hillside Village in lieu of directly hiring an Executive Director. The management contract will describe the executive duties and powers of such contractor,

provided that the Board may not delegate to the management company the Trustees' fiduciary duties to the Corporation. The Board will review the performance of the management company and the Executive Director of Hillside Village (whether said Executive Director is an employee of the Corporation or the management company) at least annually.

ARTICLE VII
Contracts, Loans, Checks, and Deposits

Section 1. Contracts. The Board of Trustees may authorize any officer or officers, or agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans will be contracted on behalf of the Corporation and no evidences of indebtedness will be issued in its name unless authorized by a resolution of the Board of Trustees. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, Etc. All checks, drafts, or other orders for the payment of money, notes, or other evidences or indebtedness issued in the name of the Corporation will be signed by such officers or agents of the corporation and in such manner as will from time to time be determined by resolution of the Board of Trustees.

Section 4. Deposits. All funds of the Corporation, not otherwise used or applied, will be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Trustees may select.

ARTICLE VIII
Fiscal Year

The fiscal year of the corporation will end on December 31st.

ARTICLE IX
Inspection of Books and Records

All books, records, papers, and documents of every kind belonging to the Corporation will be maintained at the principal place of business of the Corporation and will be open to the inspection of the Trustees at all reasonable times.

ARTICLE X
Indemnification

Each Trustee, officer, and committee member of the Corporation and his or her respective heirs, executors, and administrators will be indemnified by the Corporation against any cost, expense,

judgment, and liability, including attorneys' fees, reasonably incurred by or imposed upon said person in connection with any action, suit, or proceeding to which he or she may be made a part or with which he or she will be threatened, by reason of being, or having been, a Trustee, officer, or committee member of the Corporation, except (a) with respect to matters as to which he or she will be finally adjudged in such action, suit, or proceeding to be liable for willful misconduct as such Trustee, officer, or committee member and (b) with respect to matters described in RSA 292:2, V-a as to which the articles of agreement of a voluntary corporation may not eliminate or limit the personal liability of a director or officer. In the event of settlement of any such action, suit, or proceeding brought or threatened, such indemnification will be limited to matters covered by the settlement as to which the Corporation is advised by counsel that such Trustee, officer, or committee member is not liable for willful misconduct as such. The foregoing right of indemnification will be in addition to any other rights to which any Trustee, officer, or committee member may otherwise be entitled.

ARTICLE XI Antidiscrimination Clause

No otherwise qualified individual will be excluded from participation in, or denied the benefits of, or subjected to discrimination under any programs or activities of this Corporation solely by reason of race, color, national origin, age, sex, sexual preference, religion, marital status or handicap or other disability.

ARTICLE XII No Private Inurement

The Corporation may hire and pay employees, contract for goods and services, and purchase real or personal property in the pursuit of its objectives, but no part of its net revenues will be distributed to any private individuals or entities which operate for the benefit of private individuals.

ARTICLE XIII Exempt Activities

Notwithstanding any other provision of these Bylaws, no member, Trustee, employee, or representative of this Corporation will take any action to carry on any activity by or on behalf of the Corporation which is not permitted by Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and its regulations as they now exist or as they may hereafter be amended (the "Regulations"). No such action may be taken which may violate Section 170(c)(2) of such Code and Regulations as they now exist or as they may hereafter be amended.

ARTICLE XIV Conflict Of Interest

As a fiduciary, the Board of Trustees and each of its members has a duty of loyalty to the Corporation and a duty to act impartially in the role of Trustee. The Board will adopt a policy for identifying and

resolving conflicts of interest, in compliance with applicable law, and will conduct itself at all times in an ethical manner. The Board of Trustees also will identify all “pecuniary benefit transactions” and comply with the requirements of New Hampshire RSA 7:19-a, or any successor statute.

**ARTICLE XV
Amendments**

Except as otherwise provided by law, these Bylaws may be amended or repealed, in whole or in part, by a super-majority vote of the Board of Trustees (as described in Article III, Section 8 above) at any meeting called for that purpose as provided in the corporation’s Articles of Agreement.

ADOPTED on July 1, 2016.

AMENDED on June 27, 2018 (see Secretary’s note in Article II, Section 2 above).

AMENDED on November 28, 2018

AMENDED on June 26, 2019

Attest:



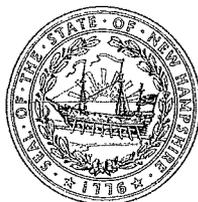
Secretary

APPENDIX C
2016 Charitable Trusts Director No Action Letter re: Prospect-
Woodward Merger

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

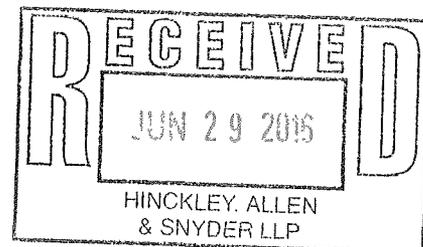
33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

June 24, 2016



James M. Callahan, Esquire
20 Depot Street, Suite 220
Peterborough, NH 03458

Re: The Woodward Home/Prospect Hill Home Proposed Merger RSA 7:19-b

Dear Mr. Callahan:

The Charitable Trusts Unit is in receipt of your notice and submission, filed March 30, 2016, pursuant to RSA 7:19-b, regarding the proposed merger of The Woodward Home (Woodward) into Prospect Hill Home d/b/a Prospect Place (Prospect).

The proposed merger is described in a Merger Agreement dated December 30, 2015. Structurally, Woodward would merge into Prospect and the surviving entity would become known as The Prospect-Woodward Home.

In addition to the March 30, 2016 submission, we are also in receipt of your May 19, 2016 responses to our requests for additional information. We also have received responses from counsel to Prospect, Mark S. McCue, Esq., dated April 27, 2016 and May 23, 2016. We will refer to the documentation submitted collectively as the "Notice". The Notice constitutes one of the requirements of RSA 7:19-b, II and III, which generally obligates the governing bodies of health care charitable trusts, including Woodward and Prospect, to satisfy certain minimum standards before they consummate an acquisition transaction.

The Charitable Trusts Unit has completed its review of the Notice. In doing so, it considered the public meeting conducted by the parties leading up to the submission of the Notice. In addition, the Director of Charitable Trusts and the Assistant Director of Charitable Trusts attended a public meeting at Woodward on May 23, 2016 and also met that same day with residents of Woodward and Prospect.

The Notice and the meetings indicate that Woodward and Prospect have complied with the minimum standards set forth in RSA 7:19-b, II for an acquisition transaction. The information presented described the difficult financial environment for traditional largely self-pay retirement homes. Each organization increasingly must rely upon restricted funds to make up for operating losses. To address this challenge, Prospect has worked to create a continuing care

retirement community in Keene, to be known as Hillside Village. Such a facility is likely to be more attractive to self-paying retirees, but at a higher cost. The Notice states that if Hillside Village opens, Woodward will close and up to 15 of the current residents of Woodward and Prospect will be offered places at the new facility at prices affordable to the residents. See, Merger Agreement, Section 3.9.8. There are currently 19 residents between Woodward and Prospect. Woodward Response to Information Request No. 7. The merged endowments of Woodward and Prospect will be used to cover any such additional costs. Moreover there are two current residents at Woodward whose monthly payments are subsidized by Medicaid. After the merger, the facility will no longer accept Medicaid payments, however the Notice states that those residents may remain at Woodward and their monthly payment will not increase. See, Merger Agreement, Section 3.9.5.

At a meeting with Prospect residents, it is clear that they would prefer that they not be moved to Woodward because they are happy with their existing home. Still, there is at least some understanding of the financial demands placed on Prospect that drives a merger. The residents at Woodward expressed no reservations in accepting the Prospect residents.

In 2015, Prospect obtained court approval for the methodology used for the restatement of its institutional funds among restricted, temporarily restricted and unrestricted categories. See, *Prospect Hill Home v. Director of Charitable Trusts* (8th Circuit – Probate Division – Keene, No. 313-2015-EQ-0026). As part of the Notice, Woodward has restated its institutional funds, and it intends to obtain court approval for the methodology used in that restatement. The merged entity would then preserve the categories of its institutional funds.

Based on the Charitable Trusts Unit's review of the Notice and additional information, we have determined that the parties to this proposed affiliation have complied with the standards set forth in RSA 7:19-b. Accordingly, we will take no further action with respect to this affiliation. This letter is issued based upon the representations made in the Notice, and particularly based upon these representations:

- The two residents at Woodward receiving Medicaid benefits may remain at Woodward after the merged entity no longer participates in Medicaid. Their financial contribution as residents will not increase as a result of their inability to access Medicaid benefits.
- Any of the Woodward and Prospect residents residing in those facilities pre-merger who are also residents at Woodward at the time of the opening of Hillside Village will be able to transfer to Hillside Village upon its opening and be charged at rates comparable to the resident fee structure at Woodward and Prospect.

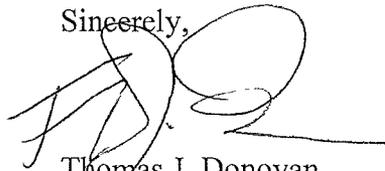
James M. Callahan, Esquire
June 24, 2016
Page 3

- Woodward will file a petition in the circuit court, probate division for approval of the methodology used to determine the value of its restricted funds consistent with the Woodward Response to Information Request No. 2.

Please be advised that this no further action letter concerns the review of Director of Charitable Trusts under RSA 7:19-b and does not implicate any other section of the New Hampshire Department of Justice which may also have jurisdiction concerning this merger, including the anti-trust section. It also does not constitute a review either of statutes or rules governing the discharge or transfer of residents or of the terms of public benefits available under Medicaid or otherwise.

Please provide notice to the Charitable Trusts Unit when the proposed merger is finalized. If you have any questions, do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'TJD', with a large, stylized flourish extending to the right.

Thomas J. Donovan
Director of Charitable Trusts
(603) 271-3591
tom.donovan@doj.nh.gov

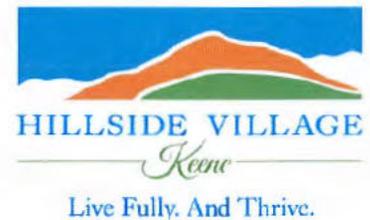
TJD:ab
cc: Mark S. McCue, Esquire

APPENDIX D-1
Audited Financial Statements of Prospect-Woodward for FY 2020

The Prospect-Woodward Home d/b/a Hillside Village

Financial Statements

Years Ended December 31, 2020 and 2019



WIPFLI

Independent Auditor's Report

Board of Directors
The Prospect-Woodward Home d/b/a Hillside Village
Keene, NH

Report on the Financial Statements

We have audited the accompanying financial statements of The Prospect-Woodward Home d/b/a Hillside Village, (a not-for-profit organization) which comprise the statements of financial position as of December 31, 2020 and 2019, and the related statements of activities, functional expenses, and cash flows for the years then ended and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of The Prospect-Woodward Home d/b/a Hillside Village as of December 31, 2020 and 2019, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States.

Substantial Doubt about the Organization's Ability to Continue as a Going Concern

The accompanying financial statements have been prepared assuming that The Prospect-Woodward Home d/b/a Hillside Village will continue as a going concern. As discussed in Note 14 to the financial statements, as a result of the COVID-19 Pandemic, the Organization has experienced financial difficulties that have resulted in events of default per their loan agreement and bond indenture. These conditions raise substantial doubt about its ability to continue as a going concern. Management's evaluation of the events and conditions and management's plans in regard to these matters are also described in Note 14. The financial statements do not include any adjustments that might result from the outcome of this uncertainty. Our opinion is not modified with respect to that matter.

Wipfli LLP

Wipfli LLP
Bedford, New Hampshire
June 23, 2021

The Prospect-Woodward Home d/b/a Hillside Village

Statements of Financial Position

As of December 31,	2020	2019
Assets		
Current assets:		
Cash and cash equivalents	\$ 5,676,777	\$ 1,696,633
Resident accounts receivable, net	25	15,233
Prepaid expenses	395,262	293,347
Total current assets	6,072,064	2,005,213
Other assets:		
Security deposits	2,962	2,962
Investments	-	803,676
Assets limited as to use	5,657,804	15,594,336
Total other assets	5,660,766	16,400,974
Property and equipment:		
Land	1,792,672	1,792,672
Buildings and improvements	84,247,203	84,247,203
Furniture and equipment	3,344,056	3,319,399
Vehicle	64,956	40,274
Construction in progress	704,403	20,965
Total property and equipment	90,153,290	89,420,513
Less: accumulated depreciation	4,404,480	1,843,470
Property and equipment, net	85,748,810	87,577,043
Total assets	\$ 97,481,640	\$ 105,983,230

See accompanying notes to financial statements.

The Prospect-Woodward Home d/b/a Hillside Village

Statements of Financial Position

As of December 31,	2020	2019
Liabilities and Net Assets (Deficit)		
Current liabilities:		
Current portion of bonds payable	\$ 60,445,000	\$ -
Accounts payable	273,662	185,115
Line of credit	1,727,760	1,727,760
Accrued salary and benefits	327,339	254,821
Accrued interest	1,881,043	1,853,206
Entrance fee deposits	168,285	223,233
Refundable entrance fees	2,349,051	1,672,741
Refundable advance liability	81,466	-
Accrued construction costs and retainage payable	4,656,769	4,656,769
Total current liabilities	71,910,375	10,573,645
Long-term liabilities:		
Principal amount of bonds payable	-	67,560,000
Less: unamortized bond discounts	-	1,721,749
Less: unamortized bond issuance costs	-	269,299
Bonds payable, net	-	65,568,952
Note payable - Paycheck Protection Program	840,200	-
Contract liability from nonrefundable entrance fees	15,677,401	14,459,432
Refundable entrance fees, less current portion	21,785,400	21,186,000
Total long-term liabilities	38,303,001	101,214,384
Total liabilities	110,213,376	111,788,029
Net assets (deficit):		
Without donor restrictions	(14,080,800)	(7,112,859)
With donor restrictions	1,349,064	1,308,060
Total net assets (deficit)	(12,731,736)	(5,804,799)
Total liabilities and net assets (deficit)	\$ 97,481,640	\$ 105,983,230

See accompanying notes to financial statements.

The Prospect-Woodward Home d/b/a Hillside Village Statement of Activities

Year Ended December 31, 2020	Without Donor Restrictions	With Donor Restrictions	Total
Revenue and support:			
Resident services - Assisted living, net	\$ 1,187,707	\$ -	\$ 1,187,707
Resident services - Independent living, net	6,302,246	-	6,302,246
Amortization of nonrefundable entrance fees	1,874,028	-	1,874,028
Grant revenue	712,125	-	712,125
Other revenue	15,691	-	15,691
Net assets released from restrictions	58,590	(58,590)	-
Total revenue and support	10,150,387	(58,590)	10,091,797
Operating expenses:			
Program services:			
Assisted living	4,021,412	-	4,021,412
Independent living	7,435,048	-	7,435,048
Supporting services:			
General and administration	5,636,663	-	5,636,663
Total operating expenses	17,093,123	-	17,093,123
Operating loss	(6,942,736)	(58,590)	(7,001,326)
Other revenue (expense):			
Investment return, net	71,295	99,594	170,889
Loss on disposal of property and equipment and bond extinguishments	(96,500)	-	(96,500)
Total other expense, net	(25,205)	99,594	74,389
Change in net assets	(6,967,941)	41,004	(6,926,937)
Net assets (deficit) at beginning of year	(7,112,859)	1,308,060	(5,804,799)
Net assets (deficit) at end of year	\$ (14,080,800)	\$ 1,349,064	\$ (12,731,736)

See accompanying notes to financial statements.

The Prospect-Woodward Home d/b/a Hillside Village Statement of Activities

Year Ended December 31, 2019	Without Donor Restrictions	With Donor Restrictions	Total
Revenue and support:			
Resident services - Assisted living, net	\$ 631,254	\$ -	\$ 631,254
Resident services - Independent living, net	3,430,142	-	3,430,142
Amortization of nonrefundable entrance fees	905,732	-	905,732
Other revenue	216,744	-	216,744
Net assets released from restrictions	57,196	(57,196)	-
Total revenue and support	5,241,068	(57,196)	5,183,872
Operating expenses:			
Program services:			
Assisted living	2,210,738	-	2,210,738
Independent living	3,508,759	-	3,508,759
Supporting services:			
General and administration	4,677,249	-	4,677,249
Total operating expenses	10,396,746	-	10,396,746
Operating loss	(5,155,678)	(57,196)	(5,212,874)
Other revenue (expense):			
Investment return, net	386,530	229,371	615,901
Loss on disposal of property and equipment and bond extinguishments	(259,999)	-	(259,999)
Total other expense, net	126,531	229,371	355,902
Change in net assets	(5,029,147)	172,175	(4,856,972)
Net assets at beginning of year	(2,083,712)	1,135,885	(947,827)
Net assets (deficit) at end of year	\$ (7,112,859)	\$ 1,308,060	\$ (5,804,799)

See accompanying notes to financial statements.

The Prospect-Woodward Home d/b/a Hillside Village Statement of Functional Expenses

Year Ended December 31, 2020	Program Services		Supporting Services	Total
	Assisted Living	Independent Living	General and Administrative	
Salaries and wages	\$ 2,008,205	\$ 1,449,885	\$ 923,503	\$ 4,381,593
Employee benefits	182,739	117,500	72,056	372,295
Payroll taxes	160,908	127,028	54,087	342,023
Total payroll and related expenses	2,351,852	1,694,413	1,049,646	5,095,911
Activities	5,727	8,195	-	13,922
Advertising	-	-	263,647	263,647
Bank fees	-	-	535	535
Consultants	16,900	4,610	614,783	636,293
Depreciation	-	-	2,561,008	2,561,008
Dietary	167,714	373,298	-	541,012
Housekeeping	428	1,714	-	2,142
Insurance	-	-	140,646	140,646
Interest expense	1,208,593	4,546,611	-	5,755,204
Legal and professional fees	5,037	8,265	157,831	171,133
Other miscellaneous	225	298	1,798	2,321
Office expense	7,633	29,529	5,910	43,072
Professional development	2,004	2,225	1,060	5,289
Real estate taxes	-	-	670,070	670,070
Repairs and maintenance	55,798	209,914	298	266,010
Rent	315	953	52,268	53,536
Supplies	85,322	127,056	19,729	232,107
Travel	3,965	14,664	9,372	28,001
Utilities	109,899	413,303	88,062	611,264
Total functional expenses	\$ 4,021,412	\$ 7,435,048	\$ 5,636,663	\$ 17,093,123

See accompanying notes to financial statements.

The Prospect-Woodward Home d/b/a Hillside Village Statement of Functional Expenses

Year Ended December 31, 2019	Program Services		Supporting Services	Total
	Assisted Living	Independent Living	General and Administrative	
Salaries and wages	\$ 1,251,954	\$ 1,087,046	\$ 919,649	\$ 3,258,649
Employee benefits	118,181	57,621	147,869	323,671
Payroll taxes	95,676	92,254	46,889	234,819
Total payroll and related expenses	1,465,811	1,236,921	1,114,407	3,817,139
Activities	4,133	21,380	-	25,513
Advertising	-	-	217,421	217,421
Bank fees	-	-	4,562	4,562
Consultants	11,214	-	507,789	519,003
Depreciation	-	-	1,929,918	1,929,918
Dietary	96,273	287,201	-	383,474
Housekeeping	3,593	14,370	-	17,963
Insurance	-	-	81,371	81,371
Interest expense	399,490	1,502,845	-	1,902,335
Legal and professional fees	6,197	4,417	61,314	71,928
Other miscellaneous	62	621	72,198	72,881
Office expense	7,595	19,951	17,857	45,403
Professional development	280	-	4,679	4,959
Project cost	-	-	-	-
Real estate taxes	11,323	-	509,506	520,829
Repairs and maintenance	35,206	59,385	-	94,591
Rent	371	1,419	47,799	49,589
Supplies	47,361	67,735	25,732	140,828
Travel	6,582	15,806	35,263	57,651
Utilities	115,247	276,708	47,433	439,388
Total functional expenses	\$ 2,210,738	\$ 3,508,759	\$ 4,677,249	\$ 10,396,746

See accompanying notes to financial statements.

The Prospect-Woodward Home d/b/a Hillside Village

Statements of Cash Flows

Years Ended December 31,	2020	2019
Cash flows from operating activities:		
Change in net assets	\$ (6,926,937)	\$ (4,856,972)
Adjustments to reconcile change in net assets to net cash used for operating activities:		
Depreciation	2,561,008	1,929,918
Amortization of original issue discounts and deferred financing costs	1,894,548	186,935
Reinvested investment income on bond reserve funds	(58,148)	(522,784)
Unrealized and realized (gain) loss on investments, net	(72,644)	(337,075)
Loss on disposal of property and equipment and bond extinguishments	96,500	259,999
Amortization of nonrefundable entrance fees	(1,874,028)	(905,732)
Other noncash revenue	-	(106,535)
Decrease (increase) in:		
Resident accounts receivable	15,208	(15,233)
Prepaid expenses	(101,915)	(287,766)
Security deposits	-	(214)
Increase (decrease) in:		
Accounts payable	88,547	74,397
Accrued salary and benefits	72,518	178,121
Accrued interest	27,837	1,732,094
Refundable advance liability	81,466	-
Accrued construction costs and retainage payable	-	255
Net cash used for operating activities	(4,196,040)	(2,670,592)
Cash flows from investing activities:		
Net proceeds from sale of bond reserve funds	10,035,865	11,503,661
Purchase of property and equipment	(732,775)	(19,680,956)
Purchase of investments	(426,448)	(908,697)
Proceeds from sale of property and equipment	-	700,000
Proceeds from sale of investments	1,261,583	1,725,674
Net cash provided by (used for) investing activities	10,138,225	(6,660,318)
Cash flows from financing activities:		
Redemptions on bonds payable	(7,115,000)	(25,455,000)
Proceeds from note payable - Paycheck Protection Program	840,200	-
Entrance fee deposits received	5,907,769	34,280,831
Entrance fee deposits refunded	(1,595,010)	-
Advances from line of credit	-	2,330,621
Repayments to line of credit	-	(602,861)
Net cash provided by (used for) financing activities	(1,962,041)	10,553,591

The Prospect-Woodward Home d/b/a Hillside Village Statements of Cash Flows (Continued)

Years Ended December 31,	2020	2019
Net change in cash and cash equivalents	3,980,144	1,222,681
Cash and cash equivalents - beginning of year	1,696,633	473,952
Cash and cash equivalents - end of year	\$ 5,676,777	\$ 1,696,633

Supplemental disclosure of cash flow information:

Interest paid	\$ 3,830,431	\$ 5,105,262
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During 2020, investments of \$803,676 were transferred to a money market account classified as cash and cash equivalents in the accompanying statements of financial position.

As of December 31, 2020 and 2019, fixed asset purchases totaling \$4,656,769 were included in accrued construction costs and retainage payable.

During 2020 and 2019, \$1,328,300 and \$3,914,863 in entrance fee deposits were transferred to the bond reserve funds.

See accompanying notes to financial statements.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 1: Summary of Significant Accounting Policies

Nature of Operations

The Prospect-Woodward Home d/b/a Hillside Village (the Organization) previously operated a 24-bed assisted living facility in Keene, New Hampshire. The Organization began constructing a continuing care retirement community (CCRC) in Keene, New Hampshire in 2017, and during 2019, the Organization began operating the continuing care retirement community known as "Hillside Village." The continuing care retirement community consists of 116 independent living apartments, 24 independent living villas, 43 assisted living units, 20 long-term nursing care units, 18 memory care units, as well as a community center on a 48-acre site. During 2019, the residents of the former assisted living facility moved to Hillside Village and the facility was closed.

Basis of Presentation

The Organization follows accounting standards set by the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC). The ASC is the single source of authoritative accounting principles generally accepted in the United States (GAAP) to be applied to nongovernmental entities.

Use of Estimates

The preparation of the accompanying financial statements in conformity with accounting principles generally accepted in the United States requires management to make certain estimates and assumptions that directly affect the results of reported assets, liabilities, revenues, and expense. Actual results may differ from these estimates and are subject to change in the near term.

Cash and Cash Equivalents

The Organization considers all highly liquid debt instruments with an original maturity of three months or less to be cash equivalents.

The Organization customarily maintains amounts on deposit at various financial institutions in excess of amounts insured by the Federal Deposit Insurance Corporation (FDIC). The uninsured amount on deposit at various financial institutions at December 31, 2020 was approximately \$5,314,000. Cash and highly liquid financial instruments held in endowments that are perpetual in nature or held for other long-term purposes are excluded from this definition.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 1: Summary of Significant Accounting Policies (Continued)

Resident Accounts Receivable

Accounts receivable are reported at the amount that reflects the consideration to which the Organization expects to be entitled, in exchange for providing resident care services. Accounts receivable are recorded at their estimated net collectible amounts from third-party payers, residents, and others. The initial estimate of the transaction price is determined by reducing the standard charge by any contractual adjustments and discounts and is recorded through a reduction of gross revenue and a credit to accounts receivable. Subsequent changes to the estimate of the transaction price are generally recorded as adjustments to resident service revenue in the period of the change. Management estimates probable uncollectible amounts for residents through a charge to operations and a credit to a valuation allowance based on its assessment of the current status of individual accounts. Management has determined that no allowance of doubtful accounts is necessary as of December 31, 2020. The Organization does not have a policy to charge interest on past due accounts.

Investments

Investments are valued at their fair values in the statements of financial position. The measurement of fair value is made using the fair value hierarchy established under current accounting standards (see Note 3).

Net investment return is reported in the statement of activities and consists of interest and dividend income, realized and unrealized capital gains and losses, less investment expenses. For purposes of determining realized gains and losses, the cost of securities sold is based on the specific identification method.

Assets Limited as to Use

Assets limited as to use include restricted investments consisting of donor-restricted endowments, entrance fee deposits, and assets held by a trustee under revenue bond indenture agreements.

Property and Equipment

All acquisitions and improvements of property and equipment over \$1,000 are capitalized while all expenditures for repairs and maintenance that do not materially prolong the useful lives of assets are expensed. Property and equipment are recorded at cost, or if donated, at fair value at the date of donation. Depreciation is computed using the straight-line method over the estimated lives of the assets.

Depreciation expense was \$2,561,008 and \$1,929,918 for 2020 and 2019, respectively.

Impairment

The Organization reviews its property and equipment periodically to determine potential impairment by comparing the carrying value of the property and equipment with the estimated future net discounted cash flows expected to result from the use of the assets, including cash flows from disposition. Should the sum of the expected future net cash flows be less than the carrying value, the Organization would recognize an impairment loss at that time. No impairment loss was recognized in 2020 or 2019.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 1: Summary of Significant Accounting Policies (Continued)

Deferred Financing Costs and Original Issue Discounts

Deferred financing costs and original issue discounts related to the issuance of long-term debt are amortized over the life of the related debt. Amortization of bond issuance costs and original issue discounts are included with interest expense in the accompanying statements of activities.

Risk and Uncertainties

The Organization invests in various investment securities. Investment securities are exposed to various risks, such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near-term and such changes could materially affect the investment balances.

The Organization has a commercial insurance policy that provides for comprehensive general and medical professional liability coverage on the basis of claims made. As of December 31, 2020, there were no known medical professional liability claims outstanding which, in the opinion of management, will be settled for amounts in excess of insurance coverage nor are there any unasserted claims or incidents for which a loss accrual has not been made. The Organization intends to continue this coverage with a commercial carrier and anticipates that such coverage will remain available.

The Organization is involved, from time to time, in litigation, other legal claims and proceedings involving matters associated with or incidental to the ordinary course of business. At December 31, 2020 and 2019, the Organization was aware of a pending litigation claim regarding the construction of the facility. The amount of any liability of the Organization resulting from such claim, if any, cannot currently be determined; however, in the opinion of management, the claim will be resolved without a material effect on the Organization's financial statements.

In March 2020 the World Health Organization declared Coronavirus (COVID-19) a pandemic. As described in Note 14, the pandemic has had a material effect on the Organization, resulting in the reduction of unit sales substantially below targets, significantly decreasing entrance fee collections and negatively impacting the Organization's liquidity and ability to meet debt service obligations. The impact from COVID-19 will continue to negatively affect the Organization, however, the full impact of the pandemic is unknown and cannot be reasonably estimated at this time.

Entrance Fees Deposits

To reserve an independent living unit at the CCRC, residents are required to pay a deposit equal to ten percent of the total entrance fee upon signing a Residence and Care Agreement with the remaining balance due prior to residency. Entrance fee deposits paid by residents are recorded as an asset with a corresponding liability in the accompanying statements of financial position.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 1: Summary of Significant Accounting Policies (Continued)

Net Assets

Net assets, revenues, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, net assets of the Organization and changes therein are classified and reported as follows:

Net assets without donor restrictions: Net assets available for use in general operations and not subject to donor (or certain grantor) restrictions.

Net assets with donor restrictions: Net assets subject to donor- or certain grantor-imposed restrictions. Some donor-imposed restrictions are temporary in nature, such as those that will be met by the passage of time or other events specified by the donor. Other donor-imposed restrictions are perpetual in nature, where the donor stipulates that resources be maintained in perpetuity. Donor-imposed restrictions are released when a restriction expires, that is, when the stipulated time has elapsed, when the stipulated purpose for which the resource was restricted has been fulfilled, or both. Restricted contributions that are received and utilized in accordance with donor stipulations in the same year are reported as contributions without donor restrictions. The Organization follows a similar policy for investment return on these funds.

Resident Service Revenue and Entrance Fees

The Organization operates a continuing care program for its residents where residents generally move into the community while still living independently and remain in the community until end of life. As residents progress in age and their medical needs change, they are transferred from an independent living unit to an assisted living, long-term nursing care or memory care unit.

Residents are required to sign a Residence and Care Agreement. The terms of the agreement between the Organization and the residents contain two forms of payment – an entrance fee and monthly service fee. The entrance fee entitles the resident to the use of the CCRC and varies in amount depending upon the accommodations selected. The entrance fee is due in two installments; a deposit of ten percent of the entrance fee is required at the time the contract is signed and the remainder is due prior to residency. Based on the agreement, a portion of the entrance fees may be refundable. The Organization offers three arrangements: The Traditional Plan, The Guaranteed 90% Refundable Plan, and the 90% Refundable Shared Cost Plan. Entrance fees are generally 90% refundable under the Guaranteed 90% Refundable Plan and the 90% Shared Cost Plan, subject to certain provisions. Under the Traditional Plan, the portion of entrance fees that is refundable is reduced by 4% upon initial occupancy and then another 2% for each subsequent month of occupancy until the entrance fee amount to be refunded is reduced to zero (refund period). As the likelihood is probable that residents holding a Traditional Plan will reside at the CCRC for a period that exceeds the refund period, management considers the entrance fees under a Traditional Plan to be 100% nonrefundable. As of December 31, 2020, the amount of entrance fees that are potentially refundable under these agreements, due to an unexpired refund period, totaled approximately \$8,780,000.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 1: Summary of Significant Accounting Policies (Continued)

Resident Service Revenue and Entrance Fees (Continued)

Refundable entrance fees are excluded from the transaction price and are recorded as a liability in the accompanying statements of financial position. Refundable entrance fees totaled \$24,134,451 and \$22,858,741 as of December 31, 2020 and 2019, respectively.

The Organization recognizes nonrefundable entrance fees as revenue on a monthly basis using a time-based measurement (i.e., resident's life-expectancy as an approximation for the period the resident resides at the Organization). This results in equal amounts allocated to each month because the nature of the Organization's performance is to provide access to the CCRC. Recognizing the material right performance obligation over the resident's life expectancy provides a faithful depiction of the transfer of services over the term of the performance obligation. At the end of the reporting periods, management's estimate of the unsatisfied performance obligation of the nonrefundable entrance fee is reported as a contract liability in the accompanying statements of financial position. Subsequent changes to management's estimate of the transaction price, including changes in the resident's life-expectancy, are recognized as adjustments to net resident services revenue in the period in which the change occurs. Upon a resident's death or move-out, the resident's unamortized nonrefundable entrance fee is recorded as revenue. The contract liability from nonrefundable entrance fees totaled \$15,677,401 and \$14,459,432 as of December 31, 2020 and 2019, respectively.

The following is a summary of the contract liability from nonrefundable entrance fees during the years ended December 31, 2020 and 2019:

Contract liability from nonrefundable entrance fees, January 1, 2019	\$ -
Nonrefundable entrance fees received	15,365,164
Amortization of nonrefundable entrance fees	(905,732)
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Contract liability from nonrefundable entrance fees, December 31, 2019	14,459,432
Nonrefundable entrance fees received	3,325,197
Nonrefundable entrance fees transferred to refundable entrance fees	(233,200)
Amortization of nonrefundable entrance fees	(1,874,028)
<hr/>	
Contract liability from nonrefundable entrance fees, December 31, 2020	\$ 15,677,401

During 2020, the Organization recognized \$1,534,586 in amortization revenue from the amortization of nonrefundable entrance fees that were outstanding as a contract liability at December 31, 2019.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 1: Summary of Significant Accounting Policies (Continued)

Resident Service Revenue and Entrance Fees (Continued)

Subsequent to December 31, 2020 the Organization and prospective residents entered into an Option Agreement, which modifies the entrance fees received under the Residence and Care Agreement. The Option Agreement requires payment of option deposits, to be placed in escrow, rather than payment of entrance fees. The resident retains the option to terminate the Residency Agreement, without loss of the option deposits, in accordance with the Option Agreement. The Organization entered into an agreement with a third party to hold the resident deposits in escrow with the option of converting the deposit into entrance fees according to the residency agreements upon the occurrence of certain triggering events.

The monthly service fees are specified in the resident's agreement and are generally fixed with periodic changes based on increases in inflation or in operating costs, or other factors as defined in the resident agreement. The monthly service fees are billed at the beginning of the month and entitle the resident to the use of the CCRC. The services a resident will receive under that resident agreement are dependent on the resident's health and life span along with their decision to continue to reside at the facility.

The Organization recognizes the monthly fee over the month the services are provided as the resident simultaneously receives and consumes the benefits of occupying the unit. In this case, recognition of the obligation over time yields the same result as recognizing the obligation at a point in time. The Organization believes that this method provides a faithful depiction of the transfer of services over the term of the performance obligation. Each month the resident occupies the unit is a separate contract and performance obligation based on the fact the resident has a unilateral right to terminate the contract after each month with a 120-day written notice, with no penalty or compensation due. Since the contract can be terminated by either party at any time without compensating the other party for the termination (that is, other than paying amounts due as a result of services transferred up to the termination date), the duration of the contract does not extend beyond the services already transferred.

The Organization determines the transaction price for monthly service fees, which involve significant estimates and judgment, based on standard charges for goods and services provided, reduced by discounts and other price concessions provided to residents. Generally, residents who are covered by third-party payers are responsible for related deductibles and coinsurance, which vary in amount.

The Organization assesses a resident's ability to pay for the services provided by the CCRC prior to residency. On a case-by-case basis, the Organization will reassess a resident's ability to pay. Changes to the estimate of the transaction price are generally recorded as adjustments to revenue in the period of the change. Subsequent changes that are determined to be the result of an adverse change in the resident's ability to pay are recorded as bad debt expense.

Substantially all of the Organization's resident service revenue is derived from private pay sources. Consequently, the Organization does not believe further disaggregation of the resident service revenue by nature, amount, timing, and uncertainty is necessary as it would not be material to the financial statements.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 1: Summary of Significant Accounting Policies (Continued)

Contribution and Grant Revenue

Contribution Revenue

Contributions, including promises to give, are considered conditional or unconditional, depending on the nature and existence of any donor or grantor conditions. A contribution or promise to give contains a donor or grantor condition when both of the following are present:

An explicit identification of a barrier, that is more than trivial, that must be overcome before the revenue can be earned and recognized.

An implicit right of return of assets transferred or a right of release of a donor or grantor's obligation to transfer assets promised, if the condition is not met.

Conditional contributions are recognized when the barrier(s) to entitlement are overcome. Unconditional contributions are recognized as revenue when received.

Unconditional contributions or conditional contributions in which the conditions have been substantially met or explicitly waived by the donor are recorded as support with or without donor restrictions, depending on the existence and nature of any donor restrictions.

Grant Revenue

Grants are either recorded as contributions or exchange transactions based on criteria contained in the grant agreement.

Grant awards that are contributions: Grant awards that are contributions are evaluated for conditions and recognized as revenue when conditions in the award are satisfied. Unconditional awards are recognized as revenue when the award is received. Amounts received in which conditions have not been met are reported as a refundable advance liability.

Grant awards that are exchange transactions: Exchange transactions are those in which the resource provider or grantor receives a commensurate value in exchange for goods or services transferred. Revenue is recognized when control of the promised goods or services is transferred to the customer (grantor) in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. Amounts received in excess of recognized revenue are reflected as a contract liability. There were no grant awards that were considered exchange transactions during the years ended December 31, 2020 and 2019.

Advertising

Advertising costs are charged to operations when incurred. Advertising expense was \$263,647 and \$217,421 for the years ended December 31, 2020 and 2019, respectively.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 1: Summary of Significant Accounting Policies (Continued)

Functional Allocation of Expenses

The costs of program and supporting services activities have been summarized on a functional basis in the statements of activities. The statements of functional expenses present the natural classification detail of expenses by function. Accordingly, certain costs have been allocated among the programs and supporting services benefited.

Income Taxes

The Organization is a not-for-profit private operating foundation exempt from Federal and state income taxes under the provisions of Section 501(c)(3) of the Internal Revenue Code.

The Organization evaluates its tax positions and recognizes the tax benefits of any uncertain tax positions only if management determines that it is more likely than not that the tax positions would be sustained upon examination by taxing authorities based on the technical merit of the position. Management has determined that as of December 31, 2020, the Organization has not taken any significant tax positions which do not meet the criteria for recognition.

Note 2: Liquidity and Availability of Financial Resources

Financial assets available for general expenditure, that is, without donor or other restrictions limiting their use, within one year of the statement of financial position date, comprise the following:

As of December 31,	2020	2019
Cash and cash equivalents	\$ 5,676,777	\$ 1,696,633
Resident accounts receivable	25	15,233
Investments	-	803,676
Endowment spending-rate distributions and appropriations	59,762	58,590
Total	\$ 5,736,564	\$ 2,574,132

The Organization's restricted investments consist of donor-restricted endowments (Note 8). Donor-restricted endowment funds are not available for general expenditure and are subject to an annual spending rate of 5%.

As part of financing the construction of the CCRC, the Organization issued bonds in order to manage liquidity. Proceeds from the bonds are held in reserve funds that are restricted for various purposes and are not available for use in general operations (Note 4). The balance of these reserve funds totaled \$4,140,455 and \$14,063,043 as of December 31, 2020 and 2019.

As part of the liquidity management plan, the Organization invests cash in excess of operating requirements primarily in government and treasury securities (Note 3).

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 2: Liquidity and Availability of Financial Resources (Continued)

As described in Note 14, the COVID-19 pandemic has significantly impacted the Organization's liquidity and availability of financial resources resulting in events of default per its agreement and bond indenture.

Note 3: Fair Value Measurements

The fair value of the Organization's investments is determined using a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. This hierarchy must be used to determine the fair value of the Organization's investments and consists of three broad levels: Level 1 inputs, which have the highest priority, consist of unadjusted quoted prices in active markets for identical assets; Level 2 inputs consist of quoted prices for similar assets in active markets, quoted prices for identical or similar assets in inactive markets, or observable inputs other than quoted market prices; and Level 3 inputs, which have the lowest priority, consist of inputs that are unobservable and significant to the fair value measurement. The Organization uses appropriate valuation techniques based on available inputs to measure the fair value of its investments. An asset's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement.

Valuation techniques must maximize the use of observable inputs and minimize the use of unobservable inputs.

All assets have been valued using a market approach. Level 1 money market accounts, domestic equity securities and equity mutual funds are valued based on quotations of securities traded on active markets. Level 2 fixed income and government/treasury mutual funds are valued using quoted prices of identical or similar assets in markets that are not active. There have been no changes in the valuation techniques and related inputs. The inputs or methodology used for valuing securities are not necessarily an indication of the risk associated with investing in those securities.

The following tables set forth by level, within the fair value hierarchy, the valuation techniques used to determine the fair value of the Organization's investments, classified by major type as of December 31, 2020 and 2019:

	2020			
	Level 1	Level 2	Level 3	Total
Money market accounts	\$ 74,752	\$ -	\$ -	\$ 74,752
Domestic equity securities	821,863	-	-	821,863
Fixed income:				
Government securities	-	696,131	-	696,131
Corporate bonds	-	223,403	-	223,403
Taxable Funds	-	16,615	-	16,615
Equity mutual funds	17,265	-	-	17,265
Government/treasury mutual fund	-	3,807,775	-	3,807,775
Total	\$ 913,880	\$ 4,743,924	\$ -	\$ 5,657,804

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 3: Fair Value Measurements (Continued)

	2019			Total
	Level 1	Level 2	Level 3	
Money market accounts	\$ 706,881	\$ -	\$ -	\$ 706,881
Domestic equity securities	827,044	-	-	827,044
Fixed income:				
Government securities	-	1,315,769	-	1,315,769
Corporate bonds	-	208,451	-	208,451
Taxable funds	-	11,888	-	11,888
Certificates of deposit	-	150,450	-	150,450
Equity mutual funds	17,038	-	-	17,038
Government/treasury mutual fund	-	13,160,491	-	13,160,491
Total	\$ 1,550,963	\$ 14,847,049	\$ -	\$ 16,398,012

Certain investments are subject to restrictions on their use (see Note 4 and 8).

Investments are included in the accompanying financial statements as of December 31, 2020 and 2019:

	2020	2019
Assets limited as to use	\$ 5,657,804	\$ 15,594,336
Investments	-	803,676
Total	\$ 5,657,804	\$ 16,398,012

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 3: Fair Value Measurements (Continued)

Net investment return in the statement of activities is comprised of the following for the years ended December 31, 2020 and 2019:

	2020	2019
Interest and dividend income, net	\$ 101,881	\$ 294,551
Change in unrealized appreciation (depreciation), net	55,199	235,610
Realized gains (losses), net	17,445	101,465
Investment expenses	(3,636)	(15,725)
Investment return, net	\$ 170,889	\$ 615,901
Investment return, net on assets limited to use	\$ 158,470	\$ 507,666
Investment return, net on investments	12,419	108,235
Investment return, net	\$ 170,889	\$ 615,901

Note 4: Assets Limited as to Use

Assets limited as to use consisted of the following at December 31, 2020 and 2019:

December 31,	2020	2019
Money market accounts	\$ 74,752	\$ 53,655
Domestic equity securities	821,863	827,044
Fixed income	936,149	1,536,108
Equity mutual funds	17,265	17,038
Government/treasury mutual fund	3,807,775	13,160,491
Total	\$ 5,657,804	\$ 15,594,336

The composition of assets limited as to use at December 31, 2020 and 2019 are, as follows:

December 31,	2020	2019
Entrance fee deposits	\$ 168,285	\$ 223,233
Bond reserve funds	4,140,455	14,063,043
Donor restricted investments	1,349,064	1,308,060
Total	\$ 5,657,804	\$ 15,594,336

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 4: Assets Limited as to Use (Continued)

The Organization's restricted investments consist of donor-restricted endowments (Note 8). Entrance fee deposits consist of reservations for independent living units as described in Note 1.

As part of the Series 2017 bonds (Note 5), the Organization is required to fund reserves at varying levels as required by the bond indenture. The funds include: The Bond Fund, the Construction Fund, the Debt Service Reserve Fund, the Entrance Fees Fund, the Working Capital Fund, and the Renewal and Replacement Fund. Withdrawals from the funds may only be made in accordance with the bond indenture. The reserve funds are primarily invested in government and treasury securities.

The Bond Fund includes the interest account, principal account, sinking fund account, redemption account and entrance fees redemption account. The Bond Fund shall be funded by monthly advance payments of bond principal and interest to be made by the Organization to the trustee relating to the Series 2017 Bonds. The funds held in the Bond Fund will be used to make principal and interest payments to the owners of the Series 2017 Bonds when due. The balance in the Bond Fund as of December 31, 2020 and 2019 totaled \$18,616 and \$5,453,248, respectively.

The Construction Fund represents amounts that will be utilized to pay construction costs funded by the Organization's Series 2017 Bonds related to the CCRC project. The balance as of December 31, 2020 and 2019 totaled \$1,241,135 and \$1,236,738, respectively.

The Debt Service Reserve Fund will be funded at an amount not less than one-year annual debt service amount. When moneys in the Bond Fund are insufficient to pay principal or interest on the bonds when due, money from the Debt Service Reserve fund may be used at the direction of the bond holders. The balance as of December 31, 2020 and 2019 totaled \$2,577,114 and \$4,341,673, respectively.

The Entrance Fees Fund shall be funded by all entrance fees collected by the Organization. These funds are required to be transferred to the Working Capital Fund until the balance of the Working Capital Fund equals \$6,000,000. After the balance reaches \$6,000,000, the funds in the Entrance Fees Fund shall be used to redeem the Series 2017B, 2017C, and 2017D Bonds at the applicable redemption periods. As described in Note 5, as of December 31, 2020 a portion of the Series 2017B bonds have been redeemed, and the Series 2017C and Series 2017D have been redeemed in full. The balance of the Entrance Fees Fund as of December 31, 2020 and 2019 totaled \$25,503 and \$562,581, of which \$25,503 and \$223,233, respectively, is classified as entrance fee deposits in the statements of financial position.

The Working Capital Fund will initially be funded by \$2,000,000 of the bond proceeds and will have future deposits of \$6,000,000 from the Entrance Fees Fund. The working capital fund includes the bond proceeds fund working capital account and the entrance fees working capital account. These funds are available to be used in the CCRC project including construction of the facility, the purchase of equipment, the development of marketing materials, routine capital expenditures, repairs and maintenance on the facility and judgments against the Organization, if any. This fund exists until the Series 2017B, 2017C and 2017D Bonds have been redeemed and stabilization has occurred. The balance as of December 31, 2020 and 2019 totaled \$446,372 and \$2,692,036, respectively. As of December 31, 2020, \$142,782 of the balance is classified as entrance fee deposits in the statement of financial position.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 4: Assets Limited as to Use (Continued)

The Renewal and Replacement Fund will also be required once the Series 2017B Bonds have been paid in full.

As described in Note 5, the Organization is not in compliance with certain covenants as of December 31, 2020 associated with the bond reserve funds.

Note 5: Bonds Payable

The New Hampshire Health and Education Facilities Authority (the Authority) issued \$93,015,000 in revenue bonds (Hillside Village Issue, Series 2017), the proceeds of which were loaned by the Authority to the Organization. The bonds are collateralized by a security interest in substantially all of the assets of the Organization, as well as its gross receipts. The loan agreement includes various covenants and restrictions, including a requirement to meet certain financial ratios when stabilization has occurred, as defined. The bonds begin to mature on July 1, 2021, with the last bond maturing July 1, 2052. Subject to the conditions defined in the bond indenture, the Organization retains the right to redeem any or all of the revenue bonds prior to maturity. The bonds bear interest at fixed rates ranging from 4.125% to 6.25%.

The loan agreement splits the bond issue into four separate series for purposes of computing mandatory redemptions and escrow requirements: Series 2017A Bonds in the amount of \$57,395,000, Series 2017B Entrance Fee Principal Redemption Bonds in the amount of \$17,210,000, Series 2017C Entrance Fee Principal Redemption Bonds in the amount of \$16,520,000, and Series 2017D Federally Taxable Entrance Fee Principal Redemption Bonds, in the amount of \$1,890,000. During 2020 and 2019, \$7,115,000 and \$7,045,000 of the Series 2017B bond were redeemed leaving a total amount of \$3,050,000 due on the 2017B series. During 2019, the Series 2017D and 2017C bonds were redeemed in full.

The Organization is also required to make monthly payments into a Bond Sinking Fund held in trust by the Bond Trustee to fund mandatory bond payments. As described in Note 4, the sinking fund is a sub account of the Bond Fund.

As of December 31, 2020 the Organization was not in compliance with certain covenants as defined in the loan agreement and bond indenture, including the requirement to make monthly deposits to the Debt Reserve Fund, the marketing, occupancy and cumulative cash loss financial covenants, the filing and maintenance of mechanic's liens on the facility, and the payment of bond trustee attorney fees. Subsequent to year end, the Organization also failed to make within two (2) days of the due date the required interest payment due in January 2021. In March 2021, the Bond Trustee exercised the right of setoff and approximately \$1,730,000 of the required interest payment due was paid from the remaining balances of the bond reserve funds, excluding the Debt Service Reserve Fund. Per the loan agreement and bond indenture, noncompliance with these covenants qualify as events of default and the Bond Trustee may, at the written direction of the holders of a majority in aggregate principal amount of the bonds outstanding, declare all bonds outstanding immediately due and payable. As of the June 23, 2021, the events of default have not been waived by the trustee. Therefore, in accordance with accounting standards, the bonds payable totaling \$60,445,000 have been classified as current in the accompanying statement of financial position and the bond discounts of \$1,558,127 and bond issuance costs of \$235,100 as of December 31, 2020 have been amortized in full.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 5: Bonds Payable (Continued)

The Organization capitalizes interest cost as a component of the cost of construction in progress. Construction of the facility was completed prior to January 1, 2020 and therefore no interest was capitalized during the year ended December 31, 2020. The following is a summary of interest cost incurred during the years ended December 31, 2020 and 2019:

	2020	2019
Interest cost expensed	\$ 3,860,656	\$ 1,715,400
Amortization of original issue discounts and deferred financing costs	1,894,548	186,935
Total interest expensed	5,755,204	1,902,335
Interest cost capitalized	-	2,803,773
Total interest incurred	5,755,204	4,706,108
Interest cost capitalized	-	2,803,773
Capitalized interest offset by interest income from bond reserve funds	-	(289,586)
Total interest capitalized	\$ -	\$ 2,514,187

Note 6: Line of Credit

The Organization maintains a line of credit with a financial institution for the purpose of constructing the facility. The initial availability on the line of credit was \$3,000,000. Once construction was completed during 2019, withdrawals from the line were suspended. Interest is charged at an initial interest rate of 6% than variable based on the US Prime Rate plus .5%. The line of credit matures April 30, 2021. Subsequent to December 31, 2020, the line of credit was extended to a maturity date of July 31, 2021. The line of credit is collateralized by substantially all business assets of the Organization. The outstanding balance on the line of credit was \$1,727,760 as of December 31, 2020 and 2019.

Note 7: Paycheck Protection Program

As of December 31, 2020, the Organization had an outstanding loan of \$840,200 from the Small Business Administration's (SBA) Paycheck Protection Program (PPP), as a result of legislation passed to assist businesses in navigating the Coronavirus pandemic. Under the terms of the original loan agreement, the loan bears interest at a rate of 1% with monthly payments of principal and interest commencing six months after funding and extending for a two-year term. If certain criteria are met, the Small Business Administration may forgive all or a portion of the loan.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 7: Paycheck Protection Program (Continued)

Subsequent to executing the loan document, the Paycheck Protection Program Flexibility Act was signed into law which modified the terms of the PPP. Borrowers could elect a loan forgiveness covered period of either 8 or 24 weeks. The modification to the program also extended the deferral period for payments of principal and interest to the date the SBA remits the borrower's loan forgiveness amount to the lender or, if the borrower does not apply for loan forgiveness, 10 months after the end of the borrower's loan forgiveness covered period (8 or 24 weeks).

While the Organization believes, based upon current information, all or substantially all of the loan and accrued interest will be forgiven under the program, under generally accepted accounting principles, any forgiveness is not recognized until a formal forgiveness determination is made by the SBA. As such, management considers the loan a long-term liability until forgiveness is obtained. Subsequent to December 31, 2020, the Organization applied for and received notice from the SBA that the loan, including accrued interest, was approved for forgiveness in full.

Note 8: Donor Restricted Endowments

The Organization has two donor-restricted endowment funds: The Prospect Hill Home Restricted Fund and the Woodward Fund. The funds originated from various donor-restricted endowment funds from the former Prospect Hill Home and The Woodward Home. The Organization was granted approval by the Director of Charitable Trusts of the Office of the New Hampshire Attorney General to change the purpose restrictions of the original endowments and allow the Organization to use the income earned on the endowment funds to construct and operate the CCRC. As of June 23, 2021, the petition for The Prospect Hill Home Restricted Fund has been approved by probate court and the petition for the Woodward Fund has been drafted and is pending acceptance. Management anticipates the petition for the Woodward Fund will be approved.

The Organization also has a fund designated as the Hamblet Fund which holds assets to be used for the maintenance of a memorial garden. The balance as of December 31, 2020 and 2019 totaled \$17,265 and \$17,038.

The Board of Trustees of the Organization has determined that the Prospect Hill Home Restricted Fund and the Woodward Fund meet the definition of endowment funds under the State Prudent Management of Institutional Funds Act of 2006 (SPMIFA), the provisions of which the State of New Hampshire has adopted.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 8: Donor Restricted Endowments (Continued)

The Board of Trustees of the Organization has interpreted the State Prudent Management of Institutional Funds Act (SPMIFA) as requiring the preservation of the fair value of the original gift as of the date of the gift of the donor-restricted endowment funds, absent explicit donor stipulations to the contrary. As a result of this interpretation, the Organization retains in perpetuity net assets with donor restrictions (a) the original value of gifts donated to the endowment, (b) the original value of subsequent gifts to the endowment, and (c) accumulations to the endowment made in accordance with the direction of the applicable donor gift instrument at the time the accumulation is added to the fund. The remaining portion of the donor-restricted endowment fund that is not retained in perpetuity is subject to appropriation for expenditure by the Organization in a manner consistent with the standard of prudence prescribed by SPMIFA. In accordance with SPMIFA, the Organization considers the following factors in making a determination to appropriate or accumulate donor-restricted endowment funds: (1) the duration and preservation of the various funds, (2) the purposes of the donor-restricted endowment funds, (3) general economic conditions, (4) the possible effect of inflation and deflation, (5) the expected total return from income and the appreciation of investments, (6) other resources of the Organization, and (7) the Organization's investment policies.

At December 31, 2020 and 2019, the Organization had the following endowment net asset composition by type of fund:

December 31, 2020	Original Donor Restricted Gift Amount in Perpetuity	Accumulated Investment Gains	Total With Donor Restriction
Prospect Hill Home Restricted Fund	\$ 181,701	\$ 773,557	\$ 955,258
Woodward Fund	226,957	149,584	376,541
Total	\$ 408,658	\$ 923,141	\$ 1,331,799

December 31, 2019	Original Donor Restricted Gift Amount in Perpetuity	Accumulated Investment Gains	Total With Donor Restriction
Prospect Hill Home Restricted Fund	\$ 181,701	\$ 744,309	\$ 926,010
Woodward Fund	226,957	138,055	365,012
Total	\$ 408,658	\$ 882,364	\$ 1,291,022

Funds with Deficiencies - From time to time, the fair value of assets associated with individual donor-restricted endowment funds may fall below the level that the donor or SPMIFA requires the Organization to retain as a fund of perpetual duration. In accordance with generally accepted accounting principles, deficiencies of this nature are reported in net assets with donor restrictions. There are no such deficiencies resulting from unfavorable market fluctuations for the years ended December 31, 2020 and 2019.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 8: Donor Restricted Endowments (Continued)

Investment Return Objectives, Risk Parameters and Strategies - The Organization has adopted, with the approval of the Board of Trustees, investment and spending policies for endowment assets that attempt to provide a predictable stream of funding to programs supported by its endowment funds while also maintaining the purchasing power of those endowment assets over the long-term. Accordingly, the investment process seeks to achieve an after-cost total real rate of return, including investment income, as well as capital appreciation, which exceeds the annual distribution with acceptable levels of risk.

Endowment assets are invested in money market accounts, equity securities, fixed income and mutual funds that are intended to result in a consistent market value and that have sufficient liquidity to make an annual distribution not exceeding 5%, in addition to interest and dividends.

Therefore, the Organization expects its endowment assets, over time, to produce a rate of return sufficient to provide for the annual distribution. Investment risk is measured in terms of the total endowment funds. Investment assets and allocation between asset classes and strategies are managed to not expose the fund to unacceptable levels of risk.

Spending Policy - The Organization has a policy of appropriating for distribution each year, the interest and dividends earned and up to 5% of its endowment fund's average fair value of the previous twelve quarters. In establishing this policy, the Organization considered the long-term expected return on its investment assets, the nature and duration of the individual endowment funds, some of which must be maintained in perpetuity because of donor restrictions, the possible effects of inflation, and the provisions of SPMIFA. For the years ended December 31, 2020 and 2019, distributions totaling \$58,590 and \$57,196, respectively, were withdrawn from these funds under the spending policy.

Changes in endowment net assets with donor restrictions are, as follows:

Endowment net assets, January 1, 2019	\$ 1,120,955
Investment return, net	227,263
Amounts appropriated for expenditure	(57,196)
Endowment net assets, December 31, 2019	1,291,022
Investment return, net	99,367
Amounts appropriated for expenditure	(58,590)
Endowment net assets, December 31, 2020	\$ 1,331,799

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 9: Grant Revenue

During 2020, the Organization received an award of \$712,125 from the New Hampshire Health Care System Relief Fund - Long Term Care Provider Program. The Organization has interpreted the conditions of the award to be the incurrence of healthcare-related expenses attributable to the COVID-19 pandemic that another source has not reimbursed and is not obligated to reimburse, or the incurrence of lost revenues. Management has determined the conditions of the award have been met and, therefore, the full amount of the award has been recognized as grant revenue in 2020.

Note 10: Refundable Advance Liability

During 2020, the Organization received awards of \$81,466 from the U.S. Department of Health and Human Services (HHS) Provider Relief Fund, which was established as a result of the CARES Act. The Organization has interpreted the conditions of the award to be the incurrence of healthcare-related expenses attributable to the COVID-19 pandemic that another source has not reimbursed and is not obligated to reimburse, or by the incurrence of lost revenues as defined by the terms of the award. As of December 31, 2020, management has determined the conditions of the grants have not been met and, therefore, the full amount of the grants have been classified as a refundable advance liability as of December 31, 2020. Management expects these conditions to be met in 2021.

Note 11: Functional Expenses

The financial statements report certain categories of expenses that are attributed to more than one program or supporting function; therefore, expenses require allocation on a reasonable basis that is consistently applied. The expenses are charged directly to the program services or support services based on specific identification or facility square footage usages and meal counts.

Note 12: Commitments

The Organization has entered into a contract to construct the CCRC. As of December 31, 2020, the remaining construction costs and retainage payable is \$4,656,769.

Effective December 7, 2015, the Organization entered into a management agreement with Life Care Services, LLC d/b/a Life Care Services (LCS). Under the terms of the agreement, all employees are employees of the Organization except for the Director and Administrator. The Organization is responsible for reimbursing LCS the payroll cost of the Director and Administrator, as well as management fees and certain administrative costs. For the year ended December 31, 2020 and 2019, \$366,095 and \$386,810 was reimbursed to LCS for payroll, respectively. Effective January 1, 2019 through December 2023, the management fee increased to \$30,000 per month and will increase each year based on the United States Consumer Price Index for All Urban Consumers. For 2020 and 2019, the fees totaled approximately \$394,600 and \$368,400, respectively.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 12: Commitments (Continued)

Either party may terminate the agreement with written notice. Under the agreement, if the Organization terminates the agreement without cause, there are monetary amounts the Organization will be required to pay based on the date of termination.

Base management fees that will be paid to LCS, by year and in the aggregate are, as follows:

Years Ended December 31,	
2021	\$ 360,000
2022	360,000
2023	360,000
	<hr/>
	\$ 1,080,000

Note 13: Professional Liability Insurance

The Organization has a commercial insurance policy that provides for comprehensive general and medical professional liability coverage on the basis of claims made. The insurance policy is renewable annually and has been renewed by the insurance carrier for the Organization of the annual period extending through June 29, 2021.

Note 14: Going Concern Contingency

As described in Note 1, the COVID-19 pandemic has resulted in a reduction in unit sales substantially below targets, significantly decreasing entrance fee collections and negatively impacting the Organization's liquidity and ability to meet debt service obligations. As of and for the year ended December 31, 2020, the Organization had a deficit in net assets without donor restrictions of \$14,080,800 and experienced a decrease in change in net assets without donor restriction of \$6,967,941. These financial difficulties have resulted in events of default per the Organization's loan agreement and bond indenture as described in Note 5.

Management of the Organization, in conjunction with the Board of Directors, Life Care Services, and various consultants, have been working to draft a forbearance agreement with the Bond Trustee to defer required debt service payments and make withdrawals from the Organization's remaining bond reserve funds, subject to certain conditions. In conjunction with the forbearance agreement, in December 2020 the Board of Directors approved a resolution to file a petition for reorganization under Chapter 11 of the United States Bankruptcy Code, however, as of the June 23, 2021, a petition has not been filed. The Organization has also hired a real estate firm to market the community for sale.

Due to the risks and uncertainties surrounding the continued impact of the COVID-19 pandemic, final approval of the forbearance agreement by the Bond Trustee, and the results of any potential Chapter 11 proceeding or sale of the community there is substantial doubt about the Organization's ability to continue as a going concern for the 12 months following the date the financial statements are issued. The financial statements do not include any adjustments that might be necessary if the Organization is unable to continue as a going concern.

The Prospect-Woodward Home d/b/a Hillside Village

Notes to Financial Statements

Note 15: Subsequent Events

Management has evaluated subsequent events through June 23, 2021, the date when the financial statements were issued. There have been no subsequent events that require recognition or disclosure in the financial statements other than those already disclosed.

Note 16: Reclassifications

Certain reclassifications have been made to the 2019 financial statements to conform to the 2020 financial statement presentation. Such reclassifications had no effect on change in net assets previously presented.

APPENDIX D-2
Form 990 of Prospect-Woodward for FY 2020

Caution: Forms printed from within Adobe Acrobat products may not meet IRS or state taxing agency specifications. When using Acrobat, select the "Actual Size" in the Adobe "Print" dialog.

GOVERNMENT COPY

November 3, 2021

The Prospect-Woodward Home
95 Wyman Road
Keene, NH 03431
Attention: Jamie Spencer

Dear Jamie,

Enclosed are the original and one copy of the 2020 Exempt Organization return, as follows...

2020 Form 990-PF

Annual Report (Form NHCT-12):

The New Hampshire report must now be submitted online through the NH Charitable Trust Unit website. We will send a separate email with a printed copy of the NHCT-12 form that you can follow when submitting the information online. As a result of the new electronic process, a notarized signature is no longer necessary.

On March 1, 2021, the IRS issued guidance on the Employee Retention Credit (ERTC) of the Coronavirus Aid, Relief and Economic Security Act (CARES Act). The guidance formalizes the preliminary guidance provided by the IRS and based on changes made to the ERTC program through the passage of the Consolidated Appropriations Act (CAA) of 2021. The guidance makes some significant changes to the rules.

Because of the new guidance, we believe it is appropriate to advise you of the possibility that your return may need to be amended at a later date if the ERTC is claimed. We prepared your return(s) with the best information available to us and with the guidance available but without the ability to assess the full impact of that interplay – thus the possibility of an amendment. In the event the return needs to be amended, it would require pass-through owners to amend their returns as well.

For more information about the ERTC and its impact please visit our website (www.wipfli.com) or contact your Wipfli Relationship Executive. Your Wipfli team can discuss this in further detail with you and we will be happy to have a conversation about the options. It has been a year of quickly changing guidance and norms, and while we are unable to control decisions made in Washington, we will work with you to obtain the best result.

Please review the return for completeness and accuracy.

We prepared the return from information you furnished us without verification. Upon examination of the return by tax authorities, requests may be made for underlying data. We therefore recommend that you preserve all records which you may be called upon to produce in connection with such possible examinations.

We sincerely appreciate the opportunity to serve you. Please contact us if you have any questions concerning the tax return.

Sincerely,

Kara Fontaine
Certified Public Accountant

TAX RETURN FILING INSTRUCTIONS

FORM 990-PF

FOR THE YEAR ENDING

December 31, 2020

Prepared For:

The Prospect-Woodward Home
95 Wyman Road
Keene, NH 03431

Prepared By:

Wipfli LLP
43 Constitution Drive, Suite 100
Bedford, NH 03110

Amount Due or Refund:

No amount is due

Make Check Payable To:

No amount is due.

Mail Tax Return and Check (if applicable) To:

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201-0027

Return Must be Mailed On or Before:

November 15, 2021

Special Instructions:

We recommend that returns be mailed certified mail, return receipt requested with the stamp validated at a postal station in order to have proof of timely mailing.

Internal Revenue Code Section 6104(d) requires that Form 990 should be made available for public inspection during regular business hours at the organization's principal office. The return must also be available for public inspection at any regional or district offices having three or more employees. Inspection of this return must be allowed for three years from the due date specified above. The inspection requirement applies to all portions of the return except for the names and addresses of any contributors to the organization. The inspection requirement also applies to your organization's application for tax-exempt status (Form 1023 or 1024) and the Internal Revenue Service determination letter approving exempt status.

Return of Private Foundation

or Section 4947(a)(1) Trust Treated as Private Foundation

▶ Do not enter social security numbers on this form as it may be made public.
▶ Go to www.irs.gov/Form990PF for instructions and the latest information.

For calendar year 2020 or tax year beginning , and ending

Name of foundation THE PROSPECT-WOODWARD HOME		A Employer identification number 02-0222146
Number and street (or P.O. box number if mail is not delivered to street address) 95 WYMAN ROAD	Room/suite	B Telephone number (603) 283-5150
City or town, state or province, country, and ZIP or foreign postal code KEENE, NH 03431		C If exemption application is pending, check here ... <input type="checkbox"/>
G Check all that apply: <input type="checkbox"/> Initial return <input type="checkbox"/> Initial return of a former public charity <input type="checkbox"/> Final return <input type="checkbox"/> Amended return <input type="checkbox"/> Address change <input type="checkbox"/> Name change		D 1. Foreign organizations, check here <input type="checkbox"/> 2. Foreign organizations meeting the 85% test, check here and attach computation <input type="checkbox"/>
H Check type of organization: <input checked="" type="checkbox"/> Section 501(c)(3) exempt private foundation <input type="checkbox"/> Section 4947(a)(1) nonexempt charitable trust <input type="checkbox"/> Other taxable private foundation		E If private foundation status was terminated under section 507(b)(1)(A), check here ... <input type="checkbox"/>
I Fair market value of all assets at end of year (from Part II, col. (c), line 16) \$ 97,481,640.	J Accounting method: <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Accrual <input type="checkbox"/> Other (specify) _____	F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here ... <input type="checkbox"/>

Part I Analysis of Revenue and Expenses <small>(The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a).)</small>		(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
Revenue	1 Contributions, gifts, grants, etc., received				
	2 Check <input checked="" type="checkbox"/> if the foundation is not required to attach Sch. B				
	3 Interest on savings and temporary cash investments				
	4 Dividends and interest from securities	101,881.		101,881.	STATEMENT 1
	5a Gross rents				
	b Net rental income or (loss)				
	6a Net gain or (loss) from sale of assets not on line 10	17,218.			
	b Gross sales price for all assets on line 6a	608,384.			
	7 Capital gain net income (from Part IV, line 2)		0.		
	8 Net short-term capital gain			0.	
	9 Income modifications				
	10a Gross sales less returns and allowances				
b Less: Cost of goods sold					
c Gross profit or (loss)					
11 Other income	10,091,797.	0.	10,091,797.	STATEMENT 2	
12 Total. Add lines 1 through 11	10,210,896.	0.	10,193,678.		
Operating and Administrative Expenses	13 Compensation of officers, directors, trustees, etc.	322,733.	0.	87,138.	235,595.
	14 Other employee salaries and wages	4,058,859.	0.	1,095,892.	2,962,967.
	15 Pension plans, employee benefits	372,295.	0.	100,520.	271,775.
	16a Legal fees STMT 3	79,035.	0.	21,339.	57,696.
	b Accounting fees STMT 4	55,256.	0.	14,919.	40,337.
	c Other professional fees STMT 5	40,478.	0.	13,583.	26,895.
	17 Interest	5,755,204.	0.	5,755,204.	0.
	18 Taxes STMT 6	1,012,093.	0.	273,265.	738,828.
	19 Depreciation and depletion	2,561,008.	0.	2,561,008.	
	20 Occupancy	53,536.	0.	14,455.	39,081.
	21 Travel, conferences, and meetings	28,001.	0.	7,560.	20,441.
	22 Printing and publications				
	23 Other expenses STMT 7	2,854,760.	0.	770,784.	2,083,976.
	24 Total operating and administrative expenses. Add lines 13 through 23	17,193,258.	0.	10,715,667.	6,477,591.
	25 Contributions, gifts, grants paid	0.			0.
26 Total expenses and disbursements. Add lines 24 and 25	17,193,258.	0.	10,715,667.	6,477,591.	
27 Subtract line 26 from line 12:					
a Excess of revenue over expenses and disbursements ...	-6,982,362.				
b Net investment income (if negative, enter -0-)		0.			
c Adjusted net income (if negative, enter -0-)			0.		

Part II Balance Sheets		Attached schedules and amounts in the description column should be for end-of-year amounts only.		Beginning of year	End of year	
		(a) Book Value	(b) Book Value	(c) Fair Market Value		
Assets	1	Cash - non-interest-bearing		92.		
	2	Savings and temporary cash investments		16,416,326.	10,060,275.	10,060,275.
	3	Accounts receivable	25.			
		Less: allowance for doubtful accounts		15,233.	25.	25.
	4	Pledges receivable				
		Less: allowance for doubtful accounts				
	5	Grants receivable				
	6	Receivables due from officers, directors, trustees, and other disqualified persons				
	7	Other notes and loans receivable				
		Less: allowance for doubtful accounts				
	8	Inventories for sale or use				
	9	Prepaid expenses and deferred charges		293,347.	395,262.	395,262.
	10a	Investments - U.S. and state government obligations	STMT 8	690,320.	195,160.	195,160.
	b	Investments - corporate stock	STMT 9	844,082.	839,128.	839,128.
	c	Investments - corporate bonds	STMT 10	143,825.	240,018.	240,018.
	11	Investments - land, buildings, and equipment: basis				
	Less: accumulated depreciation					
12	Investments - mortgage loans					
13	Investments - other					
14	Land, buildings, and equipment: basis	89,448,887.				
	Less: accumulated depreciation	4,404,480.	87,556,078.	85,044,407.	85,044,407.	
15	Other assets (describe)		23,927.	707,365.	707,365.	
16	Total assets (to be completed by all filers - see the instructions. Also, see page 1, item I)		105,983,230.	97,481,640.	97,481,640.	
Liabilities	17	Accounts payable and accrued expenses		6,949,911.	7,138,813.	
	18	Grants payable				
	19	Deferred revenue				
	20	Loans from officers, directors, trustees, and other disqualified persons				
	21	Mortgages and other notes payable		65,568,952.	61,285,200.	
	22	Other liabilities (describe)		39,269,166.	41,789,363.	
23	Total liabilities (add lines 17 through 22)		111,788,029.	110,213,376.		
Net Assets or Fund Balances	Foundations that follow FASB ASC 958, check here <input checked="" type="checkbox"/> and complete lines 24, 25, 29, and 30.					
	24	Net assets without donor restrictions		-7,112,859.	-14,080,800.	
	25	Net assets with donor restrictions		1,308,060.	1,349,064.	
	Foundations that do not follow FASB ASC 958, check here <input type="checkbox"/> and complete lines 26 through 30.					
	26	Capital stock, trust principal, or current funds				
	27	Paid-in or capital surplus, or land, bldg., and equipment fund				
	28	Retained earnings, accumulated income, endowment, or other funds				
29	Total net assets or fund balances		-5,804,799.	-12,731,736.		
30	Total liabilities and net assets/fund balances		105,983,230.	97,481,640.		

Part III Analysis of Changes in Net Assets or Fund Balances

1	Total net assets or fund balances at beginning of year - Part II, column (a), line 29 (must agree with end-of-year figure reported on prior year's return)	1	-5,804,799.
2	Enter amount from Part I, line 27a	2	-6,982,362.
3	Other increases not included in line 2 (itemize) UNREALIZED GAIN ON INVESTMENTS	3	55,425.
4	Add lines 1, 2, and 3	4	-12,731,736.
5	Decreases not included in line 2 (itemize)	5	0.
6	Total net assets or fund balances at end of year (line 4 minus line 5) - Part II, column (b), line 29	6	-12,731,736.

Part IV Capital Gains and Losses for Tax on Investment Income

	(a) List and describe the kind(s) of property sold (for example, real estate, 2-story brick warehouse; or common stock, 200 shs. MLC Co.)	(b) How acquired P - Purchase D - Donation	(c) Date acquired (mo., day, yr.)	(d) Date sold (mo., day, yr.)
1a	PUBLICLY TRADED SECURITIES - RESTRICTED	P		
b	PUBLICLY TRADED SECURITIES - UNRESTRICTED	P		
c	PUBLICLY TRADED SECURITIES - RESTRICTED	P		
d				
e				

	(e) Gross sales price	(f) Depreciation allowed (or allowable)	(g) Cost or other basis plus expense of sale	(h) Gain or (loss) ((e) plus (f) minus (g))
a	37,739.		46,177.	-8,438.
b	150,600.		150,000.	600.
c	420,045.		394,989.	25,056.
d				
e				

Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69.				(l) Gains (Col. (h) gain minus col. (k), but not less than -0-) or Losses (from col. (h))
	(i) FMV as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	
a				-8,438.
b				600.
c				25,056.
d				
e				

2	Capital gain net income or (net capital loss) { If gain, also enter in Part I, line 7 If (loss), enter -0- in Part I, line 7	2	17,218.
3	Net short-term capital gain or (loss) as defined in sections 1222(5) and (6): If gain, also enter in Part I, line 8, column (c). See instructions. If (loss), enter -0- in Part I, line 8	3	-8,438.

Part V Qualification Under Section 4940(e) for Reduced Tax on Net Investment Income
SECTION 4940(e) REPEALED ON DECEMBER 20, 2019 - DO NOT COMPLETE.

1	(a) Reserved	(b) Reserved	(c) Reserved	(d) Reserved
	Reserved			
2	Reserved			2
3	Reserved			3
4	Reserved			4
5	Reserved			5
6	Reserved			6
7	Reserved			7
8	Reserved			8

Part VI Excise Tax Based on Investment Income (Section 4940(a), 4940(b), or 4948 - see instructions)

1a Exempt operating foundations described in section 4940(d)(2), check here <input checked="" type="checkbox"/> and enter "N/A" on line 1. Date of ruling or determination letter: <u>07/09/86</u> (attach copy of letter if necessary-see instructions)			
b Reserved		1	N/A
c All other domestic foundations enter 1.39% of line 27b. Exempt foreign organizations, enter 4% of Part I, line 12, col. (b)			
2 Tax under section 511 (domestic section 4947(a)(1) trusts and taxable foundations only; others, enter -0-)		2	
3 Add lines 1 and 2		3	
4 Subtitle A (income) tax (domestic section 4947(a)(1) trusts and taxable foundations only; others, enter -0-)		4	
5 Tax based on investment income. Subtract line 4 from line 3. If zero or less, enter -0-		5	0.
6 Credits/Payments:			
a 2020 estimated tax payments and 2019 overpayment credited to 2020	6a		0.
b Exempt foreign organizations - tax withheld at source	6b		0.
c Tax paid with application for extension of time to file (Form 8868)	6c		0.
d Backup withholding erroneously withheld	6d		0.
7 Total credits and payments. Add lines 6a through 6d	7		0.
8 Enter any penalty for underpayment of estimated tax. Check here <input type="checkbox"/> if Form 2220 is attached	8		0.
9 Tax due. If the total of lines 5 and 8 is more than line 7, enter amount owed	9		0.
10 Overpayment. If line 7 is more than the total of lines 5 and 8, enter the amount overpaid	10		
11 Enter the amount of line 10 to be: Credited to 2021 estimated tax <input type="checkbox"/> Refunded <input checked="" type="checkbox"/>	11		

Part VII-A Statements Regarding Activities

	Yes	No
1a During the tax year, did the foundation attempt to influence any national, state, or local legislation or did it participate or intervene in any political campaign?		X
b Did it spend more than \$100 during the year (either directly or indirectly) for political purposes? See the instructions for the definition If the answer is "Yes" to 1a or 1b, attach a detailed description of the activities and copies of any materials published or distributed by the foundation in connection with the activities.		X
c Did the foundation file Form 1120-POL for this year?		X
d Enter the amount (if any) of tax on political expenditures (section 4955) imposed during the year: (1) On the foundation. <input type="checkbox"/> \$ <u>0.</u> (2) On foundation managers. <input type="checkbox"/> \$ <u>0.</u>		
e Enter the reimbursement (if any) paid by the foundation during the year for political expenditure tax imposed on foundation managers. <input type="checkbox"/> \$ <u>0.</u>		
2 Has the foundation engaged in any activities that have not previously been reported to the IRS? If "Yes," attach a detailed description of the activities.		X
3 Has the foundation made any changes, not previously reported to the IRS, in its governing instrument, articles of incorporation, or bylaws, or other similar instruments? If "Yes," attach a conformed copy of the changes		X
4a Did the foundation have unrelated business gross income of \$1,000 or more during the year?		X
b If "Yes," has it filed a tax return on Form 990-T for this year?		N/A
5 Was there a liquidation, termination, dissolution, or substantial contraction during the year? If "Yes," attach the statement required by <i>General Instruction T</i> .		X
6 Are the requirements of section 508(e) (relating to sections 4941 through 4945) satisfied either: • By language in the governing instrument, or • By state legislation that effectively amends the governing instrument so that no mandatory directions that conflict with the state law remain in the governing instrument?	X	
7 Did the foundation have at least \$5,000 in assets at any time during the year? If "Yes," complete Part II, col. (c), and Part XV	X	
8a Enter the states to which the foundation reports or with which it is registered. See instructions. <input type="checkbox"/> <u>NH</u>		
b If the answer is "Yes" to line 7, has the foundation furnished a copy of Form 990-PF to the Attorney General (or designate) of each state as required by <i>General Instruction G</i> ? If "No," attach explanation	X	
9 Is the foundation claiming status as a private operating foundation within the meaning of section 4942(j)(3) or 4942(j)(5) for calendar year 2020 or the tax year beginning in 2020? See the instructions for Part XIV. If "Yes," complete Part XIV	X	
10 Did any persons become substantial contributors during the tax year? If "Yes," attach a schedule listing their names and addresses		X

Part VII-A Statements Regarding Activities (continued)

Table with 3 columns: Question, Yes, No. Rows 11-16. Row 11: At any time during the year, did the foundation, directly or indirectly, own a controlled entity... Row 12: Did the foundation make a distribution to a donor advised fund... Row 13: Did the foundation comply with the public inspection requirements... Row 14: The books are in care of TOBY SHEA, CRO... Row 15: Section 4947(a)(1) nonexempt charitable trusts filing Form 990-PF... Row 16: At any time during calendar year 2020, did the foundation have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country?

Part VII-B Statements Regarding Activities for Which Form 4720 May Be Required

File Form 4720 if any item is checked in the "Yes" column, unless an exception applies.

Table with 3 columns: Question, Yes, No. Rows 1a-4b. Row 1a: During the year, did the foundation (either directly or indirectly): (1) Engage in the sale or exchange, or leasing of property with a disqualified person? (2) Borrow money from, lend money to, or otherwise extend credit to (or accept it from) a disqualified person? (3) Furnish goods, services, or facilities to (or accept them from) a disqualified person? (4) Pay compensation to, or pay or reimburse the expenses of, a disqualified person? (5) Transfer any income or assets to a disqualified person (or make any of either available for the benefit or use of a disqualified person)? (6) Agree to pay money or property to a government official? (Exception. Check "No" if the foundation agreed to make a grant to or to employ the official for a period after termination of government service, if terminating within 90 days.) Row 1b: If any answer is "Yes" to 1a(1)-(6), did any of the acts fail to qualify under the exceptions described in Regulations section 53.4941(d)-3 or in a current notice regarding disaster assistance? See instructions. Organizations relying on a current notice regarding disaster assistance, check here. Row 1c: Did the foundation engage in a prior year in any of the acts described in 1a, other than excepted acts, that were not corrected before the first day of the tax year beginning in 2020? Row 2: Taxes on failure to distribute income (section 4942) (does not apply for years the foundation was a private operating foundation defined in section 4942(j)(3) or 4942(j)(5)): a At the end of tax year 2020, did the foundation have any undistributed income (Part XIII, lines 6d and 6e) for tax year(s) beginning before 2020? b Are there any years listed in 2a for which the foundation is not applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) to the year's undistributed income? (If applying section 4942(a)(2) to all years listed, answer "No" and attach statement - see instructions.) c If the provisions of section 4942(a)(2) are being applied to any of the years listed in 2a, list the years here. Row 3a: Did the foundation hold more than a 2% direct or indirect interest in any business enterprise at any time during the year? b If "Yes," did it have excess business holdings in 2020 as a result of (1) any purchase by the foundation or disqualified persons after May 26, 1969; (2) the lapse of the 5-year period (or longer period approved by the Commissioner under section 4943(c)(7)) to dispose of holdings acquired by gift or bequest; or (3) the lapse of the 10-, 15-, or 20-year first phase holding period? (Use Form 4720, Schedule C, to determine if the foundation had excess business holdings in 2020.) Row 4a: Did the foundation invest during the year any amount in a manner that would jeopardize its charitable purposes? b Did the foundation make any investment in a prior year (but after December 31, 1969) that could jeopardize its charitable purpose that had not been removed from jeopardy before the first day of the tax year beginning in 2020?

Part VII-B Statements Regarding Activities for Which Form 4720 May Be Required (continued)

		Yes	No
5a During the year, did the foundation pay or incur any amount to:			
(1) Carry on propaganda, or otherwise attempt to influence legislation (section 4945(e))?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
(2) Influence the outcome of any specific public election (see section 4955); or to carry on, directly or indirectly, any voter registration drive?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
(3) Provide a grant to an individual for travel, study, or other similar purposes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
(4) Provide a grant to an organization other than a charitable, etc., organization described in section 4945(d)(4)(A)? See instructions	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
(5) Provide for any purpose other than religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
b If any answer is "Yes" to 5a(1)-(5), did any of the transactions fail to qualify under the exceptions described in Regulations section 53.4945 or in a current notice regarding disaster assistance? See instructions	N/A	5b	
Organizations relying on a current notice regarding disaster assistance, check here	<input type="checkbox"/>		
c If the answer is "Yes" to question 5a(4), does the foundation claim exemption from the tax because it maintained expenditure responsibility for the grant?	N/A <input type="checkbox"/> Yes <input type="checkbox"/> No		
If "Yes," attach the statement required by Regulations section 53.4945-5(d).			
6a Did the foundation, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
b Did the foundation, during the year, pay premiums, directly or indirectly, on a personal benefit contract?		6b	X
If "Yes" to 6b, file Form 8870.			
7a At any time during the tax year, was the foundation a party to a prohibited tax shelter transaction?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
b If "Yes," did the foundation receive any proceeds or have any net income attributable to the transaction?	N/A	7b	
8 Is the foundation subject to the section 4960 tax on payment(s) of more than \$1,000,000 in remuneration or excess parachute payment(s) during the year?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

Part VIII Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors

1 List all officers, directors, trustees, and foundation managers and their compensation.

(a) Name and address	(b) Title, and average hours per week devoted to position	(c) Compensation (If not paid, enter -0-)	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances
SEE STATEMENT 13		321,774.	960.	0.

2 Compensation of five highest-paid employees (other than those included on line 1). If none, enter "NONE."

(a) Name and address of each employee paid more than \$50,000	(b) Title, and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances
JUDY FRANSEEN 34 DRIFTWOOD LN, LACONIA, NH 03246	DIRECTOR OF SALES & MARKETING 40.00	142,323.	0.	0.
RICHARD MANWARING 110 ARCH STREET #23, KEENE, NH 03431	DIRECTOR OF ACCOUNTING 40.00	90,569.	0.	0.
ANDY KROPFF - 390 N. BENNINGTON RD, BENNINGTON, NH 03467	DIRECTOR OF FACILITIES 40.00	78,531.	0.	0.
KRISTIN MATTHESON 50 GILMORE POND RD, JAFFREY, NH 03452	DIRECTOR OF FOOD & BEVERAGE SERVICE 40.00	77,149.	0.	0.
KAREN BERTOLAMI 28 OWENS DRIVE #20, SWANZEY, NH 03446	DIRECTOR OF NURSING 40.00	75,545.	0.	0.
Total number of other employees paid over \$50,000				0

Part VIII Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors *(continued)*

3 Five highest-paid independent contractors for professional services. If none, enter "NONE."

(a) Name and address of each person paid more than \$50,000	(b) Type of service	(c) Compensation
LIFE CARE SERVICES - 400 LOCUST STREET, SUITE 820, DES MOINES, IA 50309	MANAGEMENT COMPANY	396,687.
HINCKLEY, ALLEN & SNYDER - 650 ELM STREET, SUITE 500, MANCHESTER, NH 03101	LEGAL	223,224.
POLSINELLI PC - 800 WEST 47TH STEET, SUITE 300, KANSAS CITY, MO 64112	LEGAL	152,350.
SIMPSON GUMPERTZ & HEGER INC. PO BOX 843476, BOSTON, MA 02284	ENGINEERING	125,142.
ONEPOINT PARTNERS - 10 MAPLE STREET, SUITE 302, MIDDLETON, MA 01949	STRATEGIC ADVISORY	112,500.
Total number of others receiving over \$50,000 for professional services		3

Part IX-A Summary of Direct Charitable Activities

List the foundation's four largest direct charitable activities during the tax year. Include relevant statistical information such as the number of organizations and other beneficiaries served, conferences convened, research papers produced, etc.	Expenses
1 OPERATE AND MAINTAIN A CONTINUING CARE RETIREMENT COMMUNITY FOR INDEPENDENT LIVING, INCLUDING 116 INDEPENDENT LIVING APARTMENTS AND 24 INDEPENDENT LIVING VILLAS.	7,435,048.
2 OPERATE AND MAINTAIN A HOME PROVIDING ASSISTED LIVING AND LONG TERM CARE. THIS CONSISTS OF 43 ASSISTED LIVING UNITS, 20 LONG TERM CARE UNITS AND 18 MEMORY CARE UNITS.	4,021,412.
3	
4	

Part IX-B Summary of Program-Related Investments

Describe the two largest program-related investments made by the foundation during the tax year on lines 1 and 2.	Amount
1 N/A	
2	
All other program-related investments. See instructions.	
3	
Total. Add lines 1 through 3	0.

Part X Minimum Investment Return (All domestic foundations must complete this part. Foreign foundations, see instructions.)

1 Fair market value of assets not used (or held for use) directly in carrying out charitable, etc., purposes:			
a	Average monthly fair market value of securities	1a	1,986,074.
b	Average of monthly cash balances	1b	3,182,995.
c	Fair market value of all other assets	1c	
d	Total (add lines 1a, b, and c)	1d	5,169,069.
e	Reduction claimed for blockage or other factors reported on lines 1a and 1c (attach detailed explanation)	1e	0.
2	Acquisition indebtedness applicable to line 1 assets	2	0.
3	Subtract line 2 from line 1d	3	5,169,069.
4	Cash deemed held for charitable activities. Enter 1 1/2% of line 3 (for greater amount, see instructions)	4	77,536.
5	Net value of noncharitable-use assets. Subtract line 4 from line 3. Enter here and on Part V, line 4	5	5,091,533.
6	Minimum investment return. Enter 5% of line 5	6	254,577.

Part XI Distributable Amount (see instructions) (Section 4942(j)(3) and (j)(5) private operating foundations and certain foreign organizations, check here and do not complete this part.)

1	Minimum investment return from Part X, line 6	1	
2a	Tax on investment income for 2020 from Part VI, line 5	2a	
b	Income tax for 2020. (This does not include the tax from Part VI.)	2b	
c	Add lines 2a and 2b	2c	
3	Distributable amount before adjustments. Subtract line 2c from line 1	3	
4	Recoveries of amounts treated as qualifying distributions	4	
5	Add lines 3 and 4	5	
6	Deduction from distributable amount (see instructions)	6	
7	Distributable amount as adjusted. Subtract line 6 from line 5. Enter here and on Part XIII, line 1	7	

Part XII Qualifying Distributions (see instructions)

1 Amounts paid (including administrative expenses) to accomplish charitable, etc., purposes:			
a	Expenses, contributions, gifts, etc. - total from Part I, column (d), line 26	1a	6,477,591.
b	Program-related investments - total from Part IX-B	1b	0.
2	Amounts paid to acquire assets used (or held for use) directly in carrying out charitable, etc., purposes	2	
3	Amounts set aside for specific charitable projects that satisfy the:		
a	Suitability test (prior IRS approval required)	3a	
b	Cash distribution test (attach the required schedule)	3b	
4	Qualifying distributions. Add lines 1a through 3b. Enter here and on Part V, line 8; and Part XIII, line 4	4	6,477,591.
5	Foundations that qualify under section 4940(e) for the reduced rate of tax on net investment income. Enter 1% of Part I, line 27b	5	0.
6	Adjusted qualifying distributions. Subtract line 5 from line 4	6	6,477,591.

Note: The amount on line 6 will be used in Part V, column (b), in subsequent years when calculating whether the foundation qualifies for the section 4940(e) reduction of tax in those years.

Part XIII Undistributed Income (see instructions)

N/A

	(a) Corpus	(b) Years prior to 2019	(c) 2019	(d) 2020
1 Distributable amount for 2020 from Part XI, line 7				
2 Undistributed income, if any, as of the end of 2020:				
a Enter amount for 2019 only				
b Total for prior years:				
_____ , _____ , _____				
3 Excess distributions carryover, if any, to 2020:				
a From 2015				
b From 2016				
c From 2017				
d From 2018				
e From 2019				
f Total of lines 3a through e				
4 Qualifying distributions for 2020 from Part XII, line 4: ► \$ _____				
a Applied to 2019, but not more than line 2a ...				
b Applied to undistributed income of prior years (Election required - see instructions) ...				
c Treated as distributions out of corpus (Election required - see instructions)				
d Applied to 2020 distributable amount				
e Remaining amount distributed out of corpus				
5 Excess distributions carryover applied to 2020 (If an amount appears in column (d), the same amount must be shown in column (a).)				
6 Enter the net total of each column as indicated below:				
a Corpus. Add lines 3f, 4c, and 4e. Subtract line 5				
b Prior years' undistributed income. Subtract line 4b from line 2b				
c Enter the amount of prior years' undistributed income for which a notice of deficiency has been issued, or on which the section 4942(a) tax has been previously assessed				
d Subtract line 6c from line 6b. Taxable amount - see instructions				
e Undistributed income for 2019. Subtract line 4a from line 2a. Taxable amount - see instr. ...				
f Undistributed income for 2020. Subtract lines 4d and 5 from line 1. This amount must be distributed in 2021				
7 Amounts treated as distributions out of corpus to satisfy requirements imposed by section 170(b)(1)(F) or 4942(g)(3) (Election may be required - see instructions)				
8 Excess distributions carryover from 2015 not applied on line 5 or line 7				
9 Excess distributions carryover to 2021. Subtract lines 7 and 8 from line 6a				
10 Analysis of line 9:				
a Excess from 2016 ...				
b Excess from 2017 ...				
c Excess from 2018 ...				
d Excess from 2019 ...				
e Excess from 2020 ...				

Part XIV Private Operating Foundations (see instructions and Part VII-A, question 9)

1 a If the foundation has received a ruling or determination letter that it is a private operating foundation, and the ruling is effective for 2020, enter the date of the ruling ▶ 07/09/86

b Check box to indicate whether the foundation is a private operating foundation described in section 4942(j)(3) or 4942(j)(5)

	Tax year				(e) Total
	(a) 2020	(b) 2019	(c) 2018	(d) 2017	
2 a Enter the lesser of the adjusted net income from Part I or the minimum investment return from Part X for each year listed	0.	0.	0.	0.	0.
b 85% of line 2a	0.	0.	0.	0.	0.
c Qualifying distributions from Part XII, line 4, for each year listed	6,477,591.	5,001,895.	1,795,781.	1,807,499.	15,082,766.
d Amounts included in line 2c not used directly for active conduct of exempt activities	0.	0.	0.	0.	0.
e Qualifying distributions made directly for active conduct of exempt activities. Subtract line 2d from line 2c	6,477,591.	5,001,895.	1,795,781.	1,807,499.	15,082,766.
3 Complete 3a, b, or c for the alternative test relied upon:					
a "Assets" alternative test - enter:					
(1) Value of all assets					0.
(2) Value of assets qualifying under section 4942(j)(3)(B)(i)					0.
b "Endowment" alternative test - enter 2/3 of minimum investment return shown in Part X, line 6, for each year listed	169,718.	155,911.	46,217.	69,777.	441,623.
c "Support" alternative test - enter:					
(1) Total support other than gross investment income (interest, dividends, rents, payments on securities loans (section 512(a)(5)), or royalties)					0.
(2) Support from general public and 5 or more exempt organizations as provided in section 4942(j)(3)(B)(iii)					0.
(3) Largest amount of support from an exempt organization					0.
(4) Gross investment income					0.

Part XV Supplementary Information (Complete this part only if the foundation had \$5,000 or more in assets at any time during the year-see instructions.)

1 Information Regarding Foundation Managers:

a List any managers of the foundation who have contributed more than 2% of the total contributions received by the foundation before the close of any tax year (but only if they have contributed more than \$5,000). (See section 507(d)(2).)

NONE

b List any managers of the foundation who own 10% or more of the stock of a corporation (or an equally large portion of the ownership of a partnership or other entity) of which the foundation has a 10% or greater interest.

NONE

2 Information Regarding Contribution, Grant, Gift, Loan, Scholarship, etc., Programs:

Check here if the foundation only makes contributions to preselected charitable organizations and does not accept unsolicited requests for funds. If the foundation makes gifts, grants, etc., to individuals or organizations under other conditions, complete items 2a, b, c, and d.

a The name, address, and telephone number or email address of the person to whom applications should be addressed:

b The form in which applications should be submitted and information and materials they should include:

c Any submission deadlines:

d Any restrictions or limitations on awards, such as by geographical areas, charitable fields, kinds of institutions, or other factors:

Part XV **Supplementary Information** *(continued)*

3 Grants and Contributions Paid During the Year or Approved for Future Payment				
Recipient	If recipient is an individual, show any relationship to any foundation manager or substantial contributor	Foundation status of recipient	Purpose of grant or contribution	Amount
Name and address (home or business)				
a Paid during the year				
NONE				
Total				3a 0.
b Approved for future payment				
NONE				
Total				3b 0.

Underpayment of Estimated Tax by Corporations

▶ Attach to the corporation's tax return. **FORM 990-PF**

▶ Go to www.irs.gov/Form2220 for instructions and the latest information.

2020

Name THE PROSPECT-WOODWARD HOME	Employer identification number 02-0222146
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Note: Generally, the corporation is not required to file Form 2220 (see Part II below for exceptions) because the IRS will figure any penalty owed and bill the corporation. However, the corporation may still use Form 2220 to figure the penalty. If so, enter the amount from page 2, line 38, on the estimated tax penalty line of the corporation's income tax return, but **do not** attach Form 2220.

Part I Required Annual Payment			
1 Total tax (see instructions)		1	
2 a Personal holding company tax (Schedule PH (Form 1120), line 26) included on line 1	2a		
b Look-back interest included on line 1 under section 460(b)(2) for completed long-term contracts or section 167(g) for depreciation under the income forecast method	2b		
c Credit for federal tax paid on fuels (see instructions)	2c		
d Total. Add lines 2a through 2c		2d	
3 Subtract line 2d from line 1. If the result is less than \$500, do not complete or file this form. The corporation does not owe the penalty		3	
4 Enter the tax shown on the corporation's 2019 income tax return. See instructions. Caution: If the tax is zero or the tax year was for less than 12 months, skip this line and enter the amount from line 3 on line 5		4	
5 Required annual payment. Enter the smaller of line 3 or line 4. If the corporation is required to skip line 4, enter the amount from line 3		5	

Part II Reasons for Filing - Check the boxes below that apply. If any boxes are checked, the corporation **must** file Form 2220 even if it does not owe a penalty. See instructions.

6 The corporation is using the adjusted seasonal installment method.

7 The corporation is using the annualized income installment method.

8 The corporation is a "large corporation" figuring its first required installment based on the prior year's tax.

Part III Figuring the Underpayment					
		(a)	(b)	(c)	(d)
9 Installment due dates. Enter in columns (a) through (d) the 15th day of the 4th (Form 990-PF filers: Use 5th month), 6th, 9th, and 12th months of the corporation's tax year. Filers with installments due on or after April 1, 2020, and before July 15, 2020, see instructions	9				
10 Required installments. If the box on line 6 and/or line 7 above is checked, enter the amounts from Sch A, line 38. If the box on line 8 (but not 6 or 7) is checked, see instructions for the amounts to enter. If none of these boxes are checked, enter 25% (0.25) of line 5 above in each column	10				
11 Estimated tax paid or credited for each period. For column (a) only, enter the amount from line 11 on line 15. See instructions	11				
Complete lines 12 through 18 of one column before going to the next column.					
12 Enter amount, if any, from line 18 of the preceding column	12				
13 Add lines 11 and 12	13				
14 Add amounts on lines 16 and 17 of the preceding column	14				
15 Subtract line 14 from line 13. If zero or less, enter -0-	15				
16 If the amount on line 15 is zero, subtract line 13 from line 14. Otherwise, enter -0-	16				
17 Underpayment. If line 15 is less than or equal to line 10, subtract line 15 from line 10. Then go to line 12 of the next column. Otherwise, go to line 18	17				
18 Overpayment. If line 10 is less than line 15, subtract line 10 from line 15. Then go to line 12 of the next column	18				

Go to Part IV on page 2 to figure the penalty. Do not go to Part IV if there are no entries on line 17 - no penalty is owed.

Part IV Figuring the Penalty

	(a)	(b)	(c)	(d)
19 Enter the date of payment or the 15th day of the 4th month after the close of the tax year, whichever is earlier. (C corporations with tax years ending June 30 and S corporations: Use 3rd month instead of 4th month. Form 990-PF and Form 990-T filers: Use 5th month instead of 4th month.) See instructions	19			
20 Number of days from due date of installment on line 9 to the date shown on line 19	20			
21 Number of days on line 20 after 4/15/2020 and before 7/1/2020	21			
22 Underpayment on line 17 x $\frac{\text{Number of days on line 21} \times 5\% (0.05)}{366}$...	22 \$	\$	\$	\$
23 Number of days on line 20 after 6/30/2020 and before 10/1/2020	23			
24 Underpayment on line 17 x $\frac{\text{Number of days on line 23} \times 3\% (0.03)}{366}$...	24 \$	\$	\$	\$
25 Number of days on line 20 after 9/30/2020 and before 1/1/2021	25			
26 Underpayment on line 17 x $\frac{\text{Number of days on line 25} \times 3\% (0.03)}{366}$...	26 \$	\$	\$	\$
27 Number of days on line 20 after 12/31/2020 and before 4/1/2021	27			
28 Underpayment on line 17 x $\frac{\text{Number of days on line 27} \times 3\% (0.03)}{365}$...	28 \$	\$	\$	\$
29 Number of days on line 20 after 3/31/2021 and before 7/1/2021	29			
30 Underpayment on line 17 x $\frac{\text{Number of days on line 29} \times \%}{365}$	30 \$	\$	\$	\$
31 Number of days on line 20 after 6/30/2021 and before 10/1/2021	31			
32 Underpayment on line 17 x $\frac{\text{Number of days on line 31} \times \%}{365}$	32 \$	\$	\$	\$
33 Number of days on line 20 after 9/30/2021 and before 1/1/2022	33			
34 Underpayment on line 17 x $\frac{\text{Number of days on line 33} \times \%}{365}$	34 \$	\$	\$	\$
35 Number of days on line 20 after 12/31/2021 and before 3/16/2022	35			
36 Underpayment on line 17 x $\frac{\text{Number of days on line 35} \times \%}{365}$	36 \$	\$	\$	\$
37 Add lines 22, 24, 26, 28, 30, 32, 34, and 36	37 \$	\$	\$	\$
38 Penalty. Add columns (a) through (d) of line 37. Enter the total here and on Form 1120, line 34; or the comparable line for other income tax returns	38 \$			0.

* Use the penalty interest rate for each calendar quarter, which the IRS will determine during the first month in the preceding quarter. These rates are published quarterly in an IRS News Release and in a revenue ruling in the Internal Revenue Bulletin. To obtain this information on the Internet, access the IRS website at www.irs.gov. You can also call 1-800-829-4933 to get interest rate information.

FORM 990-PF

DIVIDENDS AND INTEREST FROM SECURITIES

STATEMENT 1

SOURCE	GROSS AMOUNT	CAPITAL GAINS DIVIDENDS	(A) REVENUE PER BOOKS	(B) NET INVESTMENT INCOME	(C) ADJUSTED NET INCOME
DIVIDENDS AND INTEREST FROM SECURITIES	101,881.	0.	101,881.	0.	101,881.
TO PART I, LINE 4	101,881.	0.	101,881.	0.	101,881.

FORM 990-PF

OTHER INCOME

STATEMENT 2

DESCRIPTION	(A) REVENUE PER BOOKS	(B) NET INVESTMENT INCOME	(C) ADJUSTED NET INCOME
INDEPENDENT LIVING	6,302,246.	0.	6,302,246.
ASSISTED LIVING	1,187,707.	0.	1,187,707.
OTHER REVENUE	15,691.	0.	15,691.
AMORTIZATION - ENTRANCE FEES	1,874,028.	0.	1,874,028.
GRANT REVENUE	712,125.	0.	712,125.
TOTAL TO FORM 990-PF, PART I, LINE 11	10,091,797.	0.	10,091,797.

FORM 990-PF

LEGAL FEES

STATEMENT 3

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVESTMENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
LEGAL	79,035.	0.	21,339.	57,696.
TO FM 990-PF, PG 1, LN 16A	79,035.	0.	21,339.	57,696.

FORM 990-PF

ACCOUNTING FEES

STATEMENT 4

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVESTMENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
CPA	55,256.	0.	14,919.	40,337.
TO FORM 990-PF, PG 1, LN 16B	55,256.	0.	14,919.	40,337.

FORM 990-PF

OTHER PROFESSIONAL FEES

STATEMENT 5

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
TRUSTEE FEES	3,636.	0.	3,636.	0.
LICENSES AND PERMITS	36,842.	0.	9,947.	26,895.
TO FORM 990-PF, PG 1, LN 16C	40,478.	0.	13,583.	26,895.

FORM 990-PF

TAXES

STATEMENT 6

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
PAYROLL TAXES	342,023.	0.	92,346.	249,677.
REAL ESTATE TAXES	670,070.	0.	180,919.	489,151.
TO FORM 990-PF, PG 1, LN 18	1,012,093.	0.	273,265.	738,828.

FORM 990-PF

OTHER EXPENSES

STATEMENT 7

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
ADVERTISING	263,647.	0.	71,185.	192,462.
BANK FEES	535.	0.	144.	391.
DIETARY	541,012.	0.	146,073.	394,939.
HOUSEKEEPING	2,142.	0.	578.	1,564.
INSURANCE	140,646.	0.	37,974.	102,672.
OTHER MISCELLANEOUS	2,321.	0.	627.	1,694.
PROFESSIONAL DEVELOPMENT	5,289.	0.	1,428.	3,861.
REPAIRS AND MAINTENANCE	266,010.	0.	71,823.	194,187.
SUPPLIES	232,107.	0.	62,669.	169,438.
UTILITIES	611,264.	0.	165,041.	446,223.
ACTIVITIES	13,922.	0.	3,759.	10,163.
OFFICE EXPENSE	43,072.	0.	11,629.	31,443.
CONTRACTED SERVICES	636,293.	0.	171,799.	464,494.
LOSS ON BOND EXTINGUISHMENT	96,500.	0.	26,055.	70,445.
TO FORM 990-PF, PG 1, LN 23	2,854,760.	0.	770,784.	2,083,976.

FORM 990-PF U.S. AND STATE/CITY GOVERNMENT OBLIGATIONS STATEMENT 8

DESCRIPTION	U.S. GOV'T	OTHER GOV'T	BOOK VALUE	FAIR MARKET VALUE
GOVERNMENT & GOVERNMENT AGENCIES	X		195,160.	195,160.
TOTAL U.S. GOVERNMENT OBLIGATIONS			195,160.	195,160.
TOTAL STATE AND MUNICIPAL GOVERNMENT OBLIGATIONS				
TOTAL TO FORM 990-PF, PART II, LINE 10A			195,160.	195,160.

FORM 990-PF CORPORATE STOCK STATEMENT 9

DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
EQUITIES	839,128.	839,128.
TOTAL TO FORM 990-PF, PART II, LINE 10B	839,128.	839,128.

FORM 990-PF CORPORATE BONDS STATEMENT 10

DESCRIPTION	BOOK VALUE	FAIR MARKET VALUE
CORPORATE BONDS	240,018.	240,018.
TOTAL TO FORM 990-PF, PART II, LINE 10C	240,018.	240,018.

FORM 990-PF OTHER ASSETS STATEMENT 11

DESCRIPTION	BEGINNING OF YR BOOK VALUE	END OF YEAR BOOK VALUE	FAIR MARKET VALUE
CONSTRUCTION IN PROCESS	20,965.	704,403.	704,403.
SECURITY DEPOSIT	2,962.	2,962.	2,962.
TO FORM 990-PF, PART II, LINE 15	23,927.	707,365.	707,365.

FORM 990-PF

OTHER LIABILITIES

STATEMENT 12

DESCRIPTION	BOY AMOUNT	EOY AMOUNT
NONREFUNDABLE ENTRANCE FEE LIABILITY	14,324,432.	15,677,401.
REFUNDABLE ENTRANCE FEE LIABILITY	21,186,000.	21,785,400.
LINE OF CREDIT	1,727,760.	1,727,760.
ENTRANCE FEE DEPOSITS	358,233.	168,285.
REFUNDABLE ENTRANCE FEES, CURRENT PORTION	1,672,741.	2,349,051.
REFUNDABLE ADVANCE LIABILITY	0.	81,466.
 TOTAL TO FORM 990-PF, PART II, LINE 22	39,269,166.	41,789,363.

FORM 990-PF

PART VIII - LIST OF OFFICERS, DIRECTORS
TRUSTEES AND FOUNDATION MANAGERS

STATEMENT 13

NAME AND ADDRESS	TITLE AND AVRG HRS/WK	COMPEN- SATION	EMPLOYEE BEN PLAN CONTRIB	EXPENSE ACCOUNT
ANNE MEDDAUGH 65 HILLTOP DRIVE KEENE, NH 03431	DIRECTOR 2.00	0.	0.	0.
BELINDA OSTER 8 STARLIGHT DRIVE KEENE, NH 03431	VICE-CHAIR 10.00	0.	0.	0.
DAVID DOLL 51 W SURRY ROAD KEENE, NH 03431	DIRECTOR 2.00	0.	0.	0.
GARY SHAPIRO 140 PEG SHOP ROAD KEENE, NH 03431	DIRECTOR 2.00	0.	0.	0.
GREG MCCONAHEY 9 DARLING COURT KEENE, NH 03431	TREASURER 10.00	0.	0.	0.
JANE WARNER 129 DARLING ROAD KEENE, NH 03431	DIRECTOR 2.00	0.	0.	0.
JAY EASON PO BOX 593 SPOFFORD, NH 03462	DIRECTOR 2.00	0.	0.	0.
JEANIE SY 95 WYMAN ROAD #3408 KEENE, NH 03431	DIRECTOR 2.00	0.	0.	0.
JOLYNN WHITTEN 75 CROSS STREET KEENE, NH 03431	EXECUTIVE DIRECTOR 40.00	218,967.	0.	0.
KIMBALL TEMPLE 95 WYMAN ROAD #4409 KEENE, NH 03431	IMMEDIATE PAST CHAIR 2.00	0.	0.	0.

THE PROSPECT-WOODWARD HOME

02-0222146

MARY ELLEN DUNHAM
PO BOX 317
WALPOLE, NH 03608

HEALTH CENTER ADMINISTRATOR
40.00 102,807.

960. 0.

NANCY CRAWFORD
109 SUGAR MAPLE LANE
SPOFFORD, NH 03462

CHAIR
50.00

0. 0. 0.

NANCY THOMPSON
331 WEST SURRY ROAD
KEENE, NH 03431

DIRECTOR
2.00

0. 0. 0.

RAND BURNETT
PO BOX 666
KEENE, NH 03431

SECRETARY
10.00

0. 0. 0.

ROB HARRIS
30 RITAS WAY
MARLBOROUGH, NH 03455

DIRECTOR
2.00

0. 0. 0.

KENDALL LANE
5 HASTINGS AVENUE
KEENE, NH 03431

DIRECTOR
2.00

0. 0. 0.

TOTALS INCLUDED ON 990-PF, PAGE 6, PART VIII

321,774.	960.	0.
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APPENDIX E
Covenant Living of Keene Amended Articles of Agreement

**ARTICLES OF AGREEMENT
OF
COVENANT LIVING OF KEENE**
A New Hampshire Nonprofit Corporation

THE UNDERSIGNED, being persons of lawful age, associate under the provisions of the New Hampshire Revised Statutes Annotated, Chapter 292 by the following articles:

Article 1. Name. The name of the Corporation is COVENANT LIVING OF KEENE.

Article 2. Governance. The Corporation shall have one class of Membership. The sole Member of the Corporation shall be Covenant Living Services, an Illinois not for profit corporation (also referred to herein as "Member"). The Corporation's Member shall have all of the rights provided to the Corporation's Member under the Corporation's Articles of Agreement and Bylaws and all rights afforded to voting members of a New Hampshire nonprofit corporation under the New Hampshire Revised Statutes Annotated, Chapter 292, to the extent such rights are not modified or supplanted by the Corporation's Articles of Agreement and Bylaws. In addition, the Board of Directors of Covenant Living Communities and Services, the Board of Benevolence of The Evangelical Covenant Church and the Executive Board of The Evangelical Covenant Church shall have such rights as provided to them under the Corporation's Articles of Agreement and Bylaws.

Article 3. Purposes. The Corporation is organized, and shall be operated, exclusively for charitable, religious, educational and scientific purposes within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provisions of any future federal tax code (the "Code"), specifically, to benefit, perform the functions of, and carry out the purposes of one or more not for profit organizations that (i) provide a continuum of care and services to senior adults and families on behalf of the Board of Benevolence of The Evangelical Covenant Church and Covenant Living Communities and Services; (ii) are exempt from taxation under Section 501 of the Code; (iii) qualify for exclusion from private foundation status under Sections 509(a)(1) or 509(a)(2) of the Code; and (iv) are supervised or controlled in connection with the Corporation and Covenant Living Services within the meaning of Section 509(a)(3) of the Code.

Article 4. Powers. Subject to the limitations contained in the Corporation's Articles of Agreement and Bylaws, the Corporation is empowered and authorized to receive (whether by gift, bequest, devise or other form of donation), acquire, buy, take hold, own, manage, invest, lease, mortgage, exchange, convey, donate, and dispose of any and all kinds of property, real, personal or mixed; to borrow and lend money; to do all things necessary, incidental or advantageous to the aforesaid purposes of the Corporation or for the carrying on or execution of the same; and, to do all other things permitted by the New Hampshire statutes and other laws that are consistent with the purposes set forth in Article 3 hereof.

Unless explicitly provided otherwise in writing by a testator or donor, a gift or contribution made to the Corporation will not be an "endowment", as that term is defined in Section 2 of RSA 292 B, the New Hampshire Uniform Prudent Management of Institutional Funds Act or the corresponding provision of any future New Hampshire law (referred to in these Articles of Agreement as

“UPMIFA”). Thus, the Corporation’s expenditure or accumulation of such a gift or contribution shall not be subject to the endowment expenditure restrictions set forth in Section 4 of UPMIFA.

Article 5. Tax Exempt Organization. In all events and circumstances, and regardless of any merger, consolidation, reorganization, termination, dissolution, or winding up of the Corporation (whether voluntary, involuntary or by operation of law), or amendment to the Articles of Agreement, all of the assets and earnings of the Corporation shall be used exclusively for charitable, religious, educational, or scientific purposes within the meaning of Section 501 (c)(3) of the Code, and:

- (a) No part of the net earnings shall inure to the benefit of or be distributed to its directors or officers, or other private persons; except that the Corporation shall be empowered to: (i) pay reasonable compensation for services rendered; (ii) make payments and distributions in furtherance of the purposes set forth in Article 4 hereof; and (iii) make distributions in accordance with Article 6 hereof upon liquidation and dissolution of the Corporation;
- (b) No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office; and
- (c) Notwithstanding any other provisions of these Articles of Agreement, the Corporation shall not carry on any other activities not permitted to be carried on by (i) a corporation exempt from federal income taxation under Section 501 (c)(3) of the Code, (ii) a corporation, contributions to which are deductible under Section of the Code.

Article 6. Dissolution. Dissolution of the Corporation must be approved by the Member, by Covenant Ministries of Benevolence, and by The Evangelical Covenant Church. Upon dissolution, the entire net assets remaining after the payment of any and all liabilities and obligations of the Corporation shall be distributed to Covenant Living Services to be used for purposes similar to those stated in Article 3 above, and/or to other ministries selected by The Evangelical Covenant Church and Covenant Ministries of Benevolence, provided that the ministries receiving the assets qualify as exempt organizations under Section 501(c)(3) of the Code. Such distribution shall be made in compliance with applicable State and Federal laws and regulations.

Article 7. Amendment. These Articles of Agreement may be amended, supplemented, restated, rescinded, modified or replaced by (i) action of the Board of Directors of the Corporation, and (ii) action of the Member of the Corporation.

Article 8. The initial address at which the business of the Corporation is to be carried on is: 95 Wyman Road, Keene, New Hampshire 03431.

Article 9. Limitation of Liability. No director or officer of the Corporation will be liable to the Corporation for monetary damages for breach of fiduciary duty as a director or an officer except with respect to: (i) any breach of the director’s or officer’s duty of loyalty to the Corporation or its Member; (ii) acts or omissions which are not in good faith or which involve intentional misconduct

or a knowing violation of law; (iii) any transaction from which the director, officer, or both, derived an improper personal benefit. If, under New Hampshire law, a voluntary corporation may exempt directors and officers from additional liability than that set forth above, the directors and officers of the Corporation will be so exempted.

Article 10. Capital stock. The amount of capital stock or the number of shares or membership certificates and provisions for retirement, reacquisition and redemption of those shares or certificates are: NONE

Article 11. Severability. If any provision of these Articles of Agreement is contrary to New Hampshire law or otherwise unenforceable, the Articles will remain in effect and will be construed as if the unenforceable or unlawful provision was omitted.

The balance of this page is intentionally blank.

Article 12. The following are the signatures and post office address of each of the persons associating together to form the corporation.

<u>Signature and Name</u>	<u>Post Office Address</u>
1. <u>David G. Erickson</u> Signature	<u>5700 Old Orchard Road</u> Street
<u>David G. Erickson</u> Name (please print)	<u>Skokie, IL 60077</u> City/Town State Zip
2. <u>William L. Roberts</u> Signature	<u>5700 Old Orchard Road</u> Street
<u>William L. Roberts SA</u> Name (please print)	<u>Skokie, IL 60077</u> City/Town State Zip
3. <u>Elizabeth McLaren</u> Signature	<u>5700 Old Orchard Road</u> Street
<u>ELIZABETH MCLAREN</u> Name (please print)	<u>Skokie, IL 60077</u> City/Town State Zip
4. <u>Jean E. Justice</u> Signature	<u>5700 Old Orchard Road</u> Street
<u>Jean E. Justice</u> Name (please print)	<u>Skokie, IL 60077</u> City/Town State Zip
5. <u>Bernard E. Gross</u> Signature	<u>5700 Old Orchard Road</u> Street
<u>BARNARD E. GROSS</u> Name (please print)	<u>Skokie, IL 60077</u> City/Town State Zip

ATTACHMENT A
AMENDMENT TO ARTICLES OF AGREEMENT
OF
COVENANT LIVING OF KEENE
A New Hampshire Voluntary
Nonprofit Corporation

The following constitutes the amendment of Article 3 and Article 6 of the Articles of Agreement of Covenant Living of Keene, a New Hampshire voluntary nonprofit corporation. The Articles of Agreement were originally filed with the New Hampshire Secretary of State on October 4, 2021.

Article 3 "Purposes" is hereby amended to state in its entirety as follows:

Article 3. Purposes. The Corporation is organized, and shall be operated, exclusively for charitable, religious, educational and scientific purposes within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provisions of any future federal tax code (the "Code"), specifically, to establish and maintain housing, care and related services for seniors in the greater Keene, New Hampshire area, including the ownership and operation of a continuing care retirement community offering a continuum of residential life care through independent, assisted living, protective and/or nursing units designed to address the housing, health care and related needs of seniors on behalf of the Board of Benevolence of The Evangelical Covenant Church and Covenant Living Communities and Services. In addition, the Corporation shall be supported by one or more organizations (i) within the meaning of Section 509(a)(3) of the Code; (ii) which are exempt from taxation under Section 501(a) of the Code; and (iii) which qualify for exclusion from private foundation status under Sections 509(a)(1) or 509(a)(2) of the Code.

Article 6 "Dissolution" is hereby amended to state in its entirety as follows:

Article 6. Dissolution. Dissolution of the Corporation must be approved by the Member, by Covenant Ministries of Benevolence, and by The Evangelical Covenant Church. Upon dissolution, the entire net assets remaining after the payment of any and all liabilities and obligations of the Corporation shall be distributed to a charitable organization described in Section 501(c)(3) and exempt from federal income taxes under Section 501(a) of the Code and which the Board of Directors of the Corporation determines is best able to carry on the charitable purposes of the Corporation. If no such organization exists or is willing to receive the assets and any liabilities and obligations of the Corporation, then they shall be distributed to Covenant Living Services to be used for purposes determined by the Member as best able to carry out the charitable purposes of the Corporation, provided that the ministries receiving the assets qualify as exempt organizations under Section 501(c)(3) of the Code. Such distribution shall be made in compliance with applicable State and Federal laws and regulations.

Effective Date of Amendment: November 19, 2021

APPENDIX F
Audited Consolidated Financial Statements of Covenant Living for
FY 2020

Covenant Living Communities and Services

**Consolidated Financial Report
with Additional Consolidating Information
September 30, 2020**

Covenant Living Communities and Services

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Independent Auditor's Report

To the Covenant Living Board
Covenant Living Communities and Services

Report on the Consolidated Financial Statements

We have audited the accompanying consolidated financial statements of Covenant Living Communities and Services (an affiliate of The Evangelical Covenant Church (see Note 2)), which comprise the consolidated statement of financial position as of September 30, 2020 and the related consolidated statements of operations and changes in net assets without donor restrictions, changes in net assets, and cash flows for the year then ended, and the related notes to the consolidated financial statements.

Management's Responsibility for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the consolidated financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Covenant Living Communities and Services as of September 30, 2020 and the results of its operations and cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

To the Covenant Living Board
Covenant Living Communities and Services

Emphasis of Matter

As described in Note 18 to the consolidated financial statements, the COVID-19 pandemic has impacted the operations of Covenant Living Communities and Services. Our opinion is not modified with respect to this matter.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated January 21, 2021 on our consideration of Covenant Living Communities and Services' internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering Covenant Living Communities and Services' internal control over financial reporting and compliance.

Plante & Moran, PLLC

January 21, 2021

Covenant Living Communities and Services

Consolidated Statement of Financial Position

September 30, 2020

(in thousands)

Assets	
Current Assets	
Cash and cash equivalents	\$ 48,656
Restricted cash	8,063
Assets whose use is limited, including beneficial interest in investment pool: (Notes 3, 5, 8, and 10)	
Board designated	89,166
Restricted under debt agreements	12,522
Accounts receivable - Net	17,949
Prepaid expenses and other assets	4,899
	<hr/>
Total current assets	181,255
Property and Equipment - Net (Notes 7, 10, and 12)	607,968
Other Assets (Notes 6 and 13)	32,049
Interest in Irrevocable Trusts (Notes 3 and 16)	2,946
Goodwill - Net (Notes 2 and 21)	59,903
Assets Whose Use is Limited, Including Beneficial Interest in Investment Pool (Notes 3, 5, 8, and 10)	
Board designated	233,297
Restricted under state and debt agreements	114,434
Endowment	8,518
	<hr/>
Total assets whose use is limited, including beneficial interest in investment pool	356,249
	<hr/>
Total assets	\$ 1,240,370

Covenant Living Communities and Services

Consolidated Statement of Financial Position (Continued)

September 30, 2020

(in thousands)

Liabilities and Net Assets

Current Liabilities

Accounts payable - Trade	\$	14,294
Accounts payable - Contractors (Note 12)		5,246
Accrued salaries and wages		11,321
Accrued interest		6,443
Advanced deposits		3,885
Current maturities of long-term debt (Note 10)		14,071
Deferred revenue subject to refund (Note 2)		90,800
Refundable contract liabilities (Note 2)		114,775
Other current liabilities		46,452
Total current liabilities		307,287
Long-term Debt - Less current maturities (Note 10)		467,511
Payable to Covenant Institutions (Notes 10 and 13)		4,000
Other Liabilities (Notes 2, 10, and 11)		95,628
Deferred Revenue from Entrance Fees (Note 2)		234,086
Total liabilities		1,108,512
Net Assets		
Without donor restrictions		114,354
With donor restrictions		17,504
Total net assets		131,858
Total liabilities and net assets	\$	<u>1,240,370</u>

Covenant Living Communities and Services

Consolidated Statement of Operations and Changes in Net Assets without Donor Restrictions

Year Ended September 30, 2020

(in thousands)

Operating Revenue	
Routine resident services	\$ 244,720
Ancillary services	45,475
Amortization of deferred entrance fees	50,153
Net assets released from restrictions for operations	3,219
Other	12,558
	<hr/>
Total operating revenue	356,125
Expenses	
Routine nursing services	80,617
Ancillary services	17,495
Resident benefits	15,734
Dietary	43,206
Laundry	2,115
Housekeeping	10,430
Maintenance	20,286
Utilities	12,618
Administrative and general	57,863
Interest (Note 10)	15,568
Property taxes	3,267
Insurance	6,276
Marketing and promotion	13,059
Depreciation	52,559
Amortization	623
Other	650
	<hr/>
Total expenses (Note 19)	352,366
Operating Income	3,759
Nonoperating (Expense) Revenue	
Gifts and bequests - Net of related expenses (Note 19)	(1,354)
Net assets released from restrictions - Distributions from trusts	131
Loss on extinguishment of debt	(158)
Other nonoperating expense - Net (Note 2)	(3,386)
Interest and dividend income	5,259
Realized gains on fixed-income and equity securities - Net	2,510
Unrealized gains on fixed-income and equity securities - Net (Note 2)	2,152
Alternative investment income - Including net realized gains	11,198
Unrealized losses on derivative instruments (Note 11)	(1,488)
Interest expense on interest rate swaps (Note 11)	(715)
	<hr/>
Total nonoperating income	14,149
Income	17,908
Net Assets Released from Restriction for Capital Purchases	69
Net Asset Transfer - Related organization	336
	<hr/>
Increase in Net Assets without Donor Restrictions	\$ 18,313

Covenant Living Communities and Services

Consolidated Statement of Changes in Net Assets

Year Ended September 30, 2020

(in thousands)

Net Assets without Donor Restrictions	
Income	\$ 17,908
Net assets released from restrictions for capital purchases	69
Net asset transfer - Related organization	336
	<hr/>
Increase in net assets without donor restrictions	18,313
Net Assets with Donor Restrictions	
Contributions	3,059
Net assets released from restrictions for capital purchases	(69)
Net assets released from restrictions for operations	(3,219)
Net additions - Present value of new trusts received (Note 16)	93
Net assets released from restrictions - Distributions from trusts - Net	(131)
Change in present value discount	24
Net gain on perpetual trusts	240
	<hr/>
Decrease in net assets with donor restrictions	(3)
Increase in Net Assets	18,310
Net Assets - Beginning of year	113,548
	<hr/>
Net Assets - End of year	<u><u>\$ 131,858</u></u>

Covenant Living Communities and Services

Consolidated Statement of Cash Flows

Year Ended September 30, 2020

(in thousands)

Cash Flows from Operating Activities	
Increase in net assets	\$ 18,310
Adjustments to reconcile increase in net assets to net cash, cash equivalents, and restricted cash from operating activities:	
Amortization of deferred entrance fees	(50,153)
Depreciation	52,559
Amortization	623
Provision for bad debts	3,130
Amortization of goodwill	6,656
Original issue premium accretion - Net of original issue discount amortization	(933)
Loss on extinguishment of debt	158
Unrealized loss on derivative instruments	1,488
Gain on disposal of property and equipment	(41)
Net realized and unrealized gains on assets whose use is limited	(4,662)
Other changes in irrevocable trusts - Net	447
Net withdrawals from irrevocable trusts	156
Nonrefundable entrance fees collected	52,819
Nonrefundable entrance fees refunded	(4,776)
Changes in operating assets and liabilities that (used) provided cash, cash equivalents, and restricted cash:	
Accounts receivable	(211)
Other assets	1,598
Paycheck Protection Program loans (other current liabilities)	16,714
Accounts payable	1,515
Accrued and other current liabilities	6,523
Other liabilities	(2,424)
Net cash, cash equivalents, and restricted cash provided by operating activities	<u>99,496</u>
Cash Flows from Investing Activities	
Property and equipment expenditures	(71,792)
Proceeds from sale of property and equipment	18
Cash paid to acquire Inverness Village	(41,000)
Net change in assets whose use is limited, including beneficial interest in investment pool	12,041
Net change in related party balances	(359)
Net cash, cash equivalents, and restricted cash used in investing activities	<u>(101,092)</u>
Cash Flows from Financing Activities	
Proceeds from borrowings	66,110
Payment of financing costs	(811)
Payment of debt	(34,664)
Refundable entrance fees collected	20,024
Refundable entrance fees refunded	(18,825)
Net cash, cash equivalents, and restricted cash provided by financing activities	<u>31,834</u>
Net Increase in Cash, Cash Equivalents, and Restricted Cash	30,238
Cash, Cash Equivalents, and Restricted Cash - Beginning of year	<u>23,071</u>
Cash, Cash Equivalents, and Restricted Cash - End of year	<u><u>\$ 53,309</u></u>
Classification of Cash, Cash Equivalents, and Restricted Cash	
Cash and cash equivalents	\$ 48,656
Restricted cash	4,653
Total cash, cash equivalents, and restricted cash	<u><u>\$ 53,309</u></u>
Supplemental Cash Flow Information - Interest paid, including interest on derivatives	\$ 21,950

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 1 - Mission Statement

As a ministry of The Evangelical Covenant Church, Covenant Living Communities and Services celebrates God's gift of life in Christian community. We follow the Great Commandment to love and serve God and one another, as taught by Jesus Christ. That compels us to affirm the dignity of each person and to pursue excellence and financial integrity in all that we do.

As we provide a broad range of resources, services, and programs to enhance individual and community wellness, we collaborate with residents and families to achieve the best possible results. While seeking to foster independence, we respond to each individual's evolving needs in order to provide the security that assures peace of mind.

Note 2 - Summary of Significant Accounting Policies

Basis of Consolidation

Covenant Living Communities and Services, an Illinois not-for-profit corporation, and its consolidated facilities (together, the "Communities") are responsible for operating retirement, assisted living, skilled care facilities, and home and community-based services. Covenant Living Communities and Services operates as an affiliate of Covenant Ministries of Benevolence (CMB), which is administered by the Board of Benevolence of The Evangelical Covenant Church (the "Board of Benevolence"), and the consolidated facilities operate as wholly owned subsidiaries of Covenant Living Communities and Services.

The consolidated financial statements include the accounts of Covenant Living Communities and Services and the following entities for which it is the sole corporate member: Covenant Living of Florida, Inc.; Covenant Living of the Great Lakes; Covenant Living of Cromwell, Inc.; Covenant Living of Golden Valley; Covenant Home (Illinois) dba Covenant Living of Northbrook; Covenant Living at the Holmstad; Covenant Health Care Center, Inc. dba Axelson Assisted Living; Brandel Health and Rehab; Michealson Health Center; Harry J. Ekstam Assisted Living Residence NFP; Covenant Home of Chicago; Covenant Living of Colorado, Inc.; Covenant Living at Windsor Park; Covenant Living West dba Covenant Living at the Samarkand; Covenant Living of Turlock; Brandel Manor; Covenant Living at Mount Miguel; and Covenant Living at the Shores.

On October 31, 2019, Tulsa Hills Community Inc. (Tulsa Hills), an entity of Covenant Living Communities and Services, acquired Covenant Living at Inverness (f/k/a Inverness Village), a senior living community located in Tulsa, Oklahoma through bankruptcy proceedings. See Note 21 for additional information.

The consolidated financial statements also include the accounts of Covenant Living Services and its wholly owned subsidiaries: Covenant Solutions Business and Development Support LLC (Covenant Solutions); Covenant Living Holdings One, LLC; Covenant Living of Geneva; Covenant Home Services dba CovenantCare at Home; Covenant Living of Bixby, Inc; Tulsa Hills Community, Inc. dba Covenant Living at Inverness; and Covenant Housing Corporation. Covenant Living Communities and Services is the sole corporate member of Covenant Living Services. All significant interfacility transactions and balances have been eliminated in the consolidated financial statements.

Covenant Living Communities and Services is the sole shareholder of Covenant International Insurance Company, Ltd. (CIIC). Certain accounts of CIIC directly attributable to the Communities' insurance-related activities are included in the consolidated financial statements of Covenant Living Communities and Services (see Note 6).

Basis of Presentation

The consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America, as codified in the Accounting Standards Codification.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 2 - Summary of Significant Accounting Policies (Continued)

In the consolidated financial statements, the Communities recognize the effects of all subsequent events that provide additional evidence about conditions that existed at the date of the consolidated statement of financial position, including the estimates inherent in the process of preparing consolidated financial statements. The Communities do not record transactions related to subsequent events that provide evidence about conditions that did not exist at the date of the consolidated statement of financial position and arose after the consolidated statement of financial position date, but before consolidated financial statements are issued; however, such events may be required to be recognized as a disclosure. For these purposes, the Communities have evaluated events occurring subsequent to the consolidated statement of financial position date through January 21, 2021, the date the consolidated financial statements were issued. The Communities have not evaluated events occurring after January 21, 2021 in the consolidated financial statements.

Industry

The health care industry is subject to numerous laws and regulations of federal, state, and local governments. Compliance with these laws and regulations, specifically those relating to the Medicare and Medicaid programs, can be subject to government review and interpretation and regulatory actions unknown and unasserted at this time. Recently, federal government activity has increased with respect to investigations and allegations concerning possible violations of regulations by health care providers, which could result in the imposition of significant fines and penalties, as well as significant repayments of previously billed and collected revenue from patient services. Management believes that the Communities are in substantial compliance with current laws and regulations. Revenue from the Medicare and Medicaid programs accounted for approximately 28 percent of the Communities' combined routine resident and ancillary services revenue for the year ended September 30, 2020.

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Cash and Cash Equivalents

Cash and cash equivalents consist principally of bank money market demand deposits with maturities at the date of purchase of three months or less.

Restricted Cash

Restricted cash consists principally of deposits received for entrance fees that are required by state law to be held in escrow accounts and grant funds restricted for specific use based on the grant agreement.

Assets Whose Use is Limited, Including Interest in Investment Pool

Assets whose use is limited are recorded at fair value. See Note 3 for more information regarding the methods used to estimate fair value. See Note 5 for details regarding the composition of assets whose use is limited.

Board-designated assets are invested in a combined investment fund that aggregates investments of all of the Board of Benevolence's institutions. While these funds are held and invested by CMB, the Communities retain the benefits of ownership of their proportional interest in the combined investment fund. This ownership interest in the combined investment fund is reported as assets whose use is limited - board designated, which is an interest in investment pool in the accompanying consolidated financial statements (see Note 5).

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 2 - Summary of Significant Accounting Policies (Continued)

The Communities recognize their interest in the combined investment fund equal to the amounts contributed, less amounts withdrawn, and adjust the balance for their share of the changes in the fair values of the underlying investments in the combined investment fund. Realized gains and losses from sales of investments and unrealized gains and losses on investments are determined using the average cost method. Interest, dividends, realized gains and losses, and unrealized gains and losses are recorded as nonoperating revenue.

The Communities' investments are exposed to various risks, such as interest rate, market, and credit risk. Due to the level of risk associated with certain investments and the level of uncertainty related to changes in the value of investments, it is at least reasonably possible that changes in risks in the near term could materially affect the amounts reported in the consolidated statement of financial position and the consolidated statement of operations and changes in net assets without donor restrictions.

Accounts Receivable

Accounts receivable from residents, insurance companies, and governmental agencies are based on the amount that reflects the consideration to which the Communities expect to be entitled in exchange for services provided. An allowance for uncollectible accounts is established on an aggregate basis by using historical write-off rate factors applied to unpaid accounts based on aging. Loss rate factors are based on historical loss experience and adjusted for economic conditions and other trends affecting the Communities' ability to collect outstanding amounts. Uncollectible amounts are written off against the allowance for doubtful accounts in the period they are determined to be uncollectible. The allowance for doubtful accounts totaled \$2,923 at September 30, 2020.

Overpayments from third-party payors on residents' accounts receivable balances have been included in other current liabilities on the consolidated statement of financial position.

The Communities provide services without collateral to their residents, most of whom are local residents and are insured under third-party agreements. The mix of receivables from residents and third-party payors as of September 30, 2020 was 33 percent from private payors, 47 percent from Medicare, and 20 percent from Medicaid.

Derivative Instruments

All derivative instruments, specifically interest rate swaps, are recorded on the consolidated statement of financial position at their fair value. The Communities use interest rate swaps to reduce volatility in cash flow arising from their variable rate borrowings. Management has elected not to pursue hedge accounting. Therefore, the change in the fair value of derivative instruments is reflected in nonoperating expense in the accompanying consolidated statement of operations and changes in net assets without donor restrictions (see Note 11).

Benevolent Care Fund

The Communities have adopted a policy requiring amounts received from unrestricted wills and bequests through Covenant Estate Planning Services, net of assessments for Covenant Estate Planning Services' operating expenses, to be placed into the benevolent care fund (a component of board-designated assets whose use is limited). The earnings from the benevolent care fund are used to offset charity care costs (see Notes 4 and 5).

Unamortized Debt Expense

Underwriting fees and expenses related to the procurement of debt are deferred and amortized on the bonds outstanding method. These costs are recorded as a reduction in the recorded balance of outstanding long-term debt.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 2 - Summary of Significant Accounting Policies (Continued)

Property and Equipment

Property and equipment are recorded at cost and depreciated using the straight-line method over the expected useful lives of the assets, which are as follows:

	Years
Land improvements	5-20
Buildings and improvements	10-50
Furniture and equipment	3-20

Interest costs are capitalized during periods of active construction for qualified expenditures based upon interest rates in place during the construction period until construction is substantially complete. Capitalized interest costs are amortized over the lives consistent with the constructed assets. Capitalized interest costs were \$5,297, offset by capitalized interest income of \$1,210 for 2020.

Long-lived Assets

Long-lived assets, such as property and equipment, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be fully recoverable.

Advance Deposits

These amounts are deposits made by prospective residents of the Communities. Upon entrance to a community, the deposit is applied toward the resident's entrance fee. If the prospect does not become a resident, the deposit, less a service charge, is refunded. Advance deposits are recorded as a current liability.

Paycheck Protection Program Deferred Income Liability

Funding received under the Paycheck Protection Program (PPP) is considered an in-substance government grant under provisions of ASC 958 605, *Not for Profit Entities - Revenue Recognition*, and is being recognized as the conditions of the PPP agreement have been met. See Note 18 for additional information on the terms and conditions of the PPP agreement.

Revenue Recognition

Routine Resident and Ancillary Service Revenue

Service revenue consists of monthly rental and routine board and care service income as earned under resident contracts. Resident care service revenue is reported at the amount that reflects the consideration to which the Communities expect to be entitled in exchange for services provided. The majority of the Communities' health care services represents a bundle of services that are not capable of being distinct and, as such, are treated as a single performance obligation satisfied over time as services are rendered. The Communities have concluded that each day that a resident receives services represents a separate contract and performance obligation based on the fact that residents have unilateral rights to terminate the contract after each day with no penalty or compensation due. The Communities also provide certain ancillary services that are not included in the bundle of services and, as such, are treated as separate performance obligations satisfied over time as the services are rendered. The Communities determine the transaction price based on contractually agreed-upon amounts or rates.

Entrance Fees

In addition to monthly service fees, entrance fees are one-time payments made by residents of the Communities entitling them admission to and use of the Communities' facilities.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 2 - Summary of Significant Accounting Policies (Continued)

Entrance fees contracts generally contain two payment streams: the entrance fee and the monthly fees. Both the entrance fee and monthly fees are specified in the contract with the resident. The entrance fee is a fixed amount paid at the time the contract is signed and the resident takes occupancy.

Refundable entrance fees are those entrance fees that are guaranteed to be refunded, regardless of when the contract is terminated. The refundable portion of entrance fees is not included in the transaction price, as the Communities expect to refund those amounts to residents. Nonrefundable entrance fees are those entrance fees that are either nonrefundable at contract inception or are refundable on a decreasing basis for a fixed period of time, at which point the entrance fees become nonrefundable and would be considered part of the transaction price.

The nonrefundable portion of the entrance fee represents a right to the resident to access future services. This right is deemed to be the Communities' performance obligation. Nonrefundable entrance fees totaled \$234,086 at September 30, 2020 and are recorded as deferred revenue and are amortized into income over the actuarial life of each resident.

Under the terms of most residents' agreements, a pro rata refund of a resident's entrance fee will be made in the event the resident leaves a community within the first 50 or 60 months of residency. Deferred entrance fees subject to the above refund provisions totaled \$90,800 at September 30, 2020.

The Communities also offer 90 percent; 75 percent; or, on a limited basis, 50 percent refundable contracts (approximately 12 percent of contract residents have chosen these three options).

Certain Windsor Park and Covenant Living at Inverness resident agreements are life-care agreements that include a 50, 55, or 90 percent refund of the entrance fee (payable at the date of resale of the apartment) to the resident's estate. The nonrefundable portion is recognized as income ratably over the estimated remaining life expectancy of each resident, which is evaluated annually. The refundable portion is not amortized. Life-care agreements are not currently being offered to new residents.

Included in refundable contract liabilities, other current liabilities, and other long-term liabilities on the consolidated statement of financial position are \$192,195 of refundable entrance fees at September 30, 2020.

Entrance fee refunds under all programs were \$23,601 during 2020. Although a portion of refundable contract liabilities and deferred revenue is classified as current liabilities, the likelihood of actual payment of these total liabilities within one year is remote based on the Communities' experience.

Other Considerations

The Communities recognize revenue under these resident agreements based upon the predominant component, either the lease or nonlease component, of the contracts rather than allocating the consideration and separately accounting for it. The Communities have concluded that the nonlease components of the agreements with respect to their senior living communities are the predominant component of the contracts; therefore, the Communities recognize revenue for these resident agreements under Accounting Standards Codification (ASC) 606.

Under ASC 606, the Communities do, in certain instances, enter into payment arrangements with residents that allow payments in excess of one year. For those cases, the financing component is not deemed to be significant to the contract.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 2 - Summary of Significant Accounting Policies (Continued)

Obligation to Provide Future Services

Annually, the Communities calculate the present value of the net cost of future services and use of facilities to be provided to current residents and compare that amount to the balance of deferred revenue from entrance fees. If the present value of the net cost of future services and use of facilities were to exceed the deferred revenue from entrance fees, a liability (obligation to provide future services) would be recorded with the corresponding charge to income. No such obligation was required to be recorded at September 30, 2020.

Charity Care

Under the terms of the residents' agreements, the Communities are not required to maintain those residents who are unable to pay their entire monthly maintenance charges; however, as a matter of policy, such residents generally have remained in the facility. Normal charges for these services are not recorded as revenue in the consolidated statement of operations and changes in net assets without donor restrictions. Funds to support these residents are derived primarily from contributions, public aid, and earnings from the benevolent care fund (see Note 4).

Contributions

Contributions are reported at fair value at the date of the contribution. Unconditional promises to give cash and other assets are reported at fair value at the date the promise is received, which is then treated as cost.

Government grants are accounted for as conditional contributions, being nonexchange in nature. These grants are reported within other operating revenue on the consolidated statement of operations and changes in net assets without donor restrictions and are recognized as revenue as certain conditions are met, as outlined within the U.S. Department of Health and Human Services (HHS) published terms and conditions.

Donor-restricted contributions whose restrictions are met within the same year in which the contribution is received are reported as contributions without donor restrictions in the accompanying consolidated financial statements.

Classification of Net Assets

Net assets of the Communities are classified as net assets without donor restrictions or net assets with donor restrictions, depending on the presence and characteristics of donor-imposed restrictions limiting the Communities' ability to use or dispose of contributed assets or the economic benefits embodied in those assets. Donor-imposed restrictions that expire with the passage of time or that can be removed by meeting certain requirements and donor-imposed restrictions that limit the use of net assets in perpetuity result in net assets with donor restrictions. Earnings, gains, and losses on donor-restricted net assets are classified as net assets without donor restrictions unless specifically restricted by the donor or by applicable state law. Total net assets with donor restrictions at September 30, 2020 of \$17,504 include irrevocable trusts, which are not available for use until assets are distributed from the trusts; contributions restricted for a particular purpose; and endowment net assets that have been restricted by donors to be maintained in perpetuity.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 2 - Summary of Significant Accounting Policies (Continued)

Income (Performance Indicator)

Income reports the results of operations of the entire Communities. In addition to the income from resident care operations, income includes investment income, realized gains and losses on investments, unrealized gains and losses on investments, and other items. Changes in net assets without donor restrictions, which are excluded from income, consistent with industry practice, include permanent transfers of assets to and from affiliates for other than goods (net asset transfer to support benevolent care) and services and contributions of long-lived assets (including assets acquired using contributions, which, by donor restriction, were to be used for the purpose of acquiring such assets).

Tax Status

The Communities qualify as tax-exempt organizations under Section 501(a) as organizations described in Section 501(c)(3) of the Internal Revenue Code. The Communities follow the accounting standards for contingencies in evaluating uncertain tax positions. The income tax returns are subject to review and examination by federal, state, and local authorities.

Functional Allocation of Expenses

The costs of providing the program and support services have been reported on a functional basis in Note 19. Costs are allocated between the various programs and support services on an actual basis, where available, or based upon reasonable methods. Expenses that are allocated include depreciation and amortization, interest, and insurance, which are allocated on a square footage basis, as well as salaries and benefits, which are allocated on the basis of estimates of time and effort. Although the methods of allocation used are considered appropriate, other methods could be used that would produce different amounts.

Goodwill

The recorded amounts of goodwill from business combinations are based on management's best estimates of the fair values of assets acquired and liabilities assumed at the date of acquisition.

The Communities have elected to apply the private company accounting alternative for goodwill developed by the Private Company Council. Under the accounting alternative, goodwill is amortized on a straight-line basis over a 10-year period. The gross carrying amount of goodwill was \$66,559 and is reported net of accumulated amortization of \$6,656 at September 30, 2020. Amortization expense for the year ended September 30, 2020 was \$6,656 and is recorded within other nonoperating expense - net.

Additionally, goodwill is assessed for potential impairment if events occur or circumstances change that indicate the fair value of the Communities' reporting unit may be less than its carrying value. The Communities have elected to test goodwill for impairment at the reporting unit level. No impairment charge was recognized during the year ended September 30, 2020.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 2 - Summary of Significant Accounting Policies (Continued)

Recently Adopted Pronouncement

In May 2019, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2019-06, *Intangibles - Goodwill and Other (Topic 350), Business Combinations (Topic 805), and Not-for-Profit Entities (Topic 958): Extending the Private Company Accounting Alternatives on Goodwill and Certain Identifiable Intangible Assets to Not-for-Profit Entities*. The standard simplifies the subsequent accounting for goodwill and certain identifiable intangible assets in a business combination. Under the goodwill accounting alternative, the not-for-profit entity may elect to amortize goodwill on a straight-line basis over 10 years or over a shorter period if the not-for-profit entity can demonstrate that another useful life is more appropriate. The alternative also simplifies the goodwill impairment test. Upon adoption of the alternative, the not-for-profit entity is required to make an accounting policy election to test goodwill for impairment at entity or reporting unit level when a triggering event occurs. The Communities adopted the new ASU effective October 31, 2019 on a prospective basis.

Note 3 - Fair Value Measurements

In determining fair value, the Communities use various valuation approaches. ASC 820, *Fair Value Measurements and Disclosures*, establishes a fair value measurement framework, provides a single definition of fair value, and requires expanded disclosure summarizing fair value measurements. ASC 820 emphasizes that fair value is a market-based measurement, not an entity-specific measurement. Therefore, a fair value measurement should be determined based on the assumptions that market participants would use in pricing an asset or a liability.

ASC 820 establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable input be used when available. Observable inputs are inputs that the market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the Communities. Unobservable inputs are inputs that reflect the Communities' assumptions about the assumptions that market participants would use in pricing the asset or liability developed based on the best information available under the circumstances.

The hierarchy is measured in the following three levels based on the reliability of inputs:

Level 1

Valuations are based on quoted prices in active markets for identical assets or liabilities that the Communities have the ability to access. Valuation adjustments and block discounts are not applied to Level 1 instruments.

Level 2

Valuations are not based on quoted prices for identical assets or liabilities, but rather are based on significant observable inputs (including quoted prices for similar securities, interest rates, prepayment speeds, credit risk, etc.). Fair values are primarily obtained from third-party pricing services for comparable assets or liabilities.

Level 3

Valuations are derived from other valuation methodologies and incorporate certain assumptions and projections that are not observable in the market and significant professional judgment in determining the fair value assigned to such assets or liabilities.

Covenant Living Communities and Services

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 3 - Fair Value Measurements (Continued)

In instances where inputs used to measure fair value fall into different levels in the above fair value hierarchy, fair value measurements in their entirety are categorized based on the lowest level input that is significant to the valuation. The Communities' assessment of the significance of particular inputs to these fair value measurements requires judgment and considers factors specific to each asset or liability.

The Communities' policy is to recognize transfers in and transfers out of Level 1, 2, and 3 fair value classifications as of the end of the reporting period in the event of change in circumstances that caused the transfer.

Fair Value of Financial Instruments Carried at Fair Value

The following are categories of assets measured at fair value on a recurring basis during the year ended September 30, 2020 using unadjusted quoted prices in active markets for identical assets (Level 1), significant other observable inputs (Level 2), and significant unobservable inputs (Level 3).

The Communities' interest in the investment pool is valued on a recurring basis and is a direct interest in the investment pool, valued using Level 3 inputs of the valuation hierarchy for 2020. There was a deposit of \$336 during 2020. The total allocation of pooled earnings was \$19,277 for 2020.

Assets and Liabilities Measured at Fair Value on a Recurring Basis at September 30, 2020				
	Balance at September 30, 2020	Quoted Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Beneficial interest in investment pool	\$ 321,611	\$ -	\$ -	\$ 321,611
Other - Short-term investments	6,692	6,692	-	-
Covenant trust endowment - Equity investment funds	2,678	-	2,678	-
Restricted under state and debt agreements:				
Short-term investments	53,955	53,955	-	-
Fixed-income securities	73,001	-	73,001	-
Total restricted under state and debt agreements	126,956	53,955	73,001	-
Total	\$ 457,937	\$ 60,647	\$ 75,679	\$ 321,611
Investments held for insurance obligations:				
International equity	\$ 5,544	\$ -	\$ 5,544	\$ -
Fixed-income securities	12,146	-	12,146	-
Alternative investment funds (held within beneficial interest in investment pool)	180	-	-	180
Total (Note 6)	\$ 17,870	\$ -	\$ 17,690	\$ 180
Interest in irrevocable trusts	\$ 2,946	\$ -	\$ -	\$ 2,946
Liabilities - Derivatives - Interest rate swaps (Note 11)	\$ 4,871	\$ -	\$ 4,871	\$ -

Covenant Living Communities and Services

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 3 - Fair Value Measurements (Continued)

See Note 5 for details regarding the composition of assets whose use is limited, including interest in investment pool.

Changes in Level 3 assets measured at fair value on a recurring basis for the year ended September 30, 2020 are as follows:

	Assets Measured on a Recurring Basis Using Significant Unobservable Inputs (Level 3)		
	Interest in Irrevocable Trusts	Held for Insurance Obligations	Total
Beginning balance -October 1, 2019	\$ 3,549	\$ 172	\$ 3,721
Net withdrawals	(156)	-	(156)
Unrealized losses	(447)	8	(439)
Ending balance - September 30, 2020	<u>\$ 2,946</u>	<u>\$ 180</u>	<u>\$ 3,126</u>

Note 4 - Charity Care and Other Unreimbursed Care

Pursuant to their mission statement, as described in Note 1, the Communities provide free services to those residents who are unable to pay all or a portion of their charges and who meet certain eligibility criteria.

Records are maintained to identify and monitor the level of charity care provided. During 2020, unreimbursed costs foregone for charity care and charitable gifts received to offset costs totaled \$4,252. The Communities use a cost per resident day amount to determine unreimbursed costs.

In addition to charity care, the Communities provide care to residents under governmental programs that reimburse the Communities at rates less than their cost. The Communities provided partially reimbursed care during 2020 as follows:

Estimated cost of Medicaid services provided	\$ 43,991
Less government reimbursement	<u>(29,344)</u>
Unreimbursed care - Based on estimated cost	<u>\$ 14,647</u>

Note 5 - Assets Whose Use is Limited, Including Interest in Investment Pool

Assets whose use is limited, including interest in investment pool, include assets classified in the following three categories:

Board designated - Assets set aside by the board of directors (the "Board") for benevolent care, property replacement, reserve for refundable contracts, and certain current and future construction and capital projects over which the Board retains control and, at its direction, may subsequently use for other purposes.

Restricted under state and debt agreements - Assets held by bond trustees under the terms of the Master Indenture agreement, various bond trust indentures, and state laws for debt service reserves, certain construction projects, and operating expense escrow accounts.

Endowment - Assets restricted by donors in perpetuity as an endowment fund.

Covenant Living Communities and Services

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 5 - Assets Whose Use is Limited, Including Interest in Investment Pool (Continued)

The uses of assets whose use is limited, including interest in investment pool at September 30, 2020 consisted of the following:

Beneficial interest in investment pool:	
Board designated:	
Benevolent care fund	\$ 75,909
Capital reserve fund	38,142
Property replacement fund	82,453
Reserve for refundable contracts	96,459
Other	<u>22,808</u>
Total board designated	315,771
Endowment - Brandel Fund	<u>5,840</u>
Total beneficial interest in investment pool	321,611
Endowment - Covenant trust	2,678
Board-designated investments - Other	6,692
Restricted under state and debt agreements:	
Bond interest, sinking and expense fund	12,522
Bond project fund	68,165
Debt service reserve fund	37,142
State-required reserves	<u>9,127</u>
Total restricted under state and debt agreements	<u>126,956</u>
Total	<u>\$ 457,937</u>

Covenant Living Communities and Services

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 5 - Assets Whose Use is Limited, Including Interest in Investment Pool (Continued)

The components of assets whose use is limited, including interest in investment pool, at September 30, 2020 consisted of the following:

Equity securities:	
Board designated	\$ 56,179
Brandel endowment	1,039
Covenant trust endowment	2,678
	<hr/>
Total equity securities	59,896
Fixed-income securities:	
Board designated	107,771
Restricted under state and debt agreements	73,001
Endowment	1,993
	<hr/>
Total fixed-income securities	182,765
Alternative investments:	
Board designated:	
International equity	62,293
Hedge funds	24,832
Private equity	11,685
Mortgages	2,356
Domestic equity	48,831
Puts and calls	1,824
Endowment:	
International equity	1,152
Hedge funds	459
Private equity	216
Mortgages	44
Domestic equity	903
Puts and calls	34
	<hr/>
Total alternative investments	154,629
Short-term investments:	
Board designated	6,692
Restricted under state and debt agreements	53,955
	<hr/>
Total short-term investments	60,647
	<hr/>
Total	\$ 457,937

Note 6 - Other Assets

Other assets at September 30, 2020 consisted of the following:

Investment in real estate - Net	\$ 7,138
Investment held for insurance obligation by CIIC	17,870
Other	7,041
	<hr/>
Total	\$ 32,049

Included in other assets is \$17,870 of investments held by CIIC primarily for the purpose of funding insurance obligations as of September 30, 2020 (see Note 3).

Covenant Living Communities and Services

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 6 - Other Assets (Continued)

In October 2015, the Communities sold their shares of Symbria, Inc. to the Symbria, Inc. Employee Stock Ownership Trust. The Communities had accounted for the investment in Symbria, Inc. using the equity method. As a result of the sale, the following consideration was received: \$1,581 in cash proceeds, \$3,169 in an interest-bearing note, and 32,051 of unexercised warrant shares. At September 30, 2020, the subordinated note plus accrued interest totaled \$3,108 and is recorded in other assets in the consolidated statement of financial position. The Communities have not recorded any amounts related to the warrant shares, as the value is not material at September 30, 2020.

Note 7 - Property and Equipment

Property and equipment at September 30, 2020 consisted of the following:

Land and land improvements	\$	54,105
Buildings and improvements		826,831
Furniture and equipment		251,025
Construction in progress (Note 12)		<u>61,132</u>
Property and equipment - At cost		1,193,093
Less accumulated depreciation		<u>585,125</u>
Property and equipment - Net	\$	<u>607,968</u>

Note 8 - Continuing Care Requirements

Under the provisions of various state regulations, the Communities are required to maintain escrow accounts to cover defined portions of debt service and annual operating expenses. Management believes the Communities were in compliance with all such state regulations at September 30, 2020.

Note 9 - Line of Credit

Covenant Living Communities and Services has a secured bank line of credit for a maximum of \$8,000, reduced by certain outstanding letters of credit, which totaled \$6,020 at September 30, 2020. Borrowings under the line bear interest at the prime rate. The line has no compensating balance arrangement, but requires a commitment fee equal to one-quarter of 1 percent per annum on the average daily unused portion, payable quarterly. There were no draws on the line during 2020 and no balance outstanding at September 30, 2020. The line matures on March 1, 2021.

Covenant Living Communities and Services

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 10 - Long-term Debt and Other Obligations

Long-term debt at September 30, 2020 consisted of the following:

Master Trust Indenture obligations:	
Colorado Health Facilities Authority revenue bonds, Series 2012A, due in 2034, interest at 4.50 percent - 5.0 percent	\$ 104,205
Colorado Health Facilities Authority revenue bonds, Series 2012B, due in 2027, interest at 4.0 percent - 5.0 percent	22,905
Colorado Health Facilities Authority revenue bonds, Series 2012C, due in 2023, interest at 2.0 percent - 5.0 percent	6,565
Colorado Health Facilities Authority revenue bonds, Series 2013A, due in 2036, interest at 4.25 percent - 5.75 percent	21,685
California Statewide Communities Development Authority revenue bonds, Series 2013C, due in 2036, interest at 5.625 percent	20,450
Colorado Health Facilities Authority revenue refunding bonds, Series 2015A, due in 2036, interest at 1.0 percent - 5.0 percent	93,320
Colorado Health Facilities Authority revenue refunding bonds, Series 2015B, due in 2025, interest adjusted weekly, 0.9242 percent at September 30, 2020	9,695
Illinois Finance Authority revenue refunding direct placement bonds, Series 2017, due in 2029, interest rate adjusted weekly, 1.024 percent at September 30, 2020	41,860
Colorado Health Facilities Authority revenue bonds, Series 2018A, due in 2048, interest at 5.0 percent	59,780
State of Connecticut Health and Educational Facilities Authority revenue bonds, Series 2018B, due in 2040, interest at 5.0 percent	46,030
2019 Term loan, due in 2024, interest at 2.45 percent	<u>45,000</u>
Total long-term debt	471,495
Less current maturities	(14,071)
Less unamortized debt issuance costs - Net of accumulated amortization	(5,990)
Plus unamortized original issue discount - Net of unamortized original issue premium	<u>16,077</u>
Total long-term debt - Less current maturities	<u>\$ 467,511</u>

Master Trust Indenture Obligations

The Communities, excluding Covenant Living Services and its affiliates, are members of the obligated group, as defined (the "Obligated Group") under the Master Trust Indenture. As members, each community is jointly and severally liable for the repayment of the Master Trust Indenture bonds. The Master Trust Indenture obligations, totaling \$471,495 at September 30, 2020, are secured by mortgages on substantially all real estate, personal property (equipment and fixtures), and accounts receivable of the Obligated Group. Members of the Obligated Group make monthly interest and principal deposits into bond interest and sinking funds controlled by the bond trustees. The Master Trust Indenture and related agreements require the maintenance of minimum debt service coverage and days cash on hand ratios, as defined; require the maintenance of minimum debt service reserve funds; and place restrictions on the incurrence of additional debt and disposal of assets. Management believes the Obligated Group was in compliance with these requirements at September 30, 2020.

All of the tax-exempt revenue bonds are subject to optional early redemption by the issuers prior to maturity at premiums of up to 2 percent for redemptions within stated time periods.

Covenant Living Communities and Services

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 10 - Long-term Debt and Other Obligations (Continued)

On October 31, 2019, Tulsa Hills Community, Inc. (Tulsa Hills), an entity of Covenant Living Services, acquired Inverness Village, a senior living community located in Tulsa, Oklahoma, through bankruptcy proceedings. Pursuant to the terms and conditions of an asset purchase agreement dated July 22, 2019 between Inverness Village and Tulsa Hills, the assets and liabilities were acquired for a purchase price of \$41,000, funded through a \$45,000 taxable term loan (the "Bank Loan"). The Bank Loan is held by Covenant Living Communities and Services. The Bank Loan matures on October 24, 2024 and has a fixed interest rate of 2.45 percent per annum, with payments of interest only for the first three years of the term.

The weighted-average interest rate on all outstanding borrowings was approximately 4.4 percent at September 30, 2020.

Total Long-term Debt

Contractual maturities of long-term debt, excluding original issue discount and premium, for years subsequent to September 30, 2020 are as follows:

Years Ending September 30	Amount
2021	\$ 14,071
2022	14,570
2023	16,280
2024	16,909
2025	58,859
2026 and thereafter	350,806
Total	<u>\$ 471,495</u>

The tax-exempt revenue bond indentures require certain funds to be held in accounts controlled by the bond trustees. The funds are primarily invested in fixed-income securities and cash and short-term investments. The total trustee-held funds, which are included in assets whose use is limited, including interest in investment pool as restricted under state and debt agreements at September 30, 2020 are as follows:

Fund:	
Bond interest, sinking, and expense fund	\$ 12,522
Debt service reserve fund	37,142
Bond project fund	<u>68,165</u>
Subtotal	117,829
Less amounts classified as current	<u>(12,522)</u>
Trustee-held funds - Noncurrent	<u>\$ 105,307</u>

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 10 - Long-term Debt and Other Obligations (Continued)

Other Obligations

On January 31, 2020, Covenant Living of Geneva (Geneva) and Covenant Living of Bixby (Bixby) entered into a loan with the Huntington National Bank (Huntington) in the amount of \$21,100 with an interest rate of one-month LIBOR (London Interbank Offered Rate) plus 175 basis points (the "Huntington Loan"). Monthly principal and interest payments are due beginning on March 1, 2020 with a final payment of all outstanding principal and accrued interest due on January 31, 2025. A swap was also entered into in connection with the Huntington Loan in order to fix net interest expense at a rate of 3.28 percent (see Note 11). Proceeds of the loan were used to fund debt issuance costs and fully pay the following three outstanding loans: (1) a loan between Huntington and Bixby, (2) a loan between National Covenant Properties and Bixby (see Note 13), and (3) a loan between Geneva and National Covenant Properties (see Note 13). Covenant Living Communities and Services fully guarantees the loan and the swap.

In 2015, Bixby secured a construction loan with Huntington Bank, N.A. (the "Priority Bixby Loan") for construction and development of a rental continuing care retirement community. The loan allows for maximum borrowing of \$12,570 and bears interest at LIBOR plus the bank spread. Monthly principal and interest payments are amortized over 25 years. The Priority Bixby Loan was fully paid on January 31, 2020 from the proceeds of the Huntington Loan.

Bixby also secured an additional \$4,200 loan from National Covenant Properties (the "Junior Bixby Loan") for the Bixby campus construction. The Junior Bixby Loan was fully paid on January 31, 2020 from the proceeds of the Huntington Loan.

Guarantees of Debt

In May 2015, Covenant Living of Portland, Limited Partnership (Portland), an affiliate of Covenant Ministries of Benevolence, entered into a credit agreement with U.S. Bank for borrowings up to \$6,000, which was used to redeem the State of Oregon Housing and Community Service Department Housing Development Revenue Bonds Series 2000A in May 2015. The balance outstanding on the credit agreement amounted to \$4,555 at September 30, 2020. The Communities guarantee payments of the obligation by Portland.

Subsequent Event

On October 29, 2020, the Communities issued \$82,250 of tax-exempt revenue bonds (Series 2020A) and \$161,560 of taxable revenue bonds (Series 2020B) through the Colorado Health Facilities Authority. Proceeds of the 2020A and 2020B bonds were used for the following: (1) to pay the Colorado Health Facilities 2012A, 2012B, 2012C, and 2013A bonds; (2) to pay the California Statewide Communities Development Authority 2013C bonds; (3) to buy back \$6,500 of the 2015A bonds; (4) to fund capital project and interest reserve accounts; and (5) to pay the costs of issuance.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 11 - Derivative Instruments

The Communities entered into interest rate swap agreements to manage their debt structure and lessen interest rate risk. The fair values aggregate to \$4,871 at September 30, 2020 and are recorded in other liabilities. The objective of the swap agreements is to minimize the risks associated with financing activities by reducing the impact of changes in the interest rates on variable rate debt. The swap agreements are contracts to exchange variable-rate for fixed-rate payments over the terms of the swap agreements without the exchange of the underlying notional amount. The notional amount of the swap agreements is used to measure the interest to be paid or received and does not represent the amount of exposure to credit loss. During 2020, the Communities had the following interest rate swaps in effect:

Counterparty	Maturity Date	Rate Paid	Rate Received	Notional Amount	Market Value
Wells Fargo Bank, N.A.	12/1/2034	3.59 %	67% of 1M LIBOR	\$ 12,485	\$ (3,029)
Wells Fargo Bank, N.A.	12/1/2025	3.49 %	67 % of 1M LIBOR	7,590	(698)
The Huntington National Bank	1/31/2025	1.53 %	100% of 1M LIBOR	20,865	(1,144)

The Wells Fargo Bank, N.A. and The Huntington National Bank International Swaps and Dealers Association, Inc. (ISDA) contain an Additional Termination Event. If the long-term unsecured, unenhanced senior debt rating falls below certain thresholds, it triggers an Additional Termination Event. The Communities have three remedies available in lieu of termination, including collateral posting. No collateral was required to be posted at September 30, 2020.

The net amount paid to Wells Fargo Bank, N.A. and Huntington National Bank under the interest rate swap agreements during 2020 totaled \$715. The expense is recorded as interest expense on interest rate swaps.

The change in the fair market value of the swaps during 2020 of \$(1,488) is recorded as a component of nonoperating (expense) revenue in the consolidated statement of operations and changes in net assets without donor restrictions.

Note 12 - Construction in Progress

The construction in progress balance of \$61,132 at September 30, 2020 relates to various projects across the Communities. All of the projects are for the purpose of improving or expanding resident facilities and are in accordance with the Covenant Living Communities and Services' not-for-profit tax status. Sufficient funds to complete all projects are available from bond project funds and board-designated reserves. The Communities entered into a construction commitment with a total contract price of \$34,259, with a balance to finish of \$12,598, which includes retainage at September 30, 2020.

Note 13 - Related Party Transactions

Included in assets whose use is limited, including interest in investment pool, classified as noncurrent at September 30, 2020 are \$1,176 of National Covenant Properties certificates of deposit. During 2020, interest income earned on the National Covenant Properties certificates of deposit totaled \$20.

On July 31, 2014, CMB sold its ownership in Emanuel Medical Center (EMC) to a third-party provider. On August 1, 2014, ownership of Brandel Manor-Cypress, a 145-bed skilled nursing facility, and Cypress, a 29-bed assisted living facility, transferred to CMB. While ownership of the facilities belongs to CMB, Covenant Living Communities and Services signed a lease agreement to lease the operations and management for both facilities. The initial lease term is 10 years with two optional 5-year extension periods and a \$300 annual base rent.

Included in other assets is \$1,139 of amounts due from Covenant Ministries of Benevolence.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 13 - Related Party Transactions (Continued)

Included in administrative and general expenses are management fees paid to Covenant Ministries of Benevolence of \$1,550 during 2020.

Covenant Ministries of Benevolence assigned its membership interest in Covenant Housing Corporation to the Communities in April 2020. The change in membership interest is recorded as a net asset transfer of \$336.

Certain costs, which relate to trust contributions, are incurred by the Communities in connection with Covenant Estate Planning Services of The Evangelical Covenant Church, which assists certain residents and nonresidents in managing assets, establishing trusts, and other related activities. Amounts paid to Covenant Estate Planning Services during 2020 totaled \$19.

In April 2014, Bixby entered into a revolving line of credit with National Covenant Properties with an available credit of \$4,200. The Communities guaranteed payment of the balance. During 2020, the note payable was paid off, as disclosed in Note 10.

On September 27, 2010, Covenant Holdings One, LLC entered into a revolving line of credit with National Covenant Properties with an available credit line of \$4,000. During the year ended January 31, 2011, Covenant Holdings One, LLC borrowed \$4,000 on the line of credit. As of September 30, 2020, the outstanding balance on the line is \$4,000. The line of credit bears interest at the prime rate or a minimum of 4 percent, due monthly. The principal amount borrowed is due no later than 20 years from the date of first disbursement of loan funds, which was November 1, 2010.

On May 9, 2008, Covenant Holdings Two, LLC acquired a 53-unit senior residential building in Geneva, Illinois. This acquisition was primarily financed through a \$5,000 note payable to an affiliate, National Covenant Properties. During 2020, the note payable was paid off, as disclosed in Note 10.

Note 14 - Pension Plan

Certain full-time employees participate in The Evangelical Covenant Church Retirement Plan (the "Plan"). This multiemployer plan, administered by the Board of Benevolence, is noncontributory and provides defined benefits based on years of service and remuneration near retirement. Effective December 31, 2012, the Plan was frozen. Pension benefits will no longer accrue to employees for years of service subsequent to December 31, 2012. Beginning January 1, 2013, the Communities began to match contributions to a defined contribution plan, based on eligibility, made by employees up to 3 percent of each employee's salary. During 2020, the Communities recorded expense of \$2,130 for the match.

Pension expense, representing the Communities' required contribution to the Plan during 2020, was \$1,660. The contributions made by the Communities represented more than 5 percent of the total contributions made to the Plan. To the extent the Plan is underfunded, future contributions to the Plan may increase.

The Evangelical Covenant Church Retirement Plan is not an Employee Retirement Income Security Act of 1974 plan and is not required to file Form 5500. The Plan's fiscal year is from January 1 to December 31.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 14 - Pension Plan (Continued)

Contributions from all employers to the Plan for the year ended December 31, 2019 are as follows:

Pension Fund	FEIN	Total Contributions to the Plan for the Year Ended December 31, 2019
The Evangelical Covenant Church Retirement Plan	36-2167730	\$ 17,861

As of December 31, 2019, the fair value of the assets of the Plan was \$310,747, and the actuarial present value of accumulated plan benefits was \$309,713.

Note 15 - Employee Medical Benefit Plan

The Communities sponsor a medical benefit plan, which is available to full-time and eligible part-time employees and their dependents. The medical benefit expense is based on actual medical, dental, and prescription claims paid, administration fees, and the provision for unpaid and unreported claims at year end. At September 30, 2020, the liability recorded for unpaid and unreported claims was \$3,130 and is reported in other current liabilities. During 2020, the medical benefit expense totaled \$11,905.

Note 16 - Beneficial Interest in Gift Instruments

A source of funds to the Communities is in the form of bequests from The Evangelical Covenant Church members, residents of the Communities, and other parties. The Office of Covenant Estate Planning Services (CEPS) of The Evangelical Covenant Church maintains information as to the estimated values of certain of the Communities' share of trusts and other estate planning mechanisms used by donors. Estimates of value as to the underlying assets of the trusts or other arrangements rely on quoted market prices in the case of stocks and other equity and traded debt securities, appraisal values (where available) for real property, and other reasonable estimates made by the trustees for specific assets. The Communities have recorded their interest in irrevocable trusts as of September 30, 2020 at fair value.

Revocable trusts and bequests may be revoked by the donor at any time and, therefore, have not been recorded in the accompanying consolidated financial statements. Proceeds from revocable trusts and bequests will be recorded when received. The ultimate realization of such trusts and bequests may be affected by investment income and appreciation or depreciation, morbidity, mortality, principal reductions, and other factors. Accordingly, the ultimate amounts that will be realized and their timing are not presently determinable.

Amounts related to irrevocable trusts for which the Communities are the named beneficiary, but that allow the beneficiary to be changed to a different entity related to The Evangelical Covenant Church at the discretion of the grantor, are not considered irrevocable for accounting purposes and, accordingly, are not included in interest in irrevocable trusts in the consolidated statement of financial position.

The Communities have recorded their interest in three endowment accounts funded by distributions from irrevocable trusts. The endowment accounts are managed by CEPS and are to be held in perpetuity. Income on the endowment funds is paid to the Communities quarterly and increases net assets with donor restrictions until the funds are spent for the designated purpose. The value of the endowment accounts at September 30, 2020 totaled \$2,678 and is recorded in assets whose use is limited and net assets with donor restrictions in the consolidated statement of financial position.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 17 - Revenue Recognition

A summary of the payment arrangements with major third-party payors follows:

Medicare - Services rendered to Medicare program beneficiaries are paid at prospectively determined rates based upon clinical assessments completed by each facility.

Medicaid - Services rendered to Medicaid program beneficiaries are paid at per diem rates prospectively determined by the respective states and are adjusted periodically for changes in resident acuity.

Insurance - Payment agreements with certain commercial insurance carriers, health maintenance organizations, and preferred provider organizations provide for payment using prospectively determined daily rates and discounts from established charges.

Laws and regulations governing the Medicare and Medicaid programs are complex and subject to interpretation. Management believes it is in compliance with all applicable laws and regulations and is not aware of any pending or threatened investigations involving allegations of potential wrongdoings. While no such regulatory inquiries have been made, compliance with such laws and regulations can be subject to future government review and interpretation. Noncompliance with such laws and regulations may result in significant regulatory action, including fines, penalties, and exclusion from the Medicare and Medicaid programs.

Variable consideration may also exist in the form of settlements with third-party payors as a result of retroactive adjustments due to audits, reviews, or investigations. These settlements are estimated based on the terms of the payment agreement with the payor, correspondence from the payor, and the Communities' historical settlement activity. The Communities have not applied a constraint to the transaction price for settlement estimates, as the Communities have determined that it is probable that a significant reversal in the amount of the cumulative revenue recognized would not occur in the future.

The Communities make an initial and ongoing evaluation of a resident's creditworthiness or obtain third-party verification of payment coverage and, as such, consider the credit risks they assume and any billed amounts not expected to be collected from residents or third parties for services rendered to represent bad debt expense.

Because all of their performance obligations relate to contracts with a duration of less than one year, the Communities have elected to apply the optional exemption provided in FASB ASC 606-10-50-14(a) and, therefore, are not required to disclose the aggregate amount of the transaction price allocated to performance obligations that are unsatisfied or partially unsatisfied at the end of the reporting period.

The Communities have elected the practical expedient allowed under FASB ASC 606-10-32-18 and do not adjust the promised amount of consideration from residents and third-party payors for the effects of a significant financing component due to the Communities' expectation that the period between the time the resident services are provided to a resident and the time that the resident or a third-party payor pays for that service will be one year or less.

Covenant Living Communities and Services

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 17 - Revenue Recognition (Continued)

The composition of routine resident and ancillary services by primary payor and by level of care for the year ended September 30, 2020 is as follows:

Payors:		
Private	\$	208,583
Medicare		50,122
Medicaid		31,490
Total	\$	<u>290,195</u>
Level of care:		
Residential living	\$	103,311
Assisted living		51,522
Skilled nursing		117,998
Home health		17,364
Total	\$	<u>290,195</u>

Note 18 - COVID-19 Impact

On March 11, 2020, the World Health Organization declared the outbreak of a respiratory disease caused by a new coronavirus a pandemic. First identified in late 2019 and now known as COVID-19, the outbreak has impacted millions of individuals in the United States and worldwide. In response, the United States federal government and individual state and local governments have implemented measures to combat the outbreak that have impacted health care business operations. During the fiscal year 2020, the Communities' operations were significantly impacted, as shelter-in-place orders and government mandates to suspend elective procedures reduced volume during the period. The Communities have moved to mitigate the impact by reducing discretionary spending, delaying capital expenditures, and actively managing cash disbursements.

Enacted on March 27, 2020, the CARES Act was established, which authorizes \$100 billion to be administered through grants and other mechanisms to hospitals, public entities, not-for-profit entities, and Medicare and Medicaid-enrolled suppliers and institutional providers. The purpose of these funds is to reimburse providers for lost revenue attributable to the coronavirus pandemic, such as forgone revenue from canceled procedures, and provide support for related health care expenses, such as constructing temporary structures or emergency operation centers; retrofitting facilities; purchasing medical supplies and equipment, including personal protective equipment and testing supplies; and increasing workforce. Further, these relief funds ensure uninsured patients are receiving testing and treatment for COVID-19.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 18 - COVID-19 Impact (Continued)

On April 10, 2020, the U.S. Department of Health and Human Services began making payments to health care providers from the \$100 billion appropriation. These are payments to health care providers that will not need to be repaid as long as the Communities comply with certain terms and conditions outlined by HHS. The Communities received approximately \$7,648 of payments as part of general distribution of the CARES Act Provider Relief Fund. The Communities relied on reporting requirements for the CARES Act Provider Relief Fund issued by HHS subsequent to September 30, 2020 to determine the amount of grant revenue eligible for recognition as of September 30, 2020. The requirements first require the recipient to identify health care-related expenses attributable to the coronavirus pandemic that another source has not reimbursed. If those expenses do not exceed the funding received, the recipient will need to demonstrate the remaining funding was applied toward lost revenue, defined as the difference between calendar years 2019 and 2020 actual routine resident service revenue, with an additional six months to use through June 2021. The amount of funds recognized as grant revenue at September 30, 2020 was based first on identified health care-related expenses, then lost revenue experienced through September 30, 2020, considering the potential loss revenue impact of the last quarter of calendar year 2020. As of September 30, 2020, the Communities have recognized approximately \$4,887 in grant revenue, which is included within other operating revenue within the accompanying consolidated statement of operations and changes in net assets without donor restrictions. The Communities have asserted that they have met the conditions and restrictions outlined within the November 2, 2020 HHS guidance and published terms and conditions for the CARES Act. The CARES Act allows for the Communities to use these funds to cover lost revenue and COVID-19-related expenses; however, HHS' requirements for the uses of the CARES Act funds are subject to change and are open to interpretation and clarification and, therefore, may result in changes in the amounts recognized as grant income during the year ended September 30, 2020.

In addition, the Communities received Paycheck Protection Program (PPP) loans through a financial institution of \$16,714 under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The loan structures required the Communities' officials to certify certain statements that permitted the Communities to qualify for the loan and provides loan forgiveness for a portion or all of the borrowed amount if the Communities use the loan proceeds for the permitted loan purpose described in the note agreement; the portion not forgiven will be required to be paid back by the Communities in full in May 2022 under monthly principal payments beginning in May 2021, with interest at 1.00 percent. The Communities have the right to prepay any amount outstanding at any time without penalty. The loans will continue to help the Communities fund payroll, benefits, and building utility costs for a period of up to 24 weeks, as elected by the Communities. While the legal form of the PPP agreements are loans, the Communities concluded the loans represent, in substance, grants that are expected to be forgiven and, therefore, have accounted for the agreements as conditional contributions. The following measurable barriers must be substantially overcome before the contributions can be considered unconditional and recorded as revenue:

- Incur eligible expense
- Maintain full-time equivalent counts and salary levels through the eligibility period
- Not exceed reduction in compensation limitations
- SBA review and approval of the forgiveness

As of September 30, 2020, the Communities have not met all measurable barriers and, therefore, have determined the full amount of \$16,714 to be a refundable advance, which is recorded in other current liabilities on the consolidated statement of financial position.

The funds mentioned above will provide support for short-term liquidity needs and will address the economic uncertainties of the pandemic going forward.

Covenant Living Communities and Services

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 19 - Functional Expenses

The Communities provide various services to their residents. Expenses related to providing these services for the year ended September 30, 2020 are as follows:

Program services:	
Salaries and benefits	\$ 155,675
Purchased services	28,978
Equipment and supplies	25,994
Depreciation and amortization	48,326
Interest	14,146
Insurance	5,703
Other	26,397
Total program services	305,219
Support services:	
Salaries and benefits	19,776
Purchased services	7,461
Equipment and supplies	1,766
Depreciation and amortization	4,856
Interest	1,422
Insurance	573
Other	11,073
Total support services	46,927
Fundraising:	
Salaries and benefits	1,899
Purchased services	31
Equipment and supplies	37
Other	236
Total fundraising	2,203
Total	\$ 354,349

The expenses above include \$1,983 of gifts and bequests expenses, which are netted on the accompanying consolidated statement of operations and changes in net assets without donor restrictions within gifts and bequests - net of related expenses.

Note 20 - Liquidity

The Communities' financial assets available within one year of September 30, 2020 for general expenditure are as follows:

Cash and cash equivalents	\$ 48,656
Restricted cash	4,653
Accounts receivable - Net	17,949
Total	\$ 71,258

None of these financial assets are subject to donor or other contractual restrictions that make them unavailable for general expenditure within one year of the consolidated statement of financial position date.

Notes to Consolidated Financial Statements

September 30, 2020

(in thousands)

Note 20 - Liquidity (Continued)

The Communities have a policy to structure their financial assets to be available as their general expenditures, liabilities, and other obligations come due. To help manage unanticipated liquidity needs, the Communities also have certain board-designated assets limited as to use, which, as noted in Note 5, have been designated by the board of directors for future capital improvement and may, at its discretion, be made available for general expenditures within the next year. Additionally, the Communities maintain an \$8 million line of credit, as disclosed in Note 9, which could be drawn upon if necessary.

Note 21 - Business Combination

On October 31, 2019, Tulsa Hills Community Inc. (Tulsa Hills), an entity of Covenant Living Services, acquired Covenant Living at Inverness (f/k/a Inverness Village), a senior living community located in Tulsa, Oklahoma, through bankruptcy proceedings. The primary reason for the acquisition was to continue expansion within Oklahoma. The total fair value of the assets at the date of acquisition was \$48,101, which was allocated to the acquired property and equipment. The aggregate fair value of the assets acquired and liabilities assumed of Inverness Village exceeded the fair value of the consideration transferred. As a result, Covenant Living Services recognized goodwill of \$66,559 as a result of the transaction.

The amounts of Covenant Living at Inverness' revenue and decrease in net assets without donor restrictions included in the accompanying consolidated statement of operations and changes in net assets without donor restrictions for the year ended September 30, 2020 totaled \$14,546 and \$(6,586), respectively.

Cash - Fair value of total consideration transferred	\$ 41,000
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The following table summarizes the acquisition date fair values of the assets acquired and liabilities assumed:

Assets:	
Property and equipment	\$ 43,435
Receivable - Escrow deposits	4,666
Total assets	48,101
Liabilities assumed:	
Refundable resident deposits and refundable and nonrefundable entrance fees	(70,195)
Accrued liabilities	(3,465)
Total liabilities assumed	(73,660)
Total identifiable net assets	(25,559)
Goodwill	66,559
Total	\$ 41,000

Additional Consolidating Information



Plante & Moran, PLLC
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Independent Auditor's Report on Additional Consolidating Information

To the Covenant Living Board
 Covenant Living Communities and Services

We have audited the consolidated financial statements of Covenant Living Communities and Services as of and for the year ended September 30, 2020 and have issued our report thereon dated January 21, 2021, which contained an unmodified opinion on the consolidated financial statements. Our audit was performed for the purpose of forming an opinion on the consolidated financial statements as a whole. The additional consolidating information is presented for the purpose of additional analysis and is not a required part of the consolidated financial statements. Such information is the responsibility of management and was derived from, and relates directly to, the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the consolidated financial statements as a whole.

Plante & Moran, PLLC

January 21, 2021

Covenant Living Communities and Services

Consolidating Statement of Financial Position Information

September 30, 2020
(in thousands)

	Consolidated	Eliminations	Covenant Housing Corporation	Covenant Living Services	Obligated Group	Eliminations	Covenant Living Communities and Services	All Campuses
ASSETS								
CURRENT ASSETS:								
Cash and cash equivalents	\$ 48,656	\$ -	\$ -	\$ 1,529	\$ 47,127	\$ -	\$ 46,641	\$ 486
Restricted cash	8,063	-	-	687	7,376	-	4,455	2,921
Assets whose use is limited, including beneficial interest in investment pool:								
Board designated	89,166	-	-	-	89,166	-	5,517	83,649
Restricted under debt agreements	12,522	-	-	-	12,522	-	930	11,592
Accounts receivable - net	17,949	1	-	4,218	13,730	-	177	13,553
Prepaid expenses and other assets	4,899	-	-	68	4,831	-	3,678	1,153
Total current assets	\$ 181,255	\$ 1	\$ -	\$ 6,502	\$ 174,752	\$ -	\$ 61,398	\$ 113,354
PROPERTY AND EQUIPMENT - at Cost	1,193,093	-	-	75,643	1,117,450	-	53,316	1,064,134
Less Accumulated Depreciation	(585,125)	-	-	(7,570)	(577,555)	-	(23,788)	(553,767)
Property and Equipment-Net	607,968	-	-	68,073	539,895	-	29,528	510,367
OTHER ASSETS	32,049	(59,694)	-	1,149	90,594	(1,145)	86,623	5,116
INTEREST IN IRREVOCABLE TRUSTS	2,946	-	-	-	2,946	-	8	2,938
GOODWILL - Net	59,903	-	-	59,903	-	-	-	-
ASSETS WHOSE USE IS LIMITED, INCLUDING BENEFICIAL INTEREST IN INVESTMENT POOL:								
Board designated	\$ 233,297	\$ -	\$ 383	\$ -	\$ 232,914	\$ -	\$ 52,542	\$ 180,372
Restricted under state and debt agreements	114,434	-	-	-	114,434	-	1,608	112,826
Endowment	8,518	-	-	-	8,518	-	5,840	2,678
Total assets whose use is limited, including beneficial interest in investment pool	\$ 356,249	\$ -	\$ 383	\$ -	\$ 355,866	\$ -	\$ 59,990	\$ 295,876
TOTAL	\$ 1,240,370	\$ (59,693)	\$ 383	\$ 135,627	\$ 1,164,053	\$ (1,145)	\$ 237,547	\$ 927,651

Covenant Living Communities and Services

Consolidating Statement of Financial Position Information (Continued)

September 30, 2020
(in thousands)

	Consolidated	Eliminations	Covenant Housing Corporation	Covenant Living Services	Obligated Group	Eliminations	Covenant Living Communities and Services	All Campuses
LIABILITIES AND NET ASSETS (DEFICITS)								
CURRENT LIABILITIES:								
Accounts payable - trade	\$ 14,294	\$ -	\$ -	\$ 493	\$ 13,801	\$ (1)	\$ 10,491	\$ 3,311
Accounts payable - contractors	5,246	-	-	-	5,246	-	-	5,246
Accrued salaries and wages	11,321	-	-	-	11,321	-	11,139	182
Accrued interest	6,443	-	-	49	6,394	-	317	6,077
Advance deposits	3,885	-	-	70	3,815	-	19	3,796
Current maturities of long-term debt	14,071	-	-	-	14,071	-	824	13,247
Deferred revenue subject to refund	90,800	-	-	477	90,323	-	-	90,323
Refundable contract liabilities	114,775	-	-	1,519	113,256	-	-	113,256
Other current liabilities	46,452	-	-	13,133	33,319	150	11,272	21,897
Total current liabilities	\$ 307,287	\$ -	\$ -	\$ 15,741	\$ 291,546	\$ 149	\$ 34,062	\$ 257,335
LONG-TERM DEBT - Less current maturities	467,511	-	-	-	467,511	-	57,193	410,318
PAYABLE TO (FROM) COVENANT INSTITUTIONS:								
Covenant Living Communities and Services - Notes and advances	-	(59,694)	-	59,694	-	(1,295)	44,716	(43,421)
Other Benevolent institutions - Notes and advances	4,000	-	-	4,000	-	-	-	-
Total payable to (from) Covenant institutions	\$ 4,000	\$ (59,694)	\$ -	\$ 63,694	\$ -	\$ (1,295)	\$ 44,716	\$ (43,421)
OTHER LIABILITIES	95,628	-	-	71,026	24,602	(261)	11,984	12,879
DEFERRED REVENUE FROM ENTRANCE FEES	234,086	-	-	6,632	227,454	-	12,111	215,343
Total liabilities	\$ 1,108,512	\$ (59,694)	\$ -	\$ 157,093	\$ 1,011,113	\$ (1,407)	\$ 160,066	\$ 852,454
NET ASSETS (DEFICITS):								
Net assets (deficit) without restrictions	\$ 114,354	\$ 1	\$ 383	\$ (22,194)	\$ 136,164	\$ 262	\$ 70,365	\$ 65,517
Net assets (deficit) with restrictions	\$ 17,504	\$ -	\$ -	\$ 728	\$ 16,776	\$ -	\$ 7,096	\$ 9,680
Total net assets (deficits)	\$ 131,858	\$ 1	\$ 383	\$ (21,466)	\$ 152,940	\$ 262	\$ 77,461	\$ 75,197
TOTAL	1,240,370	(59,693)	383	135,627	1,164,053	(1,145)	237,547	927,651

See additional auditor's report on additional consolidating information.

Covenant Living Communities and Services

Campus Consolidating Statement of Financial Position Information

September 30, 2020
(in thousands)

	Total All Campuses	Covenant Living of Colorado	Covenant Home of Chicago	Covenant Living of Florida	Covenant Living of Golden Valley	Covenant Living of the Great Lakes	Covenant Living of Cromwell	Brandel Manor- Cypress
ASSETS								
CURRENT ASSETS:								
Cash and cash equivalents	\$ 486	\$ 8	\$ 134	\$ 27	\$ 18	\$ 6	\$ 163	\$ 14
Restricted cash	2,921	516	16	7	120	178	1,852	4
Assets whose use is limited, including beneficial interest in investment pool:								
Board designated								
Restricted under debt agreements	83,649	11,181	-	3,184	6,897	5,320	3,145	-
Accounts receivable - net	11,592	322	-	177	570	594	1,709	-
Prepaid expenses and other assets	13,553	497	144	1,010	1,488	434	1,124	1,183
	1,153	21	11	50	124	97	240	113
Total current assets	\$ 113,354	\$ 12,545	\$ 305	\$ 4,455	\$ 9,217	\$ 6,629	\$ 8,233	\$ 1,314
PROPERTY AND EQUIPMENT - Net	510,367	44,527	4,239	32,934	28,456	35,855	59,121	1,872
OTHER ASSETS	5,116	354	-	-	70	200	1,036	-
INTEREST IN IRREVOCABLE TRUSTS	2,938	71	129	794	240	19	281	-
ASSETS WHOSE USE IS LIMITED, INCLUDING BENEFICIAL INTEREST IN INVESTMENT POOL:								
Board designated	\$ 180,372	\$ 1,658	\$ 4,346	\$ 7,710	\$ 4,978	\$ 722	\$ 8,951	\$ -
Restricted under state and debt agreements	112,826	3,131	-	7,499	3,576	4,126	26,478	-
Endowment	2,678	-	-	-	-	-	-	-
Total assets whose use is limited, including beneficial interest in investment pool	\$ 295,876	\$ 4,789	\$ 4,346	\$ 15,209	\$ 8,554	\$ 4,848	\$ 35,429	\$ -
TOTAL	\$ 927,651	\$ 62,286	\$ 9,019	\$ 53,392	\$ 46,537	\$ 47,551	\$ 104,100	\$ 3,186

Covenant Living Communities and Services

Campus Consolidating Statement of Financial Position Information (Continued)

September 30, 2020
(in thousands)

	Covenant Living at the Holmstad	Covenant Living at Mount Miguel	Covenant Living of Northbrook	Covenant Living at the Samarkand	Covenant Living at the Shores	Covenant Living of Turlock	Covenant Living at Windsor Park
ASSETS							
CURRENT ASSETS:							
Cash and cash equivalents	\$ 10	\$ 19	\$ 8	\$ 11	\$ 22	\$ 11	\$ 35
Restricted cash	57	157	1	1	-	-	12
Assets whose use is limited, including beneficial interest in investment pool:							
Board designated	9,451	5,791	16,544	7,618	11,411	3,107	-
Restricted under debt agreements	1,691	671	1,005	70	303	3,875	605
Accounts receivable - net	1,465	1,297	1,271	941	891	418	1,390
Prepaid expenses and other assets	18	41	70	45	147	59	117
Total current assets	\$ 12,692	\$ 7,976	\$ 18,899	\$ 8,686	\$ 12,774	\$ 7,470	\$ 2,159
PROPERTY AND EQUIPMENT - Net	48,492	40,405	68,731	43,278	38,584	30,147	33,726
OTHER ASSETS	227	1,540	621	822	-	246	-
INTEREST IN IRREVOCABLE TRUSTS	195	149	187	473	97	252	51
ASSETS WHOSE USE IS LIMITED, INCLUDING BENEFICIAL INTEREST IN INVESTMENT POOL:							
Board designated	\$ 19,767	\$ 8,790	\$ 49,501	\$ 36,916	\$ 3,347	\$ 17,296	\$ 16,390
Restricted under state and debt agreements	9,311	18,169	5,548	894	2,187	5,182	26,725
Endowment	762	46	-	-	-	-	1,870
Total assets whose use is limited, including beneficial interest in investment pool	\$ 29,840	\$ 27,005	\$ 55,049	\$ 37,810	\$ 5,534	\$ 22,478	\$ 44,985
TOTAL	\$ 91,446	\$ 77,075	\$ 143,487	\$ 91,069	\$ 56,989	\$ 60,593	\$ 80,921

See additional auditor's report on additional consolidating information.

Covenant Living Communities and Services

Campus Consolidating Statement of Financial Position Information (Continued)

September 30, 2020
(in thousands)

	Total All Campuses	Covenant Living of Colorado	Covenant Home of Chicago	Covenant Living of Florida	Covenant Living of Golden Valley	Covenant Living of the Great Lakes	Covenant Living of Cromwell	Brandel Manor- Cypress
LIABILITIES AND NET ASSETS (DEFICITS)								
CURRENT LIABILITIES:								
Accounts payable - trade	\$ 3,311	\$ 221	\$ 34	\$ 169	\$ 138	\$ 174	\$ 188	\$ 85
Accounts payable - contractors	5,246	-	-	-	-	-	5,246	-
Accrued salaries and wages	182	-	127	-	-	-	-	-
Accrued interest	6,077	253	-	179	506	580	767	-
Advance deposits	3,796	198	172	10	78	433	1,663	-
Current maturities of long-term debt	13,247	1,933	-	564	77	625	1,130	-
Deferred revenue subject to refund	90,323	8,527	-	5,403	4,485	8,038	4,695	-
Refundable contract liabilities	113,256	16,590	-	6,777	7,889	8,872	4,353	-
Other current liabilities	21,897	1,881	36	1,698	2,086	1,198	1,996	362
Total current liabilities	\$ 257,335	\$ 29,603	\$ 369	\$ 14,800	\$ 15,259	\$ 19,920	\$ 20,038	\$ 447
LONG-TERM DEBT - Less current maturities	410,318	33,562	-	13,160	31,450	42,070	47,808	-
PAYABLE TO (FROM) COVENANT INSTITUTIONS:								
Covenant Retirement Communities - Notes and advances	(43,421)	(140)	5,228	29,261	23,910	11,411	21,758	4,249
Other Benevolent institutions- Notes and advances	-	-	-	-	-	-	-	-
Total payable to (from) Covenant institutions	\$ (43,421)	\$ (140)	\$ 5,228	\$ 29,261	\$ 23,910	\$ 11,411	\$ 21,758	\$ 4,249
OTHER LIABILITIES	12,879	-	-	-	15	-	-	-
DEFERRED REVENUE FROM ENTRANCE FEES	215,343	15,047	-	11,029	9,348	10,254	10,636	-
Total liabilities	\$ 852,454	\$ 78,072	\$ 5,597	\$ 68,250	\$ 79,982	\$ 83,655	\$ 100,240	\$ 4,696
NET ASSETS (DEFICITS):								
Net assets (deficit) without restrictions	65,517	(15,982)	3,320	(15,186)	(33,668)	(36,174)	3,562	(1,725)
Net assets (deficit) with restrictions	9,680	196	102	328	224	70	298	215
Total net assets (deficits)	\$ 75,197	\$ (15,786)	\$ 3,422	\$ (14,858)	\$ (33,444)	\$ (36,104)	\$ 3,860	\$ (1,510)
TOTAL	\$ 927,651	\$ 62,286	\$ 9,019	\$ 53,392	\$ 46,537	\$ 47,551	\$ 104,100	\$ 3,186

Covenant Living Communities and Services

Campus Consolidating Statement of Financial Position Information (Continued)

September 30, 2020
(in thousands)

	Covenant Living at Holmstad	Covenant Living at Miguel	Covenant Living at Northbrook	Covenant Living at Samarkand	Covenant Living at Shores	Covenant Living at Turlock	Covenant Living at Windsor Park
LIABILITIES AND NET ASSETS (DEFICITS)							
CURRENT LIABILITIES:							
Accounts payable - trade	\$ 451	\$ 256	\$ 260	\$ 382	\$ 305	\$ 229	\$ 419
Accounts payable - contractors	-	-	-	-	55	-	-
Accrued salaries and wages	-	-	-	-	-	-	-
Accrued interest	1,094	672	643	72	304	422	585
Advance deposits	224	253	173	176	246	35	135
Current maturities of long-term debt	841	608	530	784	461	4,618	1,076
Deferred revenue subject to refund	11,677	8,955	13,454	12,077	7,838	5,174	-
Refundable contract liabilities	10,825	8,270	21,773	10,050	14,632	3,225	-
Other current liabilities	3,681	546	2,699	1,233	446	480	3,555
Total current liabilities	\$ 28,793	\$ 19,560	\$ 39,532	\$ 24,774	\$ 24,287	\$ 14,183	\$ 5,770
LONG-TERM DEBT - Less current maturities	68,421	39,677	38,319	6,024	20,024	23,605	46,198
PAYABLE TO (FROM) COVENANT INSTITUTIONS:							
Covenant Retirement Communities - Notes and advances	2,152	(50,776)	(29,360)	(51,713)	(22,581)	(3,075)	16,255
Other Benevolent institutions- Notes and advances	-	-	-	-	-	-	-
Total payable to (from) Covenant institutions	\$ 2,152	\$ (50,776)	\$ (29,360)	\$ (51,713)	\$ (22,581)	\$ (3,075)	\$ 16,255
OTHER LIABILITIES	-	-	-	26	-	-	12,838
DEFERRED REVENUE FROM ENTRANCE FEES	17,718	18,860	30,638	26,934	21,461	12,660	30,758
Total liabilities	\$ 117,084	\$ 27,321	\$ 79,129	\$ 6,045	\$ 43,191	\$ 47,373	\$ 111,819
NET ASSETS (DEFICITS):							
Net assets (deficit) without restrictions	\$ (26,574)	\$ 49,178	\$ 64,343	\$ 80,668	\$ 13,701	\$ 12,956	\$ (32,901)
Net assets (deficit) with restrictions	936	576	15	4,356	97	264	2,003
Total net assets (deficits)	\$ (25,638)	\$ 49,754	\$ 64,358	\$ 85,024	\$ 13,798	\$ 13,220	\$ (30,898)
TOTAL	\$ 91,446	\$ 77,075	\$ 143,487	\$ 91,069	\$ 56,989	\$ 60,593	\$ 80,921

Covenant Living Communities and Services

Consolidating Statement of Operations and Changes in Net Assets Without Donor Restrictions Information

For the Year Ended September 30, 2020
(in thousands)

	Consolidated	Eliminations	Covenant Housing Corporation	Covenant Living Services	Obligated Group	Eliminations	Covenant Living Communities and Services	All Campuses
OPERATING REVENUES:								
Routine resident services	\$ 244,720	\$ -	\$ -	\$ 17,048	\$ 227,672	\$ -	\$ 2,411	\$ 225,261
Ancillary services	45,475	-	-	18,322	27,153	-	4	27,149
Amortization of deferred entrance fees	50,153	-	-	1,075	49,078	-	949	48,129
Net assets released from restriction for operations	3,219	-	-	366	2,853	-	233	2,620
Other	12,558	(1,256)	-	2,684	11,130	-	1,310	9,820
	\$ 356,125	\$ (1,256)	\$ -	\$ 39,495	\$ 317,886	\$ -	\$ 4,907	\$ 312,979
Total operating revenues								
EXPENSES:								
Routine nursing services	\$ 80,617	\$ -	\$ -	\$ 12,837	\$ 67,780	\$ -	\$ -	\$ 67,780
Ancillary services	17,495	-	-	1,940	15,555	-	-	15,555
Resident benefits	15,734	-	-	1,391	14,343	-	-	14,343
Dietary	43,206	-	-	2,941	40,265	-	-	40,265
Laundry	2,115	-	-	72	2,043	-	-	2,043
Housekeeping	10,430	-	-	852	9,578	-	-	9,578
Maintenance	20,286	-	-	2,073	18,213	-	195	18,018
Utilities	12,618	-	-	970	11,648	-	65	11,583
Administrative and general	57,863	(1,048)	-	9,909	49,002	19	(2,918)	51,901
Interest	15,568	(514)	-	1,326	14,756	(7,324)	(302)	22,382
Property taxes	3,267	-	-	586	2,681	-	206	2,475
Insurance	6,276	-	-	534	5,742	-	302	5,440
Marketing and promotion	13,059	(207)	-	1,818	11,448	(16)	(97)	11,561
Depreciation	52,559	-	-	2,024	50,535	-	2,110	48,425
Amortization	623	-	-	184	439	-	90	349
Other	650	-	-	135	515	-	(1,164)	1,679
	\$ 352,366	\$ (1,769)	\$ -	\$ 39,592	\$ 314,543	\$ (7,321)	\$ (1,513)	\$ 323,377
Total expenses								
OPERATING INCOME (LOSS)	\$ 3,759	\$ 513	\$ -	\$ (97)	\$ 3,343	\$ 7,321	\$ 6,420	\$ (10,398)

Covenant Living Communities and Services

Consolidating Statement of Operations and Changes in Net Assets Without Donor Restrictions Information (Continued)

For the Year Ended September 30, 2020
(in thousands)

	Consolidated	Eliminations	Covenant Housing Corporation	Covenant Living Services	Obligated Group	Eliminations	Covenant Living Communities and Services	All Campuses
OPERATING INCOME (LOSS)	\$ 3,759	\$ 513	\$ -	\$ (97)	\$ 3,343	\$ 7,321	\$ 6,420	\$ (10,398)
NONOPERATING REVENUE (EXPENSE):								
Contributions:								
Gifts and bequests — net	(1,354)	-	-	(16)	(1,338)	3	(622)	(719)
Net assets released from restriction — distributions from trusts	131	-	-	-	131	-	-	131
Total contributions	\$ (1,223)	\$ -	\$ -	\$ (16)	\$ (1,207)	\$ 3	\$ (622)	\$ (588)
Loss on extinguishment of debt	(158)	-	-	(158)	-	-	-	-
Other nonoperating revenue - net	(3,386)	-	-	(5,360)	1,974	-	315	1,659
Investment return, including beneficial interest in investment pool:								
Interest and dividend income	5,259	(514)	2	(5)	5,776	(7,324)	1,295	11,805
Realized gains (losses) on fixed income and equity securities — net	2,510	-	-	-	2,510	-	(3,616)	6,126
Unrealized gains (losses) on fixed income and equity securities — net	2,152	-	45	-	2,107	-	(314)	2,421
Alternative investment income (loss)	11,198	-	-	-	11,198	-	11,198	-
Total investment return (loss), including beneficial interest in investment pool	\$ 21,119	\$ (514)	\$ 47	\$ (5)	\$ 21,591	\$ (7,324)	\$ 8,563	\$ 20,352
Unrealized gains (losses) on derivative instruments	(1,488)	-	-	(1,144)	(344)	110	(454)	-
Interest expense on interest rate swaps	(715)	-	-	(125)	(590)	-	(590)	-
Loss on swap termination	-	-	-	-	-	-	-	-
Total nonoperating revenue (expense)	\$ 14,149	\$ (514)	\$ 47	\$ (6,808)	\$ 21,424	\$ (7,211)	\$ 7,212	\$ 21,423
(LOSS) INCOME	\$ 17,908	\$ (1)	\$ 47	\$ (6,905)	\$ 24,767	\$ 110	\$ 13,632	\$ 11,025
OTHER CHANGES IN UNRESTRICTED NET ASSETS:								
Net assets released from restriction for capital purchases	\$ 69	\$ -	\$ -	\$ -	\$ 69	\$ -	\$ -	\$ 69
Net asset transfer from (to) related organization	336	-	336	1,834	(1,834)	-	(1,834)	-
Total other changes in unrestricted net assets	\$ 405	\$ -	\$ 336	\$ 1,834	\$ (1,765)	\$ -	\$ (1,834)	\$ 69
(DECREASE) INCREASE IN NET ASSETS WITHOUT DONOR RESTRICTIONS	\$ 18,313	\$ (1)	\$ 383	\$ (5,071)	\$ 23,002	\$ 110	\$ 11,798	\$ 11,094

Covenant Living Communities and Services

Campus Consolidating Statement of Operations and Changes in Net Assets Without Donor Restrictions Information

For the Year Ended September 30, 2020
(in thousands)

	Total All Campuses	Covenant Living of Colorado	Covenant Home of Chicago	Covenant Living of Florida	Covenant Living of Golden Valley	Covenant Living of Great Lakes	Covenant Living of Cromwell	Brandel Manor-Cypress
OPERATING REVENUES:								
Routine resident services	\$ 225,261	\$ 14,292	\$ 2,718	\$ 14,975	\$ 17,703	\$ 11,743	\$ 16,888	\$ 12,519
Ancillary services	27,149	1,426	11	2,116	2,014	1,212	1,132	2,400
Amortization of deferred entrance fees	48,129	4,194	-	3,349	2,314	2,583	2,421	-
Net assets released from restriction for operations	2,620	165	-	146	127	93	114	-
Other	9,820	528	17	654	505	668	1,026	947
Total operating revenues	\$ 312,979	\$ 20,705	\$ 2,746	\$ 21,240	\$ 22,853	\$ 16,299	\$ 21,581	\$ 15,866
EXPENSES:								
Routine nursing services	67,780	4,116	212	3,752	6,325	3,409	4,246	7,686
Ancillary services	15,555	861	-	1,089	1,213	597	661	1,731
Resident benefits	14,343	1,009	596	1,116	1,173	748	1,205	481
Dietary	40,265	2,736	503	2,843	3,013	2,451	2,980	1,607
Laundry	2,043	133	28	71	139	46	91	362
Housekeeping	9,578	407	28	773	896	325	747	433
Maintenance	18,018	1,153	154	1,611	1,075	881	1,387	437
Utilities	11,583	716	140	736	798	608	1,168	187
Administrative and general	51,901	3,500	1,006	3,105	4,028	3,012	3,659	2,821
Interest	22,382	1,983	157	1,827	2,219	2,455	910	90
Property taxes	2,475	-	-	151	60	382	702	7
Insurance	5,440	355	117	407	408	300	357	165
Marketing and promotion	11,561	823	1	1,135	883	809	799	193
Depreciation	48,425	3,709	318	3,561	3,487	2,415	3,134	202
Amortization	349	42	-	22	35	39	15	-
Other	1,679	115	-	99	167	147	161	66
Total expenses	\$ 323,377	\$ 21,668	\$ 3,260	\$ 22,308	\$ 25,919	\$ 18,625	\$ 22,222	\$ 16,466
OPERATING (LOSS) INCOME	\$ (10,398)	\$ (963)	\$ (514)	\$ (1,068)	\$ (3,256)	\$ (2,326)	\$ (641)	\$ (602)

Covenant Living Communities and Services

Campus Consolidating Statement of Operations and Changes in Net Assets Without Donor Restrictions Information (Continued)

For the Year Ended September 30, 2020
(in thousands)

	Covenant Living at Holmstad	Covenant Living at Mount Miguel	Covenant Living of Northbrook	Covenant Living at the Samarkand	Covenant Living at the Shores	Covenant Living of Turlock	Covenant Living at Windsor Park
OPERATING REVENUES:							
Routine resident services	\$ 22,694	\$ 18,335	\$ 21,934	\$ 22,458	\$ 15,225	\$ 14,353	\$ 19,424
Ancillary services	2,732	2,648	2,443	2,476	2,553	951	3,035
Amortization of deferred entrance fees	4,597	4,027	7,011	4,580	5,059	2,716	5,278
Net assets released from restriction for operations	215	296	248	298	290	110	518
Other	802	676	864	936	962	510	625
Total operating revenues	\$ 31,040	\$ 25,982	\$ 32,500	\$ 30,748	\$ 24,089	\$ 18,640	\$ 28,880
EXPENSES:							
Routine nursing services	6,542	5,764	6,062	5,726	4,492	3,485	5,963
Ancillary services	1,381	1,512	1,261	1,611	1,303	677	1,648
Resident benefits	1,363	931	1,222	1,490	927	863	1,219
Dietary	3,533	3,260	4,137	3,849	2,725	2,872	3,756
Laundry	109	215	232	209	158	122	128
Housekeeping	1,007	803	753	1,113	712	742	838
Maintenance	1,909	1,439	1,756	1,816	1,365	1,254	1,781
Utilities	1,280	1,370	837	1,204	857	676	1,006
Administrative and general	4,589	5,178	5,269	4,704	4,224	3,544	3,262
Interest	4,352	1,173	1,867	721	1,000	1,211	2,407
Property taxes	374	-	-	3	386	-	410
Insurance	471	444	508	554	513	367	474
Marketing and promotion	1,129	1,004	1,265	898	598	754	1,270
Depreciation	4,697	3,759	6,368	5,321	3,380	2,934	5,140
Amortization	58	26	35	10	22	23	22
Other	157	108	214	119	89	96	141
Total expenses	\$ 32,951	\$ 26,986	\$ 31,786	\$ 29,348	\$ 22,751	\$ 19,620	\$ 29,465
OPERATING (LOSS) INCOME	\$ (1,911)	\$ (1,004)	\$ 714	\$ 1,400	\$ 1,338	\$ (980)	\$ (585)

Covenant Living Communities and Services

Campus Consolidating Statement of Operations and Changes in Net Assets Without Donor Restrictions Information (Continued)

For the Year Ended September 30, 2020
(in thousands)

	Total All Campuses	Covenant Living of Colorado	Covenant Home of Chicago	Covenant Living of Florida	Covenant Living of Golden Valley	Covenant Living of the Great Lakes	Covenant Living of Cromwell	Brandel Manor-Cypress
OPERATING (LOSS) INCOME	\$ (10,398)	\$ (863)	\$ (514)	\$ (1,068)	\$ (3,256)	\$ (2,326)	\$ (641)	\$ (602)
NONOPERATING REVENUE (EXPENSE):								
Contributions:								
Gifts and bequests — net	(719)	(103)	1	240	(223)	(110)	(122)	-
Net assets released from restriction — distributions from trusts	131	-	-	-	110	21	-	-
Total contributions	(588)	(103)	1	240	(113)	(89)	(122)	-
Loss on extinguishment of debt	-	-	-	-	-	-	-	-
Other nonoperating (expense) income - net	1,659	1,624	-	14	(2)	6	(33)	(7)
Investment return, including beneficial interest in investment pool: interest and dividend income	11,805	485	46	709	412	284	581	(1)
Realized gains (losses) on fixed income and equity securities — net	6,126	294	87	259	327	171	206	-
Unrealized gains (losses) on fixed income and equity securities — net	2,421	308	-	141	163	136	61	-
Total investment return (loss), including beneficial interest in investment pool	\$ 20,362	\$ 1,087	\$ 133	\$ 1,109	\$ 902	\$ 601	\$ 858	\$ (1)
Total nonoperating revenue (expense)	\$ 21,423	\$ 2,608	\$ 134	\$ 1,363	\$ 787	\$ 518	\$ 703	\$ (8)
(LOSS) INCOME	\$ 11,025	\$ 1,645	\$ (380)	\$ 295	\$ (2,469)	\$ (1,808)	\$ 62	\$ (610)
OTHER CHANGES IN UNRESTRICTED NET ASSETS:								
Net assets released from restriction for capital purchases	69	(1)	-	-	-	-	-	3
Total other changes in unrestricted net assets	\$ 69	\$ (1)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3
DECREASE (INCREASE) IN NET ASSETS WITHOUT DONOR RESTRICTIONS	\$ 11,094	\$ 1,644	\$ (380)	\$ 295	\$ (2,469)	\$ (1,808)	\$ 62	\$ (607)

Covenant Living Communities and Services

Campus Consolidating Statement of Operations and Changes in Net Assets Without Donor Restrictions Information (Continued)

For the Year Ended September 30, 2020
(in thousands)

	Covenant Living at Holmstad	Covenant Living at Miguel	Covenant Living of Northbrook	Covenant Living at Samarkand	Covenant Living at the Shores	Covenant Living of Turlock	Covenant Living at Windsor Park
OPERATING (LOSS) INCOME	\$ (1,911)	\$ (1,004)	\$ 714	\$ 1,400	\$ 1,338	\$ (980)	\$ (585)
NONOPERATING REVENUE (EXPENSE):							
Contributions:							
Gifts and bequests — net	(98)	83	73	(187)	(128)	(38)	(107)
Net assets released from restriction — distributions from trusts	-	-	-	-	-	-	-
Total contributions	(98)	83	73	(187)	(128)	(38)	(107)
Loss on extinguishment of debt	-	-	-	-	-	-	-
Other nonoperating (expense) income — net	7	(31)	16	(30)	77	14	4
Investment return, including beneficial interest in investment pool:							
Interest and dividend income	1,818	1,298	1,661	2,050	690	539	1,213
Realized gains (losses) on fixed income and equity securities — net	742	342	1,608	919	346	499	329
Unrealized gains (losses) on fixed income and equity securities — net	251	119	417	194	287	94	250
Total investment return (loss), including beneficial interest in investment pool	\$ 2,811	\$ 1,759	\$ 3,686	\$ 3,163	\$ 1,323	\$ 1,132	\$ 1,789
Total nonoperating revenue (expense)	2,720	1,811	3,775	2,946	1,272	1,108	1,686
(LOSS) INCOME	\$ 809	\$ 807	\$ 4,489	\$ 4,346	\$ 2,610	\$ 128	\$ 1,101
OTHER CHANGES IN UNRESTRICTED NET ASSETS:							
Net assets released from restriction for capital purchases	-	3	-	48	3	3	10
Total other changes in unrestricted net assets	\$ -	\$ 3	\$ -	\$ 48	\$ 3	\$ 3	\$ 10
INCREASE (DECREASE) IN NET ASSETS WITHOUT DONOR RESTRICTIONS	\$ 809	\$ 810	\$ 4,489	\$ 4,394	\$ 2,613	\$ 131	\$ 1,111

Covenant Living Communities and Services

Consolidating Statement of Financial Position Information – Covenant Living Services

September 30, 2020
(in thousands)

	Total Covenant Living Services	Eliminations	Covenant Solutions Business Development and Support	Covenant Holdings One, LLC	Covenant Holdings Two, LLC	Covenant Living Bixby	Covenant Living of Inverness	CovenantCare at Home	Covenant Living Services
ASSETS									
CURRENT ASSETS:									
Cash and cash equivalents	\$ 1,529	\$ -	\$ -	\$ 531	\$ 129	\$ 346	\$ 8	\$ 368	\$ 147
Restricted cash	687	-	-	-	-	186	-	501	-
Assets whose use is limited, including beneficial interest in investment pool:									
Board designated	-	-	-	-	-	-	-	-	-
Restricted under debt agreements	-	-	-	-	-	-	-	-	-
Accounts receivable - net	4,218	(28)	-	-	-	10	1,506	2,540	190
Prepaid expenses and other assets	68	-	-	-	3	3	29	32	1
Total current assets	\$ 6,502	\$ (28)	\$ -	\$ 531	\$ 132	\$ 545	\$ 1,543	\$ 3,441	\$ 338
PROPERTY AND EQUIPMENT - Net	68,073	-	-	3,345	5,968	14,001	44,607	131	21
OTHER ASSETS	1,149	-	-	(63)	4	(519)	-	3,215	(1,488)
INTEREST IN IRREVOCABLE TRUSTS	-	-	-	-	-	-	-	-	-
GOODWILL - Net	59,903	-	-	-	-	-	59,903	-	-
ASSETS WHOSE USE IS LIMITED, INCLUDING BENEFICIAL INTEREST IN INVESTMENT POOL:									
Board designated	-	-	-	-	-	-	-	-	-
Restricted under state and debt agreements	-	-	-	-	-	-	-	-	-
Endowment	-	-	-	-	-	-	-	-	-
Total assets whose use is limited, including beneficial interest in investment pool	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ 135,627	\$ (28)	\$ -	\$ 3,813	\$ 6,104	\$ 14,027	\$ 106,053	\$ 6,787	\$ (1,129)

Covenant Living Communities and Services

Consolidating Statement of Financial Position Information – Covenant Living Services (Continued)

September 30, 2020
(in thousands)

	Total Covenant Living Services	Eliminations	Covenant Solutions Business Development and Support	Covenant Holdings One, LLC	Covenant Holdings Two, LLC	Covenant Place of Bixby	Covenant Living of Inverness	CovenantCare at Home	Covenant Living Services
LIABILITIES AND NET ASSETS (DEFICITS)									
CURRENT LIABILITIES:									
Accounts payable - trade	\$ 493	\$ (28)	\$ -	\$ -	\$ 1	\$ 12	\$ 297	\$ 206	\$ 5
Accounts payable - contractors	-	-	-	-	-	-	-	-	-
Accrued salaries and wages	49	-	-	15	8	25	-	-	-
Accrued interest	70	-	-	-	-	-	70	-	-
Advance deposits	-	-	-	-	-	-	-	-	-
Current maturities of long-term debt	477	-	-	-	-	-	477	-	-
Deferred revenue subject to refund	1,519	-	-	-	-	-	1,519	-	-
Refundable contract liabilities	13,133	-	-	49	254	867	8,930	3,033	-
Other current liabilities									
Total current liabilities	\$ 15,741	\$ (28)	\$ -	\$ 64	\$ 263	\$ 905	\$ 11,293	\$ 3,239	\$ 5
LONG-TERM DEBT - Less current maturities									
PAYABLE TO (FROM) COVENANT INSTITUTIONS:									
Covenant Retirement Communities - Notes and advances	59,694	-	-	(134)	3,670	(892)	45,076	12,137	(163)
Other Benevolent institutions- Notes and advances	4,000	-	-	4,000	-	-	-	-	-
Total payable to (from) Covenant institutions	\$ 63,694	\$ -	\$ -	\$ 3,866	\$ 3,670	\$ (892)	\$ 45,076	\$ 12,137	\$ (163)
OTHER LIABILITIES									
DEFERRED REVENUE FROM ENTRANCE FEES	71,026	-	-	-	4,923	16,508	49,595	-	-
Total liabilities	\$ 157,093	\$ (28)	\$ -	\$ 3,930	\$ 8,856	\$ 16,521	\$ 112,596	\$ 15,376	\$ (156)
NET ASSETS (DEFICITS):									
Net assets (deficit) without restrictions	(22,194)	-	-	(117)	(2,752)	(2,494)	(6,567)	(9,273)	(971)
Net assets (deficit) with restrictions	728	-	-	-	-	-	44	684	-
Total net assets (deficits)	\$ (21,466)	\$ -	\$ -	\$ (117)	\$ (2,752)	\$ (2,494)	\$ (6,543)	\$ (8,589)	\$ (971)
Total net assets (deficits)	\$ 135,627	\$ (28)	\$ -	\$ 3,813	\$ 6,104	\$ 14,027	\$ 106,053	\$ 6,787	\$ (1,129)

Covenant Living Communities and Services

Consolidating Statement of Operations and Changes in Net Assets Without Donor Restrictions Information – Covenant Living Services

For the Year Ended September 30, 2020
(in thousands)

	Total Covenant Living Services	Eliminations	Covenant Solutions Business Development and Support	Covenant Holdings One, LLC	Covenant Holdings Two, LLC	Covenant Living Bixby	Covenant Living of Inverness	Covenant Care at Home	Covenant Living Services
OPERATING REVENUES:									
Routine resident services	\$ 17,048	\$ -	\$ -	\$ -	\$ 1,279	\$ 3,382	\$ 12,387	\$ -	\$ -
Ancillary services	18,322	-	-	-	-	24	934	17,364	-
Amortization of deferred entrance fees	1,075	-	-	-	-	-	1,075	-	-
Net assets released from restriction for operations	366	-	-	-	-	-	-	366	-
Other	2,684	-	-	670	32	73	150	450	1,309
Total operating revenues	\$ 39,495	\$ -	\$ -	\$ 670	\$ 1,311	\$ 3,479	\$ 14,546	\$ 18,180	\$ 1,309
EXPENSES:									
Routine nursing services	12,837	-	-	-	-	322	3,194	9,321	-
Ancillary services	1,940	-	-	-	-	19	518	1,403	-
Resident benefits	1,391	-	-	-	25	74	688	594	-
Dietary	2,941	-	-	-	23	582	2,336	-	-
Laundry	72	-	-	-	-	-	72	-	-
Housekeeping	852	-	-	-	62	81	709	-	-
Maintenance	2,073	-	-	209	90	210	1,564	-	-
Utilities	970	-	-	-	111	118	708	33	-
Administrative and general	9,909	-	2	42	245	518	2,633	5,742	727
Interest	1,326	-	-	176	157	479	514	-	-
Property taxes	586	-	-	92	126	197	167	4	-
Insurance	534	-	-	6	40	57	298	130	3
Marketing and promotion	1,818	-	-	-	55	98	1,055	453	157
Depreciation	2,024	-	-	123	225	486	1,127	28	25
Amortization	184	-	-	16	5	22	-	141	-
Other	135	-	-	-	-	-	66	69	-
Total expenses	\$ 39,592	\$ -	\$ 2	\$ 664	\$ 1,164	\$ 3,273	\$ 15,659	\$ 17,918	\$ 912
OPERATING (LOSS) INCOME	\$ (97)	\$ -	\$ (2)	\$ 6	\$ 147	\$ 206	\$ (1,113)	\$ 262	\$ 397

Covenant Living Communities and Services

Consolidating Statement of Operations and Changes in Net Assets Without Donor Restrictions Information – Covenant Living Services (Continued)

For the Year Ended September 30, 2020
(in thousands)

	Total Covenant Living Services	Eliminations	Covenant Solutions Business Development & Support	Covenant Holdings One, LLC	Covenant Holdings Two, LLC	Covenant Living Bixby	Covenant Living of Inverness	CovenantCare at Home	Covenant Living Services
OPERATING (LOSS) INCOME	(97)	-	(2)	6	147	206	(1,113)	262	397
NONOPERATING REVENUE (EXPENSE):									
Contributions:									
Gifts and bequests — net	(16)	-	-	-	-	-	(112)	96	-
Net assets released from restriction — distributions from trusts	-	-	-	-	-	-	-	-	-
Total contributions	(16)	-	-	-	-	-	(112)	96	-
(Loss) gain on extinguishment of debt	(159)	-	-	-	-	(159)	-	-	-
Other nonoperating (expense) income - net	(5,360)	-	-	-	-	-	(5,360)	-	-
Total investment return (loss), including beneficial interest in investment pool	(5)	-	-	-	1	-	(1)	-	(5)
Interest and dividend income	(5)	-	-	-	1	-	(1)	-	(5)
Total investment return, including beneficial interest in investment pool	(1,144)	-	-	-	(263)	(881)	-	-	-
Unrealized gains (losses) on derivative instruments	(125)	-	-	-	(29)	(96)	-	-	-
Interest expense on interest rate swaps	-	-	-	-	-	-	-	-	-
Loss on swap termination	-	-	-	-	-	-	-	-	-
Total nonoperating revenue (expense)	(6,808)	\$ -	\$ (2)	\$ 6	\$ (291)	\$ (1,135)	\$ (5,473)	\$ 96	\$ (5)
(LOSS) INCOME	(6,905)	\$ -	\$ (2)	\$ 6	\$ (144)	\$ (929)	\$ (6,586)	\$ 358	\$ 392
OTHER CHANGES IN UNRESTRICTED NET ASSETS:									
Net asset transfer from related organization	1,834	-	1,834	-	-	-	-	-	-
Total other changes in unrestricted net assets	1,834	\$ -	\$ 1,834	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
(DECREASE) INCREASE IN NET ASSETS WITHOUT DONOR RESTRICTIONS	(5,071)	\$ -	\$ 1,832	\$ 6	\$ (144)	\$ (929)	\$ (6,586)	\$ 358	\$ 392

Covenant Living Communities and Services

Note to Consolidating Statement of Financial Position and Consolidating Statement of Operations and Changes in Net Assets Without Donor Restrictions Information

As of and For the Year Ended September 30, 2020

1. Basis of Reporting

In accordance with financial statement presentation under the bond agreements, the consolidating statement of financial position and consolidating statement of operations and changes in net assets without donor restrictions information as of and for the year ended September 30, 2020 for the Obligated Group exclude the effects of consolidating entities controlled by members of the Obligated Group but which themselves are not members of the Obligated Group. Those entities which are not members of the Obligated Group are Covenant Housing Corporation and those entities included in Covenant Living Services. The balances for Covenant Living Communities and the Obligated Group do not include interests in controlled entities.

Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

Independent Auditor's Report

To Management and the Covenant Living Board
Covenant Living Communities and Services

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the consolidated financial statements of Covenant Living Communities and Services (the "Communities") as of and for the year ended September 30, 2020 and the related notes to the consolidated financial statements and have issued our report thereon dated January 21, 2021.

Internal Control Over Financial Reporting

In planning and performing our audit of the consolidated financial statements, we considered the Communities' internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the consolidated financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Communities' internal control. Accordingly, we do not express an opinion on the effectiveness of the Communities' internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Communities' consolidated financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies, and, therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify a certain deficiency in internal control, described in the accompanying schedule of findings and questioned costs as Finding 2020-001, that we consider to be a significant deficiency.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Communities' consolidated financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the consolidated financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

The Communities' Response to the Finding

The Communities' response to the finding identified in our audit is described in the accompanying schedule of findings and questioned costs. The Communities' response was not subjected to the auditing procedures applied in the audit of the consolidated financial statements, and, accordingly, we express no opinion on it.

To Management and the Covenant Living Board
Covenant Living Communities and Services

Purpose of This Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Communities' internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Communities' internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Plante & Moran, PLLC

January 21, 2021

Covenant Living Communities and Services

Schedule of Findings and Questioned Costs

Year Ended September 30, 2020

(in thousands)

Financial Statement Audit Findings

Reference Number	Finding	Questioned Costs
2020-001	<p>Finding Type - Significant deficiency in internal control over financial reporting</p> <p>Criteria - New derivative instrument agreements should be obtained by appropriate individuals to ensure the amounts are presented in the consolidated financial statements accurately.</p> <p>Condition - As part of audit procedures, an unrecorded derivative instrument was identified.</p> <p>Effect - As a result, an audit entry was proposed to correct the impact of the identified error.</p> <p>Context - Account balance was not appropriately stated on the trial balance when received.</p> <p>Views of Responsible Officials - Management acknowledges noncompliance in the current fiscal year and will take measures to improve internal controls over new derivative instrument identification in a timely manner.</p> <p>Recommendation - Management should develop a formal process that will allow the appropriate individuals to obtain necessary, executed contracts to ensure appropriate recording of such transactions within the consolidated financial statements.</p>	None

APPENDIX G

OnePoint and CRO Report to Prospect-Woodward Board of Trustees

**The Information Contained in This Appendix is Confidential, and
Excluded from Public Disclosure Under NH RSA 91-A:5(IV)**

APPENDIX H
Forbearance Agreement

**The Information Contained in This Appendix is Confidential, and
Excluded from Public Disclosure Under NH RSA 91-A:5(IV)**

APPENDIX I
Grandbridge Bid Process Report

**The Information Contained in This Appendix is Confidential, and
Excluded from Public Disclosure Under NH RSA 91-A:5(IV)**

APPENDIX J
Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

BY AND BETWEEN

THE PROSPECT-WOODWARD HOME D/B/A HILLSIDE VILLAGE KEENE, A NEW HAMPSHIRE NOT-FOR-PROFIT VOLUNTARY CORPORATION,

AS SELLER,

AND

COVENANT LIVING SERVICES, AN ILLINOIS NOT-FOR-PROFIT CORPORATION,

AS PURCHASER.

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the “**Agreement**”) is made and entered into as of August 17, 2021 (the “**Execution Date**”), by and between The Prospect-Woodward Home d/b/a Hillside Village Keene, a New Hampshire voluntary not-for-profit corporation (“**Hillside Village**” or the “**Seller**”), and Covenant Living Services, an Illinois not-for-profit corporation, or its assignee (“**Buyer**” or “**Purchaser**”). The Seller and the Buyer are sometimes individually referred to as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, Seller owns and operates a licensed continuing care retirement facility with 222 units, comprised of 141 independent living units, 43 assisted living units, 18 memory care units, and 20 licensed but not yet opened long term nursing care units (the “**Facility**”) located on or about 95 Wyman Road, Keene, New Hampshire, comprising approximately 66 acres (the “**Premises**”);

WHEREAS, Seller is having financial difficulties, and in connection with discussions with its bondholders (the “**Bondholders**”), residents, and other stakeholders, Seller in its business judgment believes a sale of the Facility and related assets to be in its best interests;

WHEREAS, Buyer desires to acquire the Facility, the Premises, and the assets owned by Seller and used in Seller’s operation of the Facility (the “**Business**”, and collectively, with the Facility and the Premises, the “**Purchased Assets**”) on the terms and conditions contained in this Agreement, and desires to act as the stalking horse pursuant to the Bid Procedures (as defined below);

WHEREAS, Seller intends to file a voluntary bankruptcy petition (the “**Chapter 11 Case**”) under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “**Bankruptcy Code**”), in the United States Bankruptcy Court for the District of New Hampshire (the “**Bankruptcy Court**”) promptly following expiration of the Diligence Period (the date of such filing, the “**Petition Date**”);

WHEREAS, Seller will seek approval of bid procedures (the “**Bid Procedures**”) pursuant to the Bid Procedures Order (as defined below) by the Bankruptcy Court;

WHEREAS, Seller desires to sell, transfer and assign to Buyer, and Buyer desires to purchase, acquire and assume from Seller pursuant to this Agreement, the Sale Order, the Sale Motion and Sections 105, 363, and 365 of Title 11 of the Bankruptcy Code, the Purchased Assets and Assumed Liabilities of the Seller as specifically provided herein;

WHEREAS, the execution and delivery of this Agreement and Seller’s ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order;

WHEREAS, the sale will be subject to (i) Approvals (as defined below) and (ii) the conditions expressly set forth herein;

WHEREAS, the Parties acknowledge and agree that the terms of the Contemplated Transactions are the result of arm’s length negotiations and the Seller has solicited bids for the Purchased Assets to obtain the highest and best stalking horse offer for the Purchased Assets; and

WHEREAS, Seller has determined that the Buyer’s offer to purchase the Purchased Assets is the highest and best stalking horse offer received to date for the Purchased Assets and constitutes a fair and adequate purchase price for the Purchased Assets.

NOW, THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1

DEFINITIONS

As used herein, the following terms have the meanings set forth below:

- (a) “**Accounts Receivable**” means accounts receivable for goods and services rendered by Seller to the residents of the Facility or related to the Business, which term shall include, without limitation, out-of-pocket (self-pay) payments and commercial insurance payments, as well as any promissory notes.
- (b) “**Accrued PTO**” has the meaning set out in Section 5.7.
- (c) “**Action**” means any action, claim, proceeding, litigation, arbitration, mediation, suit, investigation or regulatory inquiry (whether civil, criminal, administrative or judicial), or any appeal therefrom or any material demand letter threatening the initiation of any of the foregoing.
- (d) “**Affiliate**” shall mean, as to the entity in question, any person or entity that directly or indirectly controls, is controlled by or is under common control with, the entity in question and the term “control” means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity whether through ownership of voting securities, by contract or otherwise.
- (e) “**Alternative Transaction**” means any agreement or transaction, whether pursuant to a plan or otherwise, involving the sale or other transfer (in a single transaction or a series of related transactions) of all or substantially all of the Purchased Assets, or the issuance, sale or other transfer (in a single transaction or series of related transactions) of all or substantially all of the of equity interests of Seller or any of its successors, to any party other than Buyer or a designee of Buyer as a result of the auction pursuant to the Bid Procedures.
- (f) “**Applicable Law**” means any federal, state, municipal, county, local, foreign or other statute, law, regulation, code, rule, or order.
- (g) “**Approvals**” means all consents and approvals from any Governmental Authority, including without limitation any Governmental Authority with regulatory oversight of healthcare organizations, charitable trusts, or continuing care retirement communities, which are necessary for the transfer of the Purchased Assets or the operation of the Business, and including to the extent applicable, without limitation, the regulatory change in control approvals under New Hampshire RSA 420-D:13 and RSA 7:19-b, all as set forth on Schedule 1(g), and a written license granted by the City of Keene for the use and operation of the underground walkway which benefits the Premises.
- (h) “**Assumed Contracts**” means all of the rights and interests of Seller in and to the Contracts that Buyer designates for assumption and assignment, as listed on Schedule 5.9(f), and including all Residency Agreements and the Option Agreements.
- (i) “**Assumed Liabilities**” has the meaning set forth in Section 2.3.
- (j) “**Avoidance Actions**” means any and all claims for relief of Seller under Chapter 5 of the Bankruptcy Code.
- (k) “**Bankruptcy Code**” has the meaning set forth in the Recitals.
- (l) “**Bankruptcy Court**” has the meaning set forth in the Recitals.

(m) “**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure as now in effect.

(n) “**Bid Procedures**” has the meaning set out in the Recitals.

(o) “**Bid Procedures Order**” means an Order of the Bankruptcy Court approving the Bid Procedures, a form of which is attached hereto as **Exhibit D**.

(p) “**Bond Trustee**” means UMB Bank, N.A. as bond trustee with respect to the Series 2017 Bonds authorized and issued by the New Hampshire Health And Education Facilities Authority for the benefit of the Seller.

(q) “**Books and Records**” means the books and records of Seller relating to the Purchased Assets, to the extent assignable; provided, however, that “Books and Records” shall not include the originals of Seller’s minute books, stock books and Tax returns.

(r) “**Break-Up Fee**” has the meaning set forth in Section 7.2.

(s) “**Business**” has the meaning set forth in the Recitals.

(t) “**Business Day**” means any day other than any Saturday, Sunday or legal holiday in New York, New York.

(u) “**Chapter 11 Case**” has the meaning set forth in the Recitals.

(v) “**Claim**” has the meaning set forth in Section 101(b) of the Bankruptcy Code

(w) “**Closing**” and “**Closing Date**” have the meaning set forth in Section 2.6.

(x) “**COBRA**” means the Consolidated Omnibus Budget Reconciliation Act of 1985.

(y) “**Confidentiality Agreement**” has the meaning set forth in Section 8.3(a).

(z) “**Contract**” means agreements, contracts, commitments, personal property leases, real property leases, and other arrangements to which Seller is a party, including without limitation the Residency Agreements and Option Agreements.

(aa) “**Contract Party**” has the meaning set forth in Section 2.5(d).

(bb) “**Cure Amount**” or “**Cure Amounts**” means, respectively, the amount necessary pursuant to 11 U.S.C. Section 365 to cure defaults under an Assumed Contract, or under all Assumed Contracts.

(cc) “**Deposit**” has the meaning set forth in Section 2.5(b) and shall include any interest earned thereon.

(dd) “**Designation Deadline**” means 5:00 p.m., Eastern Standard Time, on the date that is five (5) Business Days prior to the Closing Date or such later date as Buyer and Seller shall mutually agree and as the Bankruptcy Court may authorize; provided that the Designation Deadline for any Executory Contract with respect to which a dispute regarding a Cure Amount exists on such date shall be five (5) days after the date of the resolution of such dispute.

(ee) “**Diligence Period**” has the meaning set forth in Section 2.9.

(ff) “**Effective Time**” has the meaning set forth in Section 2.6.

(gg) “**Endowment**” has the meaning set forth in Section 2.1(i).

(hh) “**Entrance Fee And Option Deposits**” means (i) if any, entrance fee deposits on hand, including reservation deposits on hand, subject to Residency Agreements, (ii) deferred entrance fee arrangements and promissory notes issued by any Prospective Resident or Resident for the payment of entrance fee or reservation deposits, subject to Residency Agreements, and (iii) Option Deposits subject to the Option Agreements, all of which are described on Schedule 5.9(e) hereto. Schedule 5.9(e) shall be modified from time to time to include any additional entrance fees deposits, Option Deposits or arrangements from the Execution Date through the Closing Date.

(ii) “**Entrance Fee Obligations**” means all obligations owed to Residents pursuant to the Residency Agreements, including any refund obligations.

(jj) “**Equipment**” means the equipment owned by Seller and used in the Business, including the equipment identified on Schedule 2.1(d).

(kk) “**Escrow Agent**” means the Title Company.

(ll) “**Excluded Assets**” has the meaning set forth in Section 2.2.

(mm) “**Executory Contract**” means any executory contract related to the Business or to which Seller is a party and that is subject to Section 365 of the Bankruptcy Code.

(nn) “**Final Order**” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, which is unappealed, unappealable, unstayed, and not subject to a pending motion for reconsideration, rehearing, or Rule 59 or 60 (or equivalent) relief.

(oo) “**Governmental Authority**” means the Bankruptcy Court, any tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, any foreign country or any domestic or foreign state, county, city or other political subdivision.

(pp) “**Inventory**” means all inventory of any kind or nature located at the Facility.

(qq) “**Knowledge of Seller**” or “**Knowledge**” shall mean the actual knowledge of Toby V. Shea, as Chief Restructuring Officer without a duty to investigate.

(rr) “**Lien**” means any security interest, pledge, mortgage, lien, charge, adverse claim of ownership or use, restriction on transfer (such as a right of first refusal or other similar right), defect of title, encroachments, or other encumbrance of any kind or character.

(ss) “**Necessary Consents**” has the meaning set forth in Section 5.9(c).

(tt) “**Objectionable Title Exception**” has the meaning set out in Section 5.13(c).

(uu) “**Option Agreements**” means the Option Deposit Agreements between the Seller and each Resident or Prospective Resident, setting forth the terms and conditions for the return of the Option Deposits of such Residents or Prospective Residents, and any escrow agreements related thereto.

(vv) “**Option Deposits**” means the amounts paid under Option Agreements and held in escrow by TMI Trust Company.

(ww) “**Permits**” means to the extent transferrable, all licenses, permits (including occupancy permits), certificates, registrations, approvals, franchises, consents and other authorizations of Seller obtained from or filed with a Governmental Authority and used in connection with the Business.

(xx) “**Permitted Liens**” means (i) statutory Liens for Taxes, assessments or other governmental charges not yet due and payable, (ii) workers’, repairers’, landlords’ and similar Liens which arose or were incurred in the ordinary course of business and which secure obligations which are not yet due and payable and which do not exceed \$10,000 in the aggregate, (iii) Liens which are expressly assumed or consented to by Buyer herein (including, without limitation, liens included in the Assumed Liabilities), (iv) Liens which are created by Buyer, (v) easements, restrictions, covenants, and all other matters of record and legal highways with respect to the Premises or leased real property under an Assumed Contract, (vi) matters which would be shown on an accurate survey of the Premises, or any leased real property under an Assumed Contract, (vii) those matters that become Permitted Liens in accordance with Section 5.13 of this Agreement, and (viii) those matters of record identified on Schedule B, Part II of the Commitment as exceptions 5 through 16.

(yy) “**Person**” means any natural person, corporation, limited liability company, general partnership, limited partnership, sole proprietorship, trust, union, association, Governmental Authority or other business organization.

(zz) “**Petition Date**” has the meaning set out in Section 5.8(c).

(aaa) “**Premises**” has the meaning set out in the Recitals, and includes Seller’s fee interest in any and all land, buildings, structures, improvements, fixtures or other interest in real property which is owned by the Seller and used in the Business.

(bbb) Reserved.

(ccc) “**Prospective Resident**” means any natural person who has entered into a Residency Agreement, Option Agreement, or deposit agreement with Seller under which there is any continuing obligation to either such natural person or Seller, including without limitation any such agreements under which an Entrance Fee Obligation is due now or may be in the future, who has not yet moved into his or her unit.

(ddd) “**Purchase Price**” has the meaning set forth in Section 2.5(a).

(eee) “**Purchased Assets**” has the meaning set forth in Section 2.1.

(fff) “**Related Agreements**” means Bill of Sale, the Assignment and Assumption Agreement, and the quitclaim deed, each substantially in the form attached hereto as Exhibits A, B, and C, respectively, and other agreements, documents, and instruments related to the transactions contemplated herein.

(ggg) “**Related Person**” means, with respect to a specific Person, any officer, director, member, manager, employee, agent, shareholder, representative, successor or assign of such Person.

(hhh) “**Representatives**” means, with respect to a Person, such Person’s directors, officers, employees, stockholders, funding sources, affiliates, representatives, and agents.

(iii) “**Residency Agreements**” means the agreements identified on Schedule 1(iii) hereto, including to the extent there are any continuing obligations to any party thereto, (i) the continuing care contracts executed between Seller and each Resident detailing the residential and other rights and obligations of the Resident and the rights and obligations of Seller, including without limitation lifecare obligations and Entrance Fee Obligations; (ii) deposit agreements executed between Seller and certain Prospective Residents pursuant to

which a Prospective Resident has put down a deposit toward or paid an entrance fee on an independent living unit; and (iii) the occupancy contract executed between each Resident of the assisted living, memory care, or long term nursing care units and Seller detailing the rights and obligations of the Resident and the rights and obligations of Seller thereunder, including without limitation, any lifecare obligations or Entrance Fee Obligations. For the avoidance of doubt, Residency Agreements include all agreements with Residents (both current and former, as well as Prospective) under which Seller currently owes or will owe contractual obligations to such Residents (whether such obligation has already triggered or will trigger in the future), and will be updated as of Closing to reflect any changes between the Execution Date and Closing.

(jjj) “**Resident**” means a present or former occupant of the Facility who is a party to a Residency Agreement.

(kkk) “**Retained Liabilities**” has the meaning set forth in Section 2.4.

(lll) “**Sale and Procedures Motion**” means a motion or motions for approval of the appropriate terms of this Agreement and the Bid Procedures, including, without limitation, the Break-Up Fee and an overbid process, a form of which is attached hereto as **Exhibit E**.

(mmm) “**Sale Order**” means an Order of the Bankruptcy Court approving the consummation of this Agreement, to be prepared by the parties subsequently subject to Section 5.8.

(nnn) “**Seller’s Title Notice**” has the meaning set out in Section 5.13(c).

(ooo) “**Taxes**” means any and all taxes, fees, levies, duties, tariffs, import charges and other charges imposed by any taxing authority, together with any related interest, penalties or other additions thereto, or additional amounts imposed by any taxing authority, and without limiting the generality of the foregoing, shall include net income alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, value added, franchise, profits, license, transfer, recording, escheat, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, windfall profit, environmental, custom, duty, or other tax, governmental fee or other like assessment or charge of any kind whatsoever.

(ppp) “**Title Company**” means Connecticut Attorneys Title Insurance Company.

(qqq) “**Title Policy**” shall have the meaning set forth in Section 5.13.

(rrr) “**Transferred Employees**” shall have the meaning set forth in Section 5.7(e).

(sss) “**Woodside Balcony Repair**” shall have the meaning set forth in Section 4.7.

ARTICLE 2

PURCHASE AND SALE OF ASSETS

2.1 Sale of Assets to Buyer. Upon the terms and subject to the conditions contained in this Agreement, at the Closing, the Seller shall sell, assign, transfer, deliver and convey to Buyer, and Buyer shall purchase, acquire and accept from Seller pursuant to Sections 363 and 365 of the Bankruptcy Code, free and clear of all Liens except Permitted Liens, all of Seller’s right, title and interest in and to all of the following to the extent owned by the Seller and used in the Business (collectively, the “**Purchased Assets**”):

- (a) The Facility, the Premises, and the improvements thereon;
- (b) the Books and Records, Resident medical records, and Transferred Employee records;

- (c) the Assumed Contracts (including for Residency Agreements, any rights of Seller in the Entrance Fee And Option Deposits);
- (d) the Equipment;
- (e) the Inventory;
- (f) to the extent transferable under Applicable Law, the Permits;
- (g) all intellectual property, including any trademarks, trade secrets, and the like;
- (h) general intangibles, and community specific intellectual property, including domain name www.hillsidevillagekeene.org, as well as the names “The Prospect-Woodward Home” and “Hillside Village Keene” and related logos and marketing materials; and
- (i) subject to Buyer being a non-profit, such funds being transferable, and the restrictions on the use of any such funds (such funds and restrictions as described in Schedule 2.1(i) and to be updated for any change in such funds as of Closing), all of Seller’s rights in any endowment or donor-restricted funds held by Seller (collectively, the “**Endowment**”).

2.2 Excluded Assets. The Parties acknowledge that Seller shall not sell, assign, transfer or convey to Buyer, and Buyer shall not purchase, acquire or accept from Seller, the assets consisting of the following (all such assets, the “**Excluded Assets**”):

- (a) all cash and cash equivalents (other than Seller’s rights in the Entrance Fee And Option Deposits);
- (b) the Purchase Price and all rights under this Agreement;
- (c) except for Entrance Fees And Option Deposits and Resident (or Prospective Resident) promissory notes as addressed elsewhere, all Accounts Receivable of the Business;
- (d) all claims and causes of action, including Avoidance Actions under Chapter 5 of the Bankruptcy Code;
- (e) all set-off rights to claims filed or asserted in the Chapter 11 Case (except to the extent arising in connection with an Assumed Contract which is subject to cure);
- (f) hold-backs and escrows for any prorations or Taxes being paid by Seller in connection with the Closing or afterward;
- (g) all insurance policies of Seller, any prepaid insurance premiums and any rights or claims or proceeds arising from such policies;
- (h) all Tax refunds, rebates, and overpayments owed to Seller which are related to Seller’s operation of the Business prior to the Closing;
- (i) all (i) corporate seals, corporate organizational records, minute books, charter documents, record books, and stock transfer books pertaining to Seller, (ii) original Tax, accounting and financial records which pertain exclusively to the Excluded Assets, and (iii) such other files, books and records which pertain exclusively to the Excluded Assets or to the formation, existence or capitalization of Seller or of any other Person;

(j) all Inventory and Assets disposed of or exhausted prior to Closing in the ordinary course of business;

(k) any records which Seller is legally required to retain in its possession and any records related to Excluded Assets or Excluded Liabilities (as hereinafter defined);

(l) all equipment and tangible property located at the Business but not owned by Seller, or subject to an equipment lease or vehicle lease that is not an Assumed Contract, and all other assets, properties and rights not related to or used in the Business, all as described in Schedule 2.2(l);

(m) personnel records for Employees who are not Transferred Employees and, to the extent the transfer of such records (whether directly or by means of the sale of a Seller) to Buyer or its affiliates is prohibited by Applicable Law, for Transferred Employees, and all organizational documents and minute books of the Seller;

(n) board designated, restricted and trustee-held or other escrowed funds (such as the debt service reserves, self-insurance trusts, workers compensation trusts, working capital trust assets, and assets and investments restricted as to use), donor restricted assets (except as provided in Section 2.1(i)), beneficial interests in charitable trusts and accrued earnings on all of the foregoing; and

(o) Seller's attorney-client and work-product privileges.

2.3 Assumed Liabilities. Upon the terms and subject to the conditions contained in this Agreement, at the Closing, Buyer shall assume or otherwise be responsible for, which amounts shall be in addition to the Purchase Price, for (collectively, the "**Assumed Liabilities**"):

(a) all Entrance Fee Obligations and obligations under Residency Agreements and Option Agreements;

(b) all liabilities and obligations under the Purchased Assets accruing or arising after the Closing;

(c) all liabilities and obligations associated with the Assumed Contracts from and after Closing and all Cure Amounts associated with such Assumed Contracts; and

(d) all liabilities required to be paid by Buyer pursuant to this Agreement (such as, without limitation, any recording fee, one-half of the real property transfer Taxes, and to the extent the Endowment is transferred to Buyer, any obligations with regard to the use after the Effective Time of the Endowment in accordance with law).

Seller shall have no liability for any such liabilities or obligations.

2.4 Excluded Liabilities.

(a) Except for the Assumed Liabilities, Buyer shall not assume or be liable for any liability, obligation, debt, claim against or contract of the Business, Seller or any of its Affiliates which, in any case, pertain to the ownership, operation or conduct of the Business or the ownership of the Purchased Assets prior to the Closing Date, at any time existing or asserted, whether or not accrued, fixed, contingent or otherwise, whether known or unknown, and whether or not recorded on the Books and Records of Seller or any of its Affiliates (collectively, the "**Retained Liabilities**").

2.5 Closing Proceedings.

(a) As full consideration for the sale of the Purchased Assets by Seller to Buyer, at the Closing, Buyer shall assume the Assumed Liabilities as provided in Section 2.3 and shall pay to the Seller, cash in the amount of Thirty-Three Million and NO/00 Dollars (\$33,000,000.00), (“**Purchase Price**”) as adjusted in accordance with this Section 2.5.

(b) One Million Dollars and NO/00 (\$1,000,000.00) shall be paid as an earnest money deposit (the “**Deposit**”) to Title Company (“**Escrow Agent**”) within one Business Day of execution of this Agreement, which will be held by Escrow Agent in accordance with the terms and conditions of this Agreement and the escrow agreement (the “**Escrow Agreement**”). The Deposit will be credited against the Purchase Price at Closing, and will otherwise be disbursed as provided in this Agreement, the Escrow Agreement and the Sale Order. Any interest on the Deposit shall follow the Deposit.

(c) At the Closing, in addition to such other actions as may be provided for herein, Buyer shall pay to the Seller, in cash, an amount equal to the Purchase Price by wire transfer of immediately available funds, with the Deposit being transferred to Seller and credited to the Purchase Price.

(d) At the Closing, Buyer shall assume the Assumed Liabilities (which shall be in addition to, and not a credit against, the Purchase Price), and with regard to Assumed Contracts, shall pay to each party to an Assumed Contract (a “**Contract Party**”) any Cure Amounts, in cash, by wire transfer of immediately available funds, necessary to acquire any Assumed Contract, at such time as may be designated by the Court in the Sale Order.

(e) At the Closing, Buyer shall pay all escrow fees, recording costs or fees, one-half of the real property transfer Taxes, and the cost of any title insurance policy and endorsements thereto obtained by Buyer. Buyer shall be solely responsible for the fees and costs of Buyer’s counsel and other professional advisors.

(f) At the Closing, Buyer shall pay to Seller an amount equal to Accrued PTO not to exceed \$200,000, due to employees pursuant to New Hampshire law, which Seller shall pay to the employees as of Closing.

(g) Except as otherwise set forth in this Agreement, all utility charges, rents or other payments under the Purchased Assets and all ad valorem, real property, personal property and similar Taxes with respect to the Purchased Assets shall be prorated as of the Closing Date. Taxes (excluding any transfer Taxes) shall be prorated based on the most recent available tax duplicate. The majority of the Premises is not currently subject to any real estate Taxes due to the non-profit status of Seller and instead Seller is currently participating in a PILOT program (the “**PILOT Program Premises**”), so there shall be no proration as to real estate Taxes for the PILOT Program Premises. Seller shall pay its prorated portion of the PILOT program payment, and if Buyer is eligible for and enters into a new PILOT program agreement, Buyer shall be responsible for its pro-rated portion of the PILOT program payment for the year in which the Closing happens; if Buyer is not eligible for or does not enter into a new PILOT program agreement, Buyer shall be responsible for all real estate Taxes related to Buyer’s ownership and acquisition of the PILOT Program Premises. All prorations shall be final. The prorations and adjustments provided for in this Section shall be made so that Seller shall receive the income and be charged with the expense of the operation of the Purchased Assets up to the Closing Date. Buyer shall receive a credit for all prorations due from Seller as of Closing, and Buyer shall pay all such expenses following the Closing Date; Buyer shall be charged for all prorations due from Buyer as of Closing which have already been paid to third parties by Seller, provided such payments to third parties have been disclosed to and reasonably agreed upon by Buyer, prior to the Closing Date.

(h) At the Closing, the Parties will execute and deliver the Related Agreements.

2.6 Time and Place of Closing. Subject to the terms of this Agreement, the closing of the transactions contemplated hereby (the “**Closing**”) shall take place at the offices of Hinckley Allen, 650 Elm Street, Manchester, New Hampshire, within seven (7) days after satisfaction or waiver of the conditions to Closing set out in Article 6 (the “**Closing Date**”), and in no event later than March 31, 2022 (the “**Outside Closing Date**”) (unless otherwise mutually agreed by the Parties, including with regard to a remote closing). The transactions contemplated hereby shall take place pursuant to, and in accordance with, the terms and conditions hereof. The Closing shall be effective as of 11:59 p.m. **Eastern Time** on the Closing Date or such other date and time as the parties may agree in writing (the “**Effective Time**”).

2.7 Purchase Price Allocation. For tax purposes only, Buyer and Seller shall allocate the Purchase Price (together with Assumed Liabilities properly included, if any) among the Purchased Assets in a manner consistent with the fair market values determined in good faith and on a reasonable basis by Buyer and Seller prior to the Closing Date, provided that such allocation shall not be binding on any Party for any other purpose. Such allocation shall be consistent with Section 1060 of the Internal Revenue Code and the Treasury Regulations thereunder. Buyer and Seller covenant and agree that all filings with Governmental Authorities regarding Taxes will be consistent with such allocation.

2.8 Casualty. If any material part of the Purchased Assets is condemned, damaged or destroyed (whether by fire, theft, or other casualty event) prior to the Closing, upon the Closing, Seller shall immediately notify Buyer of such condemnation, damage or destruction. In the event Seller’s reasonable estimate of such damage or destruction is in excess of ten percent (10%) of the Purchase Price, then Buyer shall have the option to: (x) terminate this Agreement by written notice delivered to Seller within ten (10) days after Buyer’s receipt of notice of such damage or destruction, in which case the Deposit shall be returned to Buyer and the Parties shall have no further obligations hereunder, or (y) proceed with the transaction contemplated in this Agreement without abatement of the Purchase Price, in which case at and after Closing (i) all insurance proceeds relating to such damage or casualty shall be deemed to have been absolutely and irrevocably assigned to and be payable directly to Buyer, less any amounts reasonably expended by Seller prior to Closing for partial restoration, (ii) Buyer shall have the right to conduct all settlement proceedings with respect to such insurance claims, and (iii) Seller shall deliver to Buyer through escrow an unconditional assignment of all such insurance proceeds. If this Agreement is not terminated, Seller shall not be obligated to repair any damage or destruction. Any notice or documents required to be provided pursuant to this Section shall be provided by the disclosing Party to counsel for the Bond Trustee within one (1) Business Day of such required disclosure.

2.9 Diligence Period. During the period commencing on June 24, 2021 and continuing until 5:00 p.m. Eastern Time on that date that is sixty (60) days immediately following (the “**Diligence Period**”), Buyer shall have the right to conduct customary due diligence with respect to the Purchased Assets, and to elect, in its sole and absolute discretion, to either continue or terminate this Agreement. Buyer may terminate this Agreement, and receive a full refund of the Deposit, by delivering written notice of termination to Seller at any time prior to the expiration of the Diligence Period. If Buyer does not so terminate this Agreement during the Diligence Period, the Deposit shall thereafter be nonrefundable except as set forth in Section 7.3. The obligations in this paragraph shall survive the termination of this Agreement.

2.10 Bankruptcy Court Approval.

(a) Seller and Buyer acknowledge that this Agreement and the sale of the Purchased Assets and the assumption and assignment of the Assumed Contracts and Residency Agreements are subject to Bankruptcy Court approval. Seller and Buyer acknowledge that (i) to obtain such approval, Seller must demonstrate that it has taken reasonable steps to obtain the highest and otherwise best offer possible for the Purchased Assets, and that such demonstration shall include giving notice of the contemplated transactions to creditors and other interested parties as ordered by the Bankruptcy Court, and (ii) Buyer must provide adequate assurance of future performance under the to-be-assigned Executory Contracts.

(b) From and after the Execution Date and prior to the Closing or the termination of this Agreement in accordance with Article 7, Seller shall not take any action which is intended to (or is reasonably likely to), or fail to take any action the intent (or the reasonably likely result) of which failure to act is to, result in the reversal, voiding, modification or staying of the Bid Procedures, Sale Order or this Agreement; provided, however, that the Seller may act in accordance with the Bid Procedures, the Sale Order, and other orders of the Bankruptcy Court.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF SELLER

In order to induce Buyer to enter into this Agreement, Seller makes the representations and warranties set forth below which are true, correct and complete on the date hereof and shall be true, correct and complete as of the Closing.

3.1 Organization. Subject to entry of the Sale Order, Necessary Consents, and the Approvals, the Seller has full power, authority and capacity to execute and deliver this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby.

3.2 Execution and Delivery. Subject to entry of the Sale Order, Necessary Consents, and the Approvals, this Agreement has been duly and validly executed and delivered by Seller and constitutes, and upon the execution and delivery by the Seller of the Related Agreements, the Related Agreements shall constitute, legal, valid and binding obligations of Seller enforceable against Seller in accordance with their terms.

3.3 Permits. The Facility is duly licensed in accordance with the applicable laws of the State of New Hampshire, and all other ancillary departments or services located at or operated for the benefit of, the Facility that are required to be separately licensed are duly licensed by the appropriate Governmental Authority. Except as set out on Schedule 3.3(i), Seller has all Permits which are needed or required by Applicable Law to operate its business related to or affecting the Facility or any ancillary services related thereto as currently conducted. Schedule 3.3(ii) is a true, complete and accurate list all material Permits owned or held by or issued to Seller relating to the ownership or operation of the Facility or the Purchased Assets and such Permits constitute all material Permits necessary for the conduct of the Business and operation of the Facility as currently conducted and for the ownership of the Facility by Seller and operation and use of the Purchased Assets by Seller, all of which are in full force and effect.

3.4 Litigation Proceedings; Judgments. Schedule 3.4 is an accurate list of all pending litigation or proceedings with respect to the Facility and the Purchased Assets. Except as set forth on Schedule 3.4 there are no claims, actions, suits, proceedings, or investigations, pending or to Seller's Knowledge, threatened, against or related to Seller, the Facility or the Purchased Assets, at law or in equity. There are no judgments presently outstanding and unsatisfied against the Facility and Business, Seller or any of the Purchased Assets. Except as set forth on Schedule 3.4, Seller has not received any written notice or written claim for tort or violation of any applicable order, or an investigation thereof with respect to its ownership or operation of the Facility or the Business.

3.5 Employee Relations. Seller is in compliance in all material respects with all Applicable Laws and contracts respecting employment and employment practices, labor relations, terms and conditions of employment, and wages and hours. Except as set forth on Schedule 3.5, Seller has no Knowledge of any complaints before or claims brought by a Governmental Authority regarding employment discrimination, safety or other employment-related charges or complaints, wage and hour claims, unemployment compensation claims, workers' compensation claims or the like.

3.6 Compliance. Except as set forth on Schedule 3.6, to the Knowledge of Seller, Seller is in compliance in all material respects with all applicable statutes, rules, regulations, and requirements, including healthcare laws and regulations, of each Governmental Authority having jurisdiction over the Seller and the Purchased Assets and the operations of the Facility and the Purchased Assets. To the extent of any material deficiencies are determined during a healthcare survey by the appropriate Governmental Authority, Seller has corrected such deficiencies as of the Closing Date or has proposed a plan of correction which as of the Closing Date has been accepted or is reasonably anticipated to be accepted by the applicable Governmental Authority.

3.7 Broker. Except for the engagement of Grandbridge, whose fee shall be paid by Seller from the proceeds of the sale at Closing, neither Seller nor any of its Affiliates has incurred any liability for any fee or commission to any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by this Agreement that would result in any liability, fee, expense or obligation being imposed on Buyer.

3.8 Environmental Matters. Except as set forth on Schedule 3.8: (a) there are no material environmental liabilities on or affecting any of the Facility, (b) Seller has at all times operated the Facility and conducted the Business and, during the period that Seller owned the Facility and any third party operated any such Business, such third party operated the Business, in each case, in compliance with all applicable environmental laws and permits required thereunder or issued pursuant thereto in all material respects; and (c) to Seller's Knowledge, there are no proceedings pending or threatened before any Governmental Authority with respect to Seller's ownership or operation of the Premises alleging violations of environmental laws, or claiming material remediation obligations under applicable environmental laws, and Seller has not received any written notice of any alleged or actual violation or non-compliance with any environmental law or of non-compliance with the terms or conditions of any environmental Permits, arising from, based upon, associated with or related to the Premises or the ownership or operation thereof.

3.9 Financial Information.

(a) Schedule 3.9 hereto contains the following financial statements and financial information:

(i) Audited financial statements of the Business for calendar years 2018, 2019 and 2020; and

(ii) Unaudited financial statements for each month from January 2021 through March 31, 2021.

The foregoing financial statements are true, correct and complete in all material respects and have been prepared in accordance with GAAP, applied on a consistent basis throughout the periods indicated except that the Unaudited Financial Information may not include required footnote disclosures or reflect normal year-end adjustments, including any future service obligation adjustment. Except as set forth on Schedule 3.9, the foregoing financial statements present fairly, in all material respects, the financial condition of the Business as of the respective dates they were prepared and the results of the operations of the Business for the periods indicated.

3.10 Real Property.

(a) Schedule 3.10 contains an accurate and complete legal description, street address and tax parcel identification number for the Premises. Seller holds good and indefeasible fee simple title to all of the Premises, and shall convey the Premises in accordance with the Sale Order free and clear of all Liens (other than the Permitted Liens). Seller does not lease any portion of the Premises as a tenant or subtenant. Seller agrees that title to the Premises shall not be altered between the date of this Agreement and Closing.

(b) Seller has not received written notice from any Governmental Authority of (and otherwise has no knowledge of): (i) any pending or threatened condemnation proceedings affecting the Premises, or any part thereof; (ii) asserting or alleging any material violations or potential violations of any Applicable Laws (including zoning and land use ordinances, building codes and similar requirements) with respect to the Premises, or any part thereof, which have not heretofore been cured; or (iii) any pending or threatened proceedings, nor any claims or actions against Seller or the Premises, relating to the ownership, lease, use or occupancy of such Premises or any portion thereof which is reasonably likely to result in a material change in the condition of the Premises or the ownership or operation of the Premises. Seller has not received any written notice of any pending zoning or other land use change affecting the Premises.

(c) Neither Seller nor, to Seller's Knowledge, any other person is in violation of a condition or agreement contained in any easement, restrictive covenant or any similar instrument or agreement affecting any of the Premises in any material respect.

3.11 Insurance. Schedule 3.11 sets forth an accurate and complete list of all insurance policies or self-insurance funds maintained by Seller or its representatives or agents with respect to the Facility and Seller as of the Execution Date covering the ownership and operation of the Business, indicating the types of insurance, policy numbers, terms, identity of insurers and amounts and coverages (including applicable deductibles).

3.12 Intellectual Property. Seller owns or has the right to use all intellectual property used in connection with the ownership or operation of the Facility. Schedule 3.12 lists all of the registered intellectual property owned by Seller. Except as set forth on Schedule 3.12, the conduct of the Business does not infringe or otherwise violate any intellectual property or other proprietary rights of any other Person, and there is no action pending or, to the Knowledge of Seller, threatened, alleging any such infringement or violation or challenging Seller's rights in or to any of its intellectual property.

3.13 Tax Matters. Except as set forth on Schedule 3.13:

(a) All Taxes due and owing by Seller (whether or not shown on any tax return) have been timely paid when due (taking into account any applicable extensions), including all Taxes with respect to the Facility.

(b) There are no liens relating to Taxes on any of the Purchased Assets other than liens for Taxes not yet due and payable.

(c) Proper and accurate amounts have been withheld by Seller in compliance with the payroll tax and other withholding provisions of all Applicable Laws, and all of such amounts have been timely remitted to the proper taxing authority.

(d) Seller has timely filed all tax returns required to be filed by it, including all tax returns relating to the Purchased Assets (all of which are true, complete and correct in all material respects). Seller has not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a tax assessment or deficiency, which currently remains in effect. Seller is not currently the beneficiary of any extension of time within which to file any tax return.

(e) To Seller's Knowledge, no deficiencies for Taxes have been claimed, proposed or assessed by any Governmental Authority for which Seller may have any liability or which may attach to the Purchased Assets. There are no pending or, to Seller's Knowledge, threatened proceedings for or relating to any liability in respect of Taxes for which Seller may have any liability or which may attach to the Purchased Assets. There are no matters under discussion by Seller with any Governmental Authority with respect to Taxes that may result in an additional amount of Taxes for which Seller may have any liability or which may

attach to the Purchased Assets. No Governmental Authority has notified Seller that it has conducted an audit of any Taxes that may be due and owing by Seller or as the result of the Business audited by Seller, which currently remains outstanding or unresolved.

3.14 No Other Representation and/or Warranty. Except for the representations and warranties contained in this Article 3 (including the related portions of the Schedules), Seller has not made and does not make any other express or implied representation or warranty, either written or oral, on behalf of or with respect to Seller, the Purchased Assets, the Premises, the Facility or the Business, including any representation or warranty arising from statute or otherwise in law.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF BUYER

In order to induce Seller to enter into this Agreement, Buyer makes the representations and warranties set forth below which are true, correct and complete on the date hereof and shall be true, correct and complete as of the Closing.

4.1 Organization. Buyer has full power, authority and capacity to execute and deliver this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby.

4.2 Execution and Delivery. This Agreement has been duly and validly executed and delivered by Buyer and constitutes and, upon the execution and delivery by Buyer of the Related Agreements, the Related Agreements shall constitute, legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with their terms.

4.3 Governmental Approvals and Filings. No consent, approval or action of, filing with or notice to any Governmental Authority on the part of Buyer is required in connection with the execution, delivery and performance of this Agreement or any of the Related Agreements or the consummation of the transactions contemplated hereby or thereby.

4.4 Brokers. Neither Buyer nor any of its Affiliates has incurred any liability for any fee or commission to any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by this Agreement that would result in any liability, fee, expense or obligation being imposed on Seller.

4.5 Adequate Funds. Buyer has adequate funds available to it in order to consummate the transactions contemplated by this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder.

4.6 Fitness for Obtaining Permits and Approvals. Buyer has no knowledge of any material fact or other information related to Buyer or any of its Affiliates which could be reasonably expected to have an adverse impact on Buyer's ability to obtain the Permits or Approvals.

4.7 Construction Dispute. Buyer acknowledges that Seller is in a construction dispute with its original contractor regarding allegations of substandard and incomplete work on the Premises, and Seller has retained Bergeron construction as a new contractor to complete approximately \$570,000 of construction and remediation repairs to the Woodside building balconies (the "**Woodside Balcony Repair**"), as set out on Schedule 4.7. Seller shall promptly pay for all construction and remediation associated with the Woodside Balcony Repair, and Seller shall make commercially reasonable efforts to have the work completed by September 30, 2021, but in any event, the work shall be completed on or before Closing. Seller shall furnish

Title Company with all documentation required to enable Title Company to issue an owner's policy that insures over all mechanic's liens. Buyer is assuming no liability, for continuing litigation or otherwise, with respect to the construction dispute.

4.8 Condition of Assets; Disclaimers.

(a) Buyer acknowledges that it has fully inspected or waived the right to inspect the Purchased Assets prior to the execution of this Agreement and has made its own determinations as to the Purchased Assets. Buyer expressly acknowledges and warrants that Buyer is accepting the Purchased Assets in an "AS IS" "WHERE IS" "WITH ALL FAULTS CONDITION" and all latent or patent defects, with regard to all aspects of the Purchased Assets without warranty or representation of any kind by Seller or any of Seller's managers, members, officers, directors, employees, partners, agents, representatives, beneficiaries, attorneys, subsidiaries, Affiliates, contractors subcontractors, successors and assigns. BUYER ACKNOWLEDGES THAT, EXCEPT AS OTHERWISE PROVIDED FOR IN THE REPRESENTATIONS AND WARRANTIES IN ARTICLE 3 OF THIS AGREEMENT, SELLER MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO: ANY MATTER RELATED TO THE PURCHASED ASSETS (INCLUDING, WITHOUT LIMITATION, INCOME TO BE DERIVED FROM OR EXPENSES TO BE INCURRED IN CONNECTION WITH THE PURCHASED ASSETS; THE PHYSICAL CONDITION OF THE PURCHASED ASSETS; THE PRESENCE OR ABSENCE OF ANY HAZARDOUS MATERIALS IN, ON OR ABOUT THE PURCHASED ASSETS OR ANY OTHER MATTER RELATED TO THE ENVIRONMENTAL CONDITION OF THE PURCHASED ASSETS; THE HABITABILITY OF THE PURCHASED ASSETS; THE ZONING OF THE PURCHASED ASSETS; THE POSSIBILITY OF DEVELOPING OR USING THE PURCHASED ASSETS IN THE MANNER CONTEMPLATED BY BUYER OR OBTAINING ANY CONSENTS, APPROVALS, PERMITS, AUTHORIZATIONS OR ENTITLEMENTS IN CONNECTION THEREWITH; THE VALUE OF THE PURCHASED ASSETS; THE MERCHANTABILITY OR FITNESS OF THE PURCHASED ASSETS FOR ANY PARTICULAR PURPOSE OR USE.

ARTICLE 5

COVENANTS

5.1 Access to Books and Records. From and after the Closing, unless such other date is set by the Bankruptcy Court, each Party shall afford, for a period ending on the later of (i) three (3) years from the Closing Date and (ii) the date of the entry of a final decree or an order converting or dismissing the Chapter 11 Case, the other Party, its Affiliates and the Bond Trustee reasonable access, during normal business hours, to the books, records and other data relating to the operation of the Business prior to the Closing in its possession to the extent that such access may be reasonably required by the requesting Party in connection with (a) the preparation of Tax returns, (b) the determination or enforcement of rights and obligations under this Agreement, (c) compliance with the requirements of any Governmental Authority, (d) in connection with any threatened or actual legal proceeding, (e) in connection with any audit of the Business for any pre-Closing period, or (f) in connection with administering the Chapter 11 Case, or any subsequent Chapter 7 case. During such period neither Party shall dispose of or destroy any books, records or other data relating to the operation of the Business prior to the Closing unless such Party gives the other Party thirty (30) days' prior written notice thereof and the option to retain such books, records or other data. Further, Buyer shall maintain all records including healthcare records for the periods required by law.

5.2 Cooperation; Approvals; Ordinary Course.

(a) Subject to the terms and conditions herein provided, the Parties shall use commercially reasonable efforts to bring about the satisfaction as soon as practicable of all the conditions (whether set forth in this Agreement or otherwise) necessary to effect the consummation of the transactions contemplated by this Agreement.

(b) From the Execution Date until the Closing, Seller will operate in the ordinary course of business consistent with past practice, as modified pursuant to the proceedings before the Bankruptcy Court. Seller will advise Buyer before Seller enters into any material contracts or incurs any material obligations outside of the ordinary course of business.

5.3 Regulatory Filings. Within three (3) Business Days of entry of the Sale Order, the Parties shall promptly file all applications and documents which are necessary to obtain the consent of each applicable Government Authority as may be appropriate in connection with the transactions contemplated by this Agreement and the Parties shall, at the same time as filed, provide a copy to the other Party. The Parties shall diligently prosecute such applications and take any other actions which are or may be reasonable and appropriate in connection therewith. Each Party shall provide the other Party with (a) copies of said Party's responses to written requests for additional information from any Government Authority that in any way relates to the Business or Purchased Assets within two (2) Business Days after sending such responses, and (b) copies of all written correspondence from any Government Authority that in any way relates to the Business or Purchased Assets within two (2) Business Days after receiving such correspondence. The Parties will maintain in confidence all documents provided pursuant to this Section, unless public disclosure is required by Applicable Law, or is otherwise made to a Government Authority, in which case, to the extent practicable, the Parties will use their commercially reasonable efforts to reach mutual agreement prior to making such disclosure. Notwithstanding the foregoing, any documents provided pursuant to this Section shall be provided by Seller to counsel for the Bond Trustee within two (2) Business Days of receipt from Buyer.

5.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, at Buyer's reasonable request and at the Buyer's sole cost and expense, the Seller will execute and deliver to Buyer such other instruments of sale, transfer, conveyance and assignment, provide such materials and information and take such other actions as Buyer may reasonably deem necessary or desirable in order more effectively to transfer, convey and assign to Buyer, and to confirm Buyer's title to, all of the Purchased Assets.

5.5 Buyer's Closing Deliveries. At the Closing, Buyer shall deliver the following to Seller:

- (a) the Purchase Price, net of the cash portion of the Deposit to be applied thereto;
 - (b) the Accrued PTO funds;
 - (c) the Related Agreements to which Buyer is a party, duly executed by Buyer;
 - (d) a certificate executed as of the Closing Date by a duly authorized representative of the Buyer, certifying that the conditions set forth in this Agreement have been satisfied;
 - (e) a certificate of a duly authorized representative of Buyer (i) certifying that attached to such certificate are true and complete copies of (A) Buyer's organizational documents, each as amended through and in effect on the Closing Date and (B) resolutions of the authorized representative of Buyer, authorizing the execution, delivery and performance of this Agreement and the related agreements to which Buyer is a party and the consummation of the transactions contemplated by this Agreement and the Related Agreements, and (ii) certifying as to the incumbency of the officer of Buyer executing this Agreement and the Related Agreements to which Buyer is a party;
 - (f) a certificate of good standing for Buyer from the New Hampshire Secretary of State;
- and
- (g) all instruments of transfer and/or assignment, certificates, deeds, bills of sale, evidence of filing an/or recording, and other documents as are reasonably necessary to effectuate the sale of the Purchased

Assets, including customary documents required in order for title policies to be issued by the Title Company to Buyer at Closing.

5.6 Seller's Closing Deliveries. At the Closing, Seller shall deliver the following to Buyer:

- (a) Keys and passcodes to the Facility;
- (b) the Related Agreements to which the Seller is a party, duly executed by the Seller;
- (c) evidence of payment of the Accrued PTO to Seller's employees;
- (d) the Sale Order entered by the Bankruptcy Court providing authority for Seller to conduct the transactions hereunder;
- (e) all promissory notes entered into by Residents; and
- (f) Resident trust funds, if any.

5.7 Employees.

(a) Immediately prior to the Effective Time (the "**Termination Date**"), Seller shall terminate all of its employees, and, as of the Effective Time, Buyer shall offer employment to such persons on an at-will basis and subject to Buyer's pre-employment screenings and employment practices, policies and procedures. Seller agrees to use its commercially reasonable efforts to make employment records and other related information reasonably requested by Buyer available to Buyer.

(b) Following the Effective Time, Buyer shall provide benefits and other terms and conditions of employment to the Employees at levels consistent, in the aggregate, with those provided by Buyer and its Affiliates to their employees, with credit for prior service time and seniority.

(c) Seller shall provide Buyer, at least twenty (20) days prior to the Closing Date, a Schedule 5.7(c) setting forth, for each employee, the amount of accrued but unused paid time off or unused sick time (excluding any unused paid time off or unused sick time above the 200 hour cap provided for in Seller's employee policies) for each employee as of the Closing Date (collectively, "**Accrued PTO**") and the aggregate value of the Accrued PTO. Seller shall provide Buyer on the Closing Date with an updated version of such schedule reflecting Accrued PTO amounts (and the value of those amounts) as of the Closing Date (as so updated, the "**Accrued PTO Schedule**"). On the Closing Date, Buyer shall pay Seller, in addition to the Purchase Price, an amount equal to the Accrued PTO due to each employee as required by New Hampshire law, and Seller shall pay such funds to each employee as of Closing.

(d) Not more than fifteen (15) days after the Execution Date, Seller shall provide Buyer with a Schedule 5.7(d) (the "**Schedule of Employees**") of all employees of Seller working at the Facility, including, for each listed employee, his or her name, date of hire, job title, full-time/part-time status, exempt/non-exempt status, bonus eligibility, commission eligibility, severance entitlement, current compensation paid or payable, and status (e.g., leave of absence, disability, layoff, active, temporary). The Schedule of Employees shall be updated fifteen (15) days prior to Closing.

(e) Buyer shall offer immediate employment (so that no period of unemployment shall occur between employment with Seller and employment with Buyer) to a such number of Seller's employees as it deems necessary, in Buyer's sole discretion, to commence at 12:01 a.m. on the Closing Date (such employees who accept such offer from Buyer, the "**Transferred Employees**"). If Buyer fails to offer immediate employment to a sufficient number of employees on terms to avoid a violation of the WARN Act or any comparable state or local laws, Buyer agrees that it shall be responsible for any associated liabilities arising

under the WARN Act or comparable state or local laws. Buyer shall deliver to Seller within ten (10) days prior to the Closing Date, an updated schedule of Transferred Employees identifying to Seller all of Seller's employees to whom offers will be made by Buyer. In furtherance and not in limitation of the foregoing, Buyer shall treat prior service with Seller reflected in the information provided above as service with Buyer for purposes of determining eligibility to participate and vesting in all benefits programs maintained by Buyer. Seller shall cooperate with Buyer in providing information reasonably requested by Buyer to facilitate hiring and establishing benefits for Transferred Employees who accept employment with Buyer. This Agreement shall not be deemed to create or grant to any Transferred Employee any third party beneficiary rights or claims or any cause of action of any kind or nature.

(f) At Buyer's sole cost and expense (other than for employee cost-sharing), Buyer shall be responsible for offering Transferred Employees group health plan coverage on and after the Closing Date sufficient to extinguish any rights a Transferred Employee may have to continuation of coverage under any of Seller's group health plans including, but not limited to, COBRA insurance coverage, if a Transferred Employee so elects such coverage. Buyer shall provide COBRA continuation coverage (within the meaning of Section 4980B of the Code and the Treasury regulations thereunder) to all individuals who are "M&A qualified beneficiaries" (within the meaning of Treasury Regulation Section 54.4980B-9, Q&A-4) with respect to the transaction contemplated herein for the duration of the period to which such individuals are entitled to such coverage.

5.8 Bankruptcy Filings.

(a) Seller, Bond Trustee and Buyer have negotiated an order approving the Bid Procedures (the "**Bid Procedures Order**"), which Bid Procedures Order shall be included in the Sale and Procedure Motion. The Sale and Procedure Motion, Bid Procedures Order, and Sale Order shall be acceptable to Buyer, the Seller and the Bond Trustee in their reasonable discretion.

(b) Promptly after expiration of the Diligence Period (and no later than August 31, 2021 if the Diligence Period ends at least seven days prior thereto), Seller shall file: (i) a voluntary petition for relief under chapter 11 of the Bankruptcy Code, (ii) a motion or motions for approval of the appropriate terms of this Agreement and the Bid Procedures, including, without limitation, the Break-Up Fee and an overbid process (collectively, the "**Sale and Procedure Motion**"), and (iii) to schedule a hearing(s) to approve the contemplated transaction pursuant to Sections 363 and 365 of the Bankruptcy Code, as applicable.

(c) Seller shall use its commercially reasonable efforts to obtain entry of the Bid Procedures Order within twenty one (21) days of the commencement of the Petition Date, naming Buyer as the Stalking Horse and approving the Break-Up Fee and Expense Reimbursement. The Sale Procedures Order shall be in form and substance reasonably acceptable to Buyer and its counsel and the Bond Trustee and shall be a condition precedent for Buyer completing the contemplated transaction.

(d) Bids shall be required to be submitted under the Bid Procedures no later than sixty (60) days after the Petition Date.

(e) The auction concerning the contemplated transaction shall take place pursuant to the Bid Procedures Order on or about sixty five (65) days following the Petition Date.

(f) Seller shall request that the Bankruptcy Court schedule a hearing on the contemplated transaction on or about seventy (70) days following the Petition Date (subject to availability of the Bankruptcy Court).

(g) Seller shall use its commercially reasonable efforts to obtain entry of the Sale Order on or about seventy (75) days following the Petition Date (subject to availability of the Bankruptcy Court); provided, however, that the Seller may act in accordance with the Bid Procedures Order.

(h) In the event that the entry of a Sale Order is appealed or a stay pending appeal is sought, Seller shall oppose the appeal or the stay pending appeal and seek the dismissal of any appeal (including a petition for certiorari, motion for rehearing, re-argument, reconsideration or revocation).

(i) Notwithstanding the foregoing, any resulting changes to this Agreement or any other Related Agreement or resulting material changes to the proposed Sale Order shall be subject to the approval of Buyer, Seller and Bond Trustee in their reasonable discretion. Seller shall (i) provide Buyer with drafts of any and all other pleadings and proposed orders to be filed or submitted in connection with this Agreement and the contemplated transactions, and such pleadings and proposed orders shall be in form and substance reasonably acceptable to Buyer, and (ii) make commercially reasonable efforts to consult and cooperate with Buyer regarding any discovery taken in connection with seeking entry of the Sale Order (including any depositions).

(j) During the Chapter 11 Case, Seller shall not commence, assign, convey or abandon any Avoidance Actions against any of Seller's ordinary course vendors, contract counterparties, contractors and other suppliers of services related to the Business who are doing business with Buyer following the Closing, without the prior written consent of Buyer.

(k) In the event that Buyer is not selected as the winning bidder at any auction pursuant to the Bid Procedures, Buyer understands and acknowledges that at Seller's election and subject to the Bid Procedures Order, Buyer will remain obligated hereunder as the "Back-Up Bidder" until termination by Seller or the closing of an Alternative Transaction for the period required under the Bid Procedures Order.

5.9 Assumed Contracts and Cure Amounts.

(a) Subject to the approval of the Bankruptcy Court by Final Order and effective on the Closing Date, the Assumed Contracts and Residency Agreements and Option Agreements will be assumed by the Seller and assigned to the Buyer on the Closing Date, in accordance with Section 365 of the Bankruptcy Code. The final determination of which Contracts (other than Residency Agreements and Option Agreements) shall be Assumed Contracts shall be within the Buyer's sole discretion. The Cure Amounts of the Assumed Contracts and Residency Agreements shall be paid by the Buyer in accordance with the provisions herein.

(b) At the Closing or such time as may be approved by the Court in the Sale Order or any subsequent order, Buyer shall pay, pursuant to Section 365 of the Bankruptcy Code and the Sale Order, any and all cure and reinstatement costs or expenses (not including any refund claims which shall be paid after Closing in due course) that are required to be paid under Sections 365(b)(1)(A) and (B) of the Bankruptcy Code in connection with the assumption and assignment of the Assumed Contracts. For the avoidance of doubt, (i) Buyer shall pay all Cure Amounts as determined by the Bankruptcy Court for any Assumed Contracts in cash at Closing or at such time as ordered by the Bankruptcy Court, (ii) the Cure Amounts are separate and apart from, and in addition to, the Purchase Price and, (iii) Buyer shall not be required to make any payment of Cure Amounts for, and shall not assume any liabilities with respect to, any Contract that is not an Assumed Contract.

(c) Non-Assignment of Assumed Contracts. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or transfer and shall not affect the assignment or transfer of any Purchased Asset if the Bankruptcy Court shall not have approved assumption and assignment of any Assumed Contract for any reason (each such action, a "**Necessary Consent**"). In such event, Seller and Buyer shall use their commercially reasonable efforts, to obtain the Necessary Consents with respect to any such Assumed Contract after the Closing; provided that the failure to obtain any Necessary Consent shall not delay the Closing or give rise to a reduction in the Purchase Price.

Nothing in this Section 5.9 shall in any way diminish or enlarge (x) Buyer's obligations hereunder to obtain the Approvals, or (y) the Parties' obligations hereunder to obtain the Necessary Consents.

(d) Except regarding Residency Contracts and Option Agreements, notwithstanding anything in this Agreement to the contrary, a Contract that is validly rejected or otherwise not assumed and assigned to the Buyer pursuant to this Section 5.9 shall constitute an Excluded Asset.

(e) Schedule 5.9(e) of the Disclosure Schedules sets forth each Executory Contract with annual payments of at least \$10,000.00, and Seller's good faith estimate of the amount of the Cure Amounts payable in respect of each such Executory Contract (and if no Cure Amount is estimated to be payable in respect of any particular Executory Contract, the amount of such Cure Amount designated for such Contract shall be \$0.00). Buyer shall have the right to review Schedule 5.9(e) delivered by Seller and exclude any contract (other than a Residency Agreement or Option Agreement) listed on such Schedule at any time that is at least 5 days prior to Closing. Schedule 5.9(e) shall be updated automatically to reflect any cure findings of the Bankruptcy Court.

(f) At any time prior to the Designation Deadline, Buyer shall have the right, which may be exercised in Buyer's sole discretion, to provide written notice to Seller (each such notice, a "**Contract Notice**") of Buyer's election to designate any Executory Contract (including any Contract that is an Assumed Contract immediately before such designation but excluding the Residency Agreements or Option Agreements) (1) as an Excluded Asset, and upon such designation, such Executory Contract shall constitute an Excluded Asset and, if applicable, shall cease to constitute an Assumed Contract or (2) to the extent not already rejected, as an Assumed Contract, and upon such designation, such Executory Contract shall constitute an Assumed Contract and shall cease to constitute an Excluded Asset. Buyer shall provide Seller a Schedule 5.9(f) on or before the Designation Deadline reflecting the Executory Contracts that are Assumed Contracts and that are Excluded Assets.

(g) If Buyer exercises its rights in Section 5.9(f) above to designate a Contract, including a Contract that was an Assumed Contract immediately before such designation, as an Excluded Asset, there shall be no reduction in the Purchase Price as a result of such designation or change in designation.

5.10 Covenants Relating to Residency Agreements. Buyer agrees that all Residency Agreements identified on Schedule 1(iii) shall be Assumed Contracts (or to the extent non-executory, Assumed Liabilities) to be assumed by and assigned to Buyer; *provided, however*, the Buyer's obligations under this Section 5.10 are expressly subject to any and all defenses, causes of action, claims, other rights or privileges that Buyer may have under the applicable Residency Agreement(s), including, without limitation, defenses based on a Resident or Prospective Resident's failure to pay all monthly fees and other fees and assessments with respect to each such applicable Residency Agreement.

5.11 Charity Care, Endowment, and Trust Funds. Buyer shall implement and maintain a charity care policy which provides for the treatment and care of residents who are unable to pay. Further, (i) to the extent that Buyer is receiving the Endowment in connection with the transaction, Buyer shall comply with all restrictions and requirements on the use and maintenance of such funds following transfer, which restriction and requirements are described in Schedule 2.1(i), (ii) to the extent that Buyer is receiving Resident trust funds or Resident deposits, Buyer shall comply with all restrictions and requirements on the use and maintenance of such funds following transfer, and (iii) Buyer shall comply with the obligations of the Option Agreements regarding the Option Deposits.

5.12 Accounts Receivable.

(a) Seller shall retain whatever right, title and interest it may have in and to all outstanding Accounts Receivable with respect to the Facility which relate to periods ending on or before the Effective Time

(including without limitation any amounts due on or before Closing for any Resident promissory notes being transferred pursuant to Section 5.6(e), which amounts shall be collected by Buyer using commercially reasonable efforts and paid over to Seller upon receipt).

(b) Payments received by Buyer after the Effective Time from third party payors including, but not limited to managed care and health insurance, shall be handled as follows:

(i) If such payments either specifically indicate on the accompanying remittance advice, or if Buyer and Seller agree that such payments relate to the period ending before the Effective Time, they shall be forwarded by Buyer to Seller, along with the applicable remittance advice, within ten (10) days after receipt thereof; and

(ii) If such payments indicate on the accompanying remittance advice, or if Buyer and Seller agree that such payments relate to the period after the Effective Time, they shall be retained by Buyer.

(c) Payments received by Seller after the Effective Time from third party payors including, but not limited to managed care and health insurance, shall be handled as follows:

(i) If such payments either specifically indicate on the accompanying remittance advice, or if Buyer and Seller agree that such payments relate to the period after the Effective Time, they shall be forwarded by Seller to Buyer, along with the applicable remittance advice, within ten (10) days after receipt thereof; and

(ii) If such payments indicate on the accompanying remittance advice, or if Buyer and Seller agree that they relate to the period ending on or before the Effective Time, they shall be retained by Seller.

(d) If the remittance advice indicates or the Parties agree that any payment relates to periods both prior to or on and after the Effective Time, the Party receiving the payment shall forward the amount relating to the other Party's operation of the Business, along with the applicable remittance advice, within ten (10) days after receipt thereof. If the remittance advice does not indicate the period to which a payment relates or whether it is for Buyer or Seller, or if there is no accompanying remittance advice, or the payment is not otherwise identifiable using commercially reasonable efforts, and if the Parties do not otherwise agree as to how to apply such payment, then 100% of such payments received within the first one-hundred twenty (120) days after the Effective Time shall be deemed to have been collected in respect of Seller's Accounts Receivable due from the payee in respect of services provided on or prior to the Effective Time. All such payments received in excess of the amount of Seller's Accounts Receivables due from said payee and all such payments received one-hundred twenty (120) days after the Effective Time shall be deemed to belong to Buyer. If the party receiving the funds is not the party entitled to the funds hereunder, such party shall forward such funds to the other party within ten (10) days. For the avoidance of doubt, no party shall have the right to setoff or recoup against amounts it is required to send to the other party under this paragraph.

5.13 Title and Survey Matters.

(a) Buyer has received the title commitment listed in Schedule 5.13(a) (the "**Commitment**") from the Title Company, for the Title Company to issue as of the Closing an ALTA owner's policy of title insurance (Form 2006) (the "**Title Policy**") for the Premises, together with improvements, buildings and fixtures thereon, unless otherwise noted in such Commitment, in an amount equal to the amount of the Purchase Price allocated by Buyer and Seller in accordance with Section 2.7 of this Agreement to the Premises, and all improvements, buildings and fixtures thereon. The Commitment provides for the issuance of the Title Policy to Buyer as of the Closing and shall insure title to the Premises and all improvements, buildings

and fixtures thereon, subject only to the Permitted Liens. Subject to and consistent with the Sale Order, Seller agrees to deliver any information as may be reasonably required by the Title Company under the requirements Section of the Commitments or otherwise in connection with the issuance of the Title Policy to issue the Title Policy in accordance with the Commitment. Seller also agrees to provide an affidavit of title consistent with a quitclaim deed (or the State equivalent thereof) and/or such other information as the Title Company may reasonably require in order for the Title Company to insure over the “gap” (i.e., the period of time between the effective date of the title insurance company’s last check-down of title to the Premises and the Closing Date).

(b) Prior to the Closing, Buyer may order updates or continuations of, and supplements to, the Commitment (each a “**Title Update**”) for the Premises, at Buyer’s sole cost. Buyer shall instruct Title Company to simultaneously deliver directly to Buyer and Seller copies of each Title Update (including tax and departmental searches) ordered by Buyer or otherwise issued by Title Company, at Buyer’s cost, and copies of all underlying documentation referenced as an exception in such Title Update as soon as and if reasonably available.

(c) Buyer shall have the right to deliver one or more written notices relating to each of the Title Updates (each, a “**Title Objection Notice**”) to Seller objecting to any items contained in any one or more of the Title Updates which are not Permitted Liens unless and until agreed by Buyer pursuant to this Section 5.13 to become part of the Permitted Liens (said objections listed on each Title Objection Notice, the “**Objectionable Title Exceptions**”). Each such Title Objection Notice relating to any Title Update will be delivered by Buyer to Seller within ten (10) days after Buyer’s receipt of such applicable Title Update, and, unless due to a late change from the Title Company outside of Buyer’s control, at least fifteen (15) days prior to the Closing Date. Failure of Buyer to provide a Title Objection Notice within such period (or to include any such matters in a timely delivered and valid Title Objection Notice) shall be deemed Buyer’s approval of all items contained in the applicable Title Update. All such items in the applicable Title Update that are not objected to by Buyer in a timely delivered and valid Title Objection Notice shall be deemed to be part of the Permitted Liens. Seller shall notify Buyer in writing (“**Sellers Title Notice**”) within seven (7) days after receipt of the applicable Title Objection notice from Buyer of those Objectionable Title Exceptions Seller elects to remove or cure and Seller’s proposed manner of removal or cure, as well as those Objectionable Title Exceptions Seller will not remove or cure. Seller’s failure to deliver Seller’s Title Notice to Buyer in a timely manner shall be deemed an election by Seller not to remove or cure Objectionable Title Exceptions included in the applicable Title Objection Notice. If Seller proposes in Seller’s Title Notice to remove or cure all or some of the Objectionable Title Exceptions contained in the applicable Title Objection Notice, and Buyer does not terminate this Agreement as provided in this paragraph, then at or prior to Closing, Seller shall remove or cure the Objectionable Title Exceptions as Seller has agreed, and such Objectionable Title Exceptions shall not be exceptions to coverage in the Title Policy. If Seller in the applicable Seller Title Notice elects not to remove or cure any or all of the Objectionable Title Exceptions (or is deemed to have elected not to remove or cure such Objectionable Title Exceptions), then Buyer may notify Seller within seven (7) days after receipt of the applicable Seller Title Notice (or date of deemed election, as applicable) whether Buyer elects to proceed to the Closing, taking title subject to such exceptions, or elects to terminate pursuant to Section 7.1(g); *provided that*, Buyer may only elect to terminate under Section 7.1(g) if the Objectionable Title Exceptions Seller declines (or is deemed to decline) would materially interfere with the use or occupancy of the Premises or materially affect the value of the Premises if not removed or otherwise cured. Failure of Buyer to provide such notice in a timely manner shall be deemed an election by Buyer to proceed to the Closing. If Buyer elects (or is deemed to have elected) to take title subject to any such Objectionable Title Exceptions under this Section 5.13, such Objectionable Title Exceptions shall become Permitted Liens and the Purchase Price shall not be reduced. Notwithstanding the foregoing, for the avoidance of doubt, Seller agrees to obtain the removal, waiver, termination, discharge, or satisfaction of any mortgages, mechanic’s or materialmen’s liens, judgment liens and other monetary liens and monetary encumbrances against the Property of parties claiming by, through or under the Seller which are curable solely (i) by the payment of money either prior to Closing or simultaneously with Closing by using proceeds from the sale, or (ii) by discharge by or through the Sale Order. All such matters referenced in the foregoing sentence shall automatically be deemed Objectionable Title Exceptions, regardless

of whether Buyer provided a Title Objection Notice to Seller including such matters as Objectionable Title Exceptions, and Buyer under no circumstances shall be deemed to have waived any such matters, nor shall same be considered waived or Permitted Liens under Section 1(xx)(vii), unless such waiver shall be an express waiver in writing executed by Buyer.

ARTICLE 6

CONDITIONS TO CLOSING

6.1 Conditions to Obligations of Seller to Close. The obligation of the Seller to effect the closing of the transactions contemplated by this Agreement is subject to the satisfaction prior to or at the Closing of the following conditions (any of which may, in sole discretion of the Seller, be waived in whole or in part):

(a) Bankruptcy Matters. The Bankruptcy Court shall have entered the Sale Order in form reasonably satisfactory to Buyer and Seller, and it shall not be subject to a stay pending appeal.

(b) Observance and Performance. Buyer shall have performed and complied with, in all material respects, all covenants and agreements required by this Agreement to be performed and complied with by it prior to or as of the Closing Date, and all representations and warranties of Buyer shall remain true and correct in all material respects as of Closing.

(c) No Legal Actions. No Governmental Authority shall have issued an order, not subsequently vacated, restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement.

(d) Approvals. Seller shall have obtained the Approvals, or assurances of issuance thereof, so that Buyer is authorized to operate the Business.

6.2 Conditions to Obligation of Buyer to Close. The obligation of Buyer to affect the closing of the transactions contemplated by this Agreement is subject to the satisfaction prior to or at the Closing of the following conditions (any of which may, in Buyer's sole discretion, be waived in whole or in part):

(a) Entry of Sale Order. The entry of the Sale Order on or before December 1, 2021, and such Sale Order becoming a Final Order on or before February 28, 2022.

(b) Observance and Performance. Seller shall have performed and complied with, in all material respects, all covenants and agreements required by this Agreement to be performed and complied with by it prior to or as of the Closing Date, and all representations and warranties of Seller shall remain true and correct in all material respects as of Closing.

(c) No Legal Actions. No Governmental Authority shall have issued an order, not subsequently vacated, restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement.

(d) Approvals. Buyer shall have obtained the Approvals, or assurances of issuance thereof, so that Buyer is authorized to operate the Business and utilize the underground walkway pursuant to a written license acceptable to Buyer from the City of Keene.

(e) Title. The Title Company is prepared to issue, as of the Closing Date, the Title Policy.

(f) Due Diligence. Buyer has not terminated this Agreement pursuant to Section 2.9.

ARTICLE 7

TERMINATION AND BREAK-UP FEE

7.1 Termination. This Agreement may be terminated at any time before the Closing by written notice to the applicable Party:

- (a) by mutual written agreement of Buyer and Seller;
- (b) by either Buyer or Seller, upon written notice to the other Party, if the other Party is in material breach or default of any provision of this Agreement, which breach is not cured within ten (10) Business Days after written notice thereof is received, provided, however, that the terminating party is not in material breach or default of this Agreement;
- (c) by either Buyer or Seller if the sale is disapproved by the Bankruptcy Court, or there is an Alternative Transaction;
- (d) by either Buyer or Seller if the Closing has not occurred by the Outside Closing Date by no fault of the Party terminating, and Buyer is not at that time the Back Up Bidder;
- (e) by Seller, if Buyer is not diligently pursuing the Closing such that the Closing can occur on or prior to the Outside Closing Date;
- (f) by either Buyer or Seller, if, prior to Closing, the Sale Order, after being entered by the Bankruptcy Court, has subsequently been reversed, revoked, or voided by an order of a court of competent jurisdiction; or
- (g) by Buyer pursuant to Section 5.13, Section 2.8, or Section 2.9.

7.2 Break-Up Fee. Subject to Bankruptcy Court approval, if after the Execution Date, (i) any third party other than Buyer purchases the Purchased Assets or (ii) Seller completes an Alternative Transaction, then (a) the Deposit shall be returned to Buyer, and in connection therewith, Seller shall promptly take all action necessary to cause Title Company to pay the Deposit to Buyer, and (b) Seller shall pay to Buyer an additional amount of \$660,000 plus up to Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) of actual expenses incurred by Buyer (collectively, the “**Break-Up Fee**”), which Break-Up Fee shall be paid solely from the proceeds of the sale of the Purchased Assets to a third party and shall be paid on the closing of such Alternative Transaction and Seller agrees that any court order related to the Alternative Transaction shall include a carve-out from the holders of the Bonds’ collateral permitting the Break-Up Fee. The terms and conditions of the Break-Up Fee and the payment thereof will be more specifically set forth in the Bid Procedures Order.

7.3 Remedies.

(a) Termination, plus any rights the parties shall have under this Section regarding the Deposit and the Break-Up Fee shall be the sole remedy of the Parties for a breach of this Agreement, except for the Parties’ rights under Section 8.17. Immediately upon the occurrence of any termination of this Agreement pursuant to Sections 7.1(a), 7.1(b) (where Buyer is the terminating Party), 7.1(d), 7.1(f), or 7.1(g), Seller shall refund the Deposit to Buyer. If the termination is pursuant to Section 7.1(c) as the result of an Alternative Transaction, then subject to and in accordance with the terms of the Bid Procedures Order, upon the closing of the Alternative Transaction, Seller shall (i) immediately refund the Deposit to Buyer and (ii) pay Buyer the Break-Up Fee from the proceeds of such Alternative Transaction. If the termination is pursuant to Section

7.1(b)(where Seller is the terminating Party) or 7.1(e), the Deposit shall be forfeited to the Seller and the Seller shall be released from all obligations to Buyer hereunder.

(b) The Parties intend that the Deposit constitute compensation, and not a penalty. The Parties acknowledge and agree that either Party's harm caused by the other Party's default or breach of this Agreement would be impossible or very difficult to accurately estimate as of the date of this Agreement, and that the Deposit (or return of the Deposit, as the case may be, and the Break-Up Fee and Expense Reimbursement in circumstances where applicable) is a reasonable estimate of the anticipated or actual harm that might arise from such a default or breach. The transfer and/or return of the Deposit (and payment of the Break-Up Fee and Expense Reimbursement in circumstances where applicable) is each Party's sole liability and entire obligation and the exclusive remedy for the other Party's default or breach of this Agreement. If the Closing does not occur on or before the Outside Closing Date, the Deposit shall be disbursed in accordance with this Section 7.3, and the Break-Up Fee and Expense Reimbursement paid if and at such time as may be otherwise provided in this Agreement and the Bid Procedures Order. If the Seller enters into an Alternative Transaction during the Due Diligence Period, Seller shall pay Buyer the sum of \$125,000 to compensate Buyer for its time and expenses incurred in connection with this Agreement.

(c) Article 7 and Article 8 shall survive any termination.

ARTICLE 8

MISCELLANEOUS

8.1 Expenses. Except as specifically set forth in this Agreement or any Related Agreement, and except for the Break-Up Fee, the Parties shall bear their own expenses, including, without limitation, fees, disbursements and other costs of any attorneys, accountants and other advisors, in connection with this Agreement, the Related Agreements, and the transactions contemplated hereby and thereby. This Section shall not apply, if the Closing does not occur, to any existing or future litigation, if a right to attorneys' fees and expenses otherwise exists.

8.2 Notices. All notices, requests, demands and other communications made in connection with this Agreement shall be in writing and shall be (a) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, (b) transmitted by hand delivery, (c) sent by electronic means, or (d) sent by nationally recognized overnight courier for next Business Day delivery, addressed as follows:

Seller:

Hillside Village Keene
95 Wyman Road
Keene, New Hampshire 03431
Attention: Toby Shea, Chief Restructuring Officer
tshea@onepoint-partners.com

With simultaneous copies to (which shall not constitute notice):

Polsinelli PC
401 Commerce Street, Suite 900
Nashville, Tennessee 37219
Attention: Jeremy Johnson; Bobby Guy; Robert Dempsey
jjohnson@polsinelli.com; bguy@polsinelli.com;
rdempsey@polsinelli.com

And

Hinckley Allen
650 Elm Street
Manchester, NH 03101-2596
Attention: Mark McCue
mmccue@hinckleyallen.com

Buyer: Covenant Living Services
5700 Old Orchard Road
Chicago, IL 60077
Attention: David Erickson
dgerickson@covenantliving.org

With a simultaneous copy to: Erickson Peterson Cramer
350 St. Peter Street, Suite 601
St. Paul, MN 55102
jpeterson@epclawyers.com

If to the Bond Trustee: UMB Bank, National Association
120 Sixth Street South, Suite 1400
Minneapolis, MN 55402
Attention: Michael Slade
michael.slade@umb.com

With copy to: Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P.C.
One Financial Center
Boston, MA 02111
Attention: Daniel Bleck
dsbleck@mintz.com;

or, in each case, such other address as may be specified in writing to the other Party.

All such notices, requests, demands, waivers and other communications shall be deemed to have been received (w) if by first-class, registered or certified mail, on the fifth Business Day after the mailing thereof, (x) if by hand delivery, on the day after such delivery, (y) if by electronic means and the transmitting Party receives a transmission receipt dated the day of transmission, on the same day as the transmission, and (z) if by nationally recognized overnight courier, on the next Business Day after deposit with such courier.

With respect to any notice required under Sections 2.8 (Casualty), 5.1 (Access to Books and Records), 5.3 (Regulatory Filings), and 7.1 (Termination) hereof, the Parties shall also send notice to the Bond Trustee.

8.3 Confidentiality and Exclusivity.

(a) Buyer has previously entered into a Confidentiality Agreement (the “*Confidentiality Agreement*”), and that Agreement remains in place. Further, each Party hereto agrees that the provisions of this Agreement, all understandings, agreements and other arrangements between the Parties, and all other non-public information received from the other Party or otherwise relating to such other Party or (prior to Closing) the

Premises, shall be confidential, and shall not be disclosed or otherwise released to any other Person (other than such first Party's Affiliates, counsel to the Bond Trustee, or another party hereto), without the written consent of the other Party. The obligations of the Parties hereunder shall not apply to: (a) the extent that the disclosure of information otherwise determined to be confidential is anticipated hereunder or required by Applicable Law, including bankruptcy law, to be disclosed or filed with the Bankruptcy Court; (b) the disclosure of confidential information to any financial advisors, legal advisors, other professional advisors, shareholders, directors, investors and lenders (both actual and potential) of a party who agree to hold confidential such information substantially in accordance with this Section or who are otherwise bound by a duty of confidentiality to such party; and (c) such disclosures as may be contained in any transaction-specific press release approved by both Buyer and Seller, each party agreeing not to unreasonably withhold, condition or delay its approval.

(b) From the signing hereof until the end of the Diligence Period, in consideration of the time, resources, effort and expense that the Buyer will expect to expend in conducting due diligence and otherwise evaluating the transaction contemplated hereby, Seller shall not, and the Seller shall cause its Representatives not to, directly or indirectly, solicit, initiate, entertain, conduct, facilitate, encourage, or respond to any proposals or offers from any third party relating to any Alternative Transaction, or, participate in any discussions or negotiations regarding, or furnish to any person any information with respect to, or enter into, any Alternative Transaction. The Seller agrees to immediately cease (and cause its Representatives to cease), and to not reopen during the Diligence Period (and to cause its Representatives to not reopen during the Diligence Period), any current discussions or interactions with any third parties regarding an Alternative Transaction. The Seller shall not disclose (and shall not permit its Representatives to disclose) during the Diligence Period any non-public information (other than in the ordinary course of business or to the Bond Trustee or the holders of the Bonds) relating to the Seller or afford access during the Diligence Period to the properties, books, or records of the Seller to any other person reasonably believed to be considering an Alternative Transaction, provided that Seller may keep its electronic data room open to third parties, so long as Seller abides by all the other provisions of this paragraph.

(c) In connection with its diligence process, Buyer is obtaining certain third party reports, including without limitation a Phase 1 Environmental Review, a survey of the Premises, and potentially an appraisal. Upon the expiration or termination of the Diligence Period, Buyer will provide these reports to Seller (including future third party reports reasonably promptly after Buyer's receipt), and Seller shall be permitted to share them in its electronic data room with other potential bidders who are under confidentiality agreements. This subsection shall survive termination of this Agreement.

8.4 Amendment; Waivers, Etc. No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the Party against whom enforcement of the amendment, modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time.

8.5 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

8.6 Assignment. Neither this Agreement nor any of the rights or obligations under this Agreement may be assigned by either Party without the prior written consent of the other Party, except that Buyer may assign its rights under this Agreement to an Affiliate with five (5) days' notice to Seller. No permitted assignment of this Agreement by a Party will relieve the Party of any of its obligations under this Agreement.

8.7 Parties in Interest. This Agreement and the Related Agreements shall be binding upon and inure solely to the benefit of the Parties and their successors and permitted assigns, and nothing in this Agreement or any Related Agreement, expressed or implied, is intended to confer upon any other Person any rights or remedies of any nature under or by reason of this Agreement or any Related Agreement.

8.8 No Personal Liability. No individual officer, director, employee, manager, agent, or representative shall have personal liability for any of the obligations hereunder or claims of any kind in connection herewith except for fraud or gross negligence.

8.9 Counterparts; Facsimile Signature. This Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which shall constitute one and the same instrument, and shall become effective when one or more counterparts have been signed by each of the Parties. Counterparts may be executed by hand or by any electronic signature complying with state or federal law, including the U.S. federal ESIGN Act of 2000, as amended (the “**ESIGN Act**”). Executed counterparts may be delivered via facsimile, electronic mail or other similar transmission method, and any executed counterpart so delivered shall be valid and effective for all purposes. No Party shall raise the use of any electronic signature that complies with the ESIGN Act (including www.docusign.com), or the use of a facsimile machine, electronic mail or other similar transmission method as a means to deliver a signature to this Agreement or any amendment hereto as a defense to the formation or enforceability of a contract and each Party forever waives any such defense.

8.10 Governing Law. Except to the extent inconsistent with the Bankruptcy Code, this Agreement and the Related Agreements shall be governed by and construed and enforced in accordance with the laws of the State of New Hampshire, without regard to its conflicts of law rules.

8.11 Jurisdiction. Each of the Parties agrees that any proceeding brought to enforce the rights or obligations of any Party under this Agreement or any Related Agreement shall be commenced and maintained in the Bankruptcy Court, and the Bankruptcy Court shall have exclusive jurisdiction over any such proceeding. Each of the Parties consents to the exercise of jurisdiction over it and its properties, in accordance with the terms of this Section, with respect to any proceeding arising out of or in connection with this Agreement, any Related Agreement or the transactions contemplated hereby or thereby, or the enforcement of any rights under this Agreement or any Related Agreement. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY IN ANY PROCEEDINGS BROUGHT BY ANY OTHER PARTY IN CONNECTION WITH ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE PROPERTY OR THE RELATIONSHIP OF THE PARTIES HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT.

8.12 Severability. If any provision of this Agreement is inoperative or unenforceable for any reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever, so long as this Agreement, taken as a whole, still expresses the material intent of the Parties. The invalidity of any one or more phrases, sentences, clauses, sections or subsections of this Agreement shall not affect the remaining portions of this Agreement.

8.13 Entire Agreement. This Agreement and the Related Agreements constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersede all prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof. There are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as set forth specifically herein.

8.14 Employees Not Third-Party Beneficiaries. Nothing in this Agreement or the Related Agreements is intended to confer upon any past, present or future employee of Seller or its Affiliates or his or her legal representatives or heirs any rights as a third-party beneficiary or otherwise or any other rights or remedies of any nature or kind whatsoever under or by reason of the transactions contemplated by this Agreement or by the Related Agreements, including, without limitation, any rights of employment, continued

employment or any rights under or with respect to any employee benefit, welfare benefit, pension or other fringe benefit plan, fund, program or arrangement.

8.15 Bulk Sales or Transfer Laws. Buyer hereby waives compliance by Seller with the provisions of the bulk sales or transfer laws of all applicable jurisdictions.

8.16 No Inferences. Inasmuch as this Agreement is the result of negotiations between sophisticated parties of equal bargaining power represented by counsel, no inference in favor of, or against, either party shall be drawn from the fact that any portion of this Agreement has been drafted by or on behalf of such party.

8.17 Enforcement Expenses. In the event any Party elects to incur legal expenses to enforce, defend or interpret any provision of this Agreement, as between it and any other Party, the prevailing Party shall be entitled to recover from the other party such legal expenses, including reasonable attorneys' fees, costs and necessary disbursements, in addition to any other relief to which such Party may be entitled.

8.18 Survival of Representations and Warranties. None of the representations or warranties of Seller set forth in this Agreement, any Related Agreement, or in any other agreement or certificate executed in connection with, or delivered pursuant to, this Agreement shall survive the Closing. Other than the requirements of further assurances and actions specifically identified to be taken post-Closing, all other covenants of Seller shall expire upon Closing.

8.19 Interpretation. In this Agreement, unless the context otherwise requires: (a) references to this Agreement are references to this Agreement and to the Schedules and Exhibits hereto; (b) references to Articles and Sections are references to articles and Sections of this Agreement; (c) references to any party to this Agreement shall include references to its respective successors, its designees, and permitted assigns; (d) references to a judgment shall include references to any order, writ, injunction, decree, determination or award of any court or tribunal; (e) the terms "hereof," "herein," "hereby," and any derivative or similar words will refer to this entire Agreement; (f) references to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced by the parties thereof from time to time; (g) references to any law are references to that law as of the Closing Date, unless the context requires otherwise, and shall also refer to all rules and regulations promulgated thereunder, unless the context requires otherwise; (h) the word "including" shall mean including without limitation; (i) references to time are references to Eastern Standard or Daylight time (as in effect on the applicable day) unless otherwise specified herein; and (j) in the event the time for an act or notice falls on a day that is not a Business Day, the time will automatically be extended to the next Business Day. At any time, and from time to time on or prior to the Closing Date, Seller may supplement or amend the Schedules to this Agreement (collectively, a "**Disclosure Update**"). The representations, warranties, and Schedules will be deemed supplemented and amended by any Disclosure Update in order to cause the representations and warranties of Seller to be true as of the Closing; provided that, solely for purposes of Buyer's obligation to close, matters disclosed in any Disclosure Update(s) shall not be considered to have modified the representations and warranties herein. In the event a Disclosure Update materially modifies Buyer's obligations hereunder, Buyer may terminate pursuant to its rights under Section 7.1(b); provided that Schedule updates specifically anticipated under this Agreement, so long as ordinary course, shall not be a basis for termination.

8.20 SUBMISSION TO JURISDICTION. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEW HAMPSHIRE, AND ANY APPELLATE COURT ARISING THEREFROM, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OF THE DOCUMENTS ENTERED INTO IN CONNECTION HERewith OR FOR THE RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH

COURT. EACH OF THE PARTIES AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND BINDING ON SUCH PARTY. TO THE EXTENT THAT THE BANKRUPTCY COURT LACKS JURISDICTION, THEN THE REFERENCE ABOVE TO THE BANKRUPTCY COURT FOR THE DISTRICT OF NEW HAMPSHIRE SHALL BE “THE NEW HAMPSHIRE STATE TRIAL AND APPELLATE COURTS” WITH JURISDICTION OVER CHESHIRE COUNTY, NEW HAMPSHIRE.”

8.21 WAIVER OF JURY TRIAL. EACH PARTY TO THIS AGREEMENT HEREBY UNCONDITIONALLY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE DOCUMENTS RELATED HERETO, ANY DEALINGS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT OR ANY RELATED TRANSACTIONS.

8.22 Time of the Essence. Time is of the essence for purposes of this Agreement and the rights and obligations of the Parties hereunder.

[Signatures Follow on Next Page]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by their duly authorized representatives as of the date first above written.

THE PROSPECT-WOODWARD HOME D/B/A HILLSIDE VILLAGE KEENE:



By: Toby Shea
Its: Chief Restructuring Officer

COVENANT LIVING SERVICES:

By: Terri Cunliffe
Its: Chief Executive Officer

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by their duly authorized representatives as of the date first above written.

**THE PROSPECT-WOODWARD HOME D/B/A HILLSIDE VILLAGE
KEENE:**

By: _____
Its: _____

COVENANT LIVING SERVICES:

DocuSigned by:
Teri Cunliffe
8D322B463D5645C
By: Teri Cunliffe
Its: Chief Executive Officer

EXHIBIT A
(Bill of Sale)

BILL OF SALE

THIS BILL OF SALE (the “*Bill of Sale*”), dated as of _____, 2021, is made and entered into by and between Covenant Living Services, an Illinois not for profit corporation (“*Buyer*”), and The Prospect-Woodward Home d/b/a Hillside Village Keene, a New Hampshire not-for-profit voluntary corporation (“*Seller*”). Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement (as defined below).

RECITALS:

WHEREAS, Seller is a debtor in bankruptcy before the United States Bankruptcy Court for the District of New Hampshire (the “*Court*”), and Seller and Buyer are parties to that certain Asset Purchase Agreement, dated August __, 2021, as may be amended from time to time (the “*Purchase Agreement*”), pursuant to which Buyer and/or its affiliates are purchasing substantially all of the assets of Seller; and

WHEREAS, the Court has approved the transaction pursuant to the Purchase Agreement, including the sale of the Purchased Assets from Seller to Buyer pursuant to, among other things, 11 U.S.C §363; and

WHEREAS, pursuant to the Purchase Agreement, Seller has agreed to sell, assign, transfer, deliver and convey to Buyer or its other assigns, as applicable, and Buyer has agreed to purchase, acquire and accept, from Seller, all right, title and interest of Seller in and to the Purchased Assets, on the conditions and subject to the terms set forth in the Purchase Agreement, for consideration in the amount and on the terms and conditions provided therein; and

NOW THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, agreements and conditions set forth herein and in the Purchase Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Conveyance. Effective as of the date first set forth above (the “*Effective Date*”), Seller hereby sells, assigns, transfers, delivers and conveys, to Buyer, and Buyer hereby purchases from Seller, all of Seller’s right, title and interest in, to and under the Purchased Assets, including without limitation the Equipment and Inventory, but excluding the Excluded Assets, free and clear of all Liens as set forth on the Purchase Agreement:

2. Acceptance. Effective as of the Effective Date, Buyer hereby accepts the foregoing Purchased Assets from Seller.

3. Reference to the Purchase Agreement. The provisions of this Bill of Sale are subject in all respects to the terms of the Purchase Agreement. Nothing contained in this Bill of Sale shall be deemed or construed to alter, modify, add to or waive any of the rights, obligations, terms, covenants, conditions, or other provisions contained in the Purchase Agreement.

4. No Third Party Beneficiaries. This Bill of Sale is solely for the benefit of Buyer and Seller and their respective successors and assigns, and this Bill of Sale shall not be deemed to confer upon or give to any other third party any remedy, claim, cause of action or other right.

5. Captions. The Section headings contained in this Bill of Sale are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Bill of Sale or the intent of any provision of this Bill of Sale.

6. Further Assurances. The parties hereto shall from time to time after the date hereof execute and deliver such additional instruments of conveyance in addition to this Bill of Sale as one may reasonably request of the other to evidence more fully the transfer by Seller to Buyer of the Purchased Assets.

7. Controlling Law. This Bill of Sale shall be governed by and construed and enforced in accordance with the internal laws of the State of New Hampshire without reference to its choice of law rules.

8. Amendment; Waiver. This Bill of Sale may be modified or supplemented only by written agreement of the parties hereto.

9. Counterparts. This Bill of Sale may be executed in separate counterparts, each of which shall be an original and all of which shall be deemed to be one and the same bill of sale. Electronic signatures shall be deemed to be original signatures.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the parties hereto have caused this Bill of Sale to be executed and delivered as of the date and year first above written.

BUYER:

COVENANT LIVING SERVICES

By: _____
Name: Terri S. Cunliffe
Title: President and CEO

SELLER:

THE PROSPECT-WOODWARD HOME D/B/A
HILLSIDE VILLAGE KEENE

By: _____
Name: Toby Shea
Title: Chief Restructuring Officer

EXHIBIT B
(Assignment and Assumption Agreement)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “*Agreement*”) is made as of _____, 2021 by and among Covenant Living Services, an Illinois not for profit corporation, (“*Buyer*”), The Prospect-Woodward Home d/b/a Hillside Village Keene, a New Hampshire not-for-profit voluntary corporation (“*Seller*”). Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement (as defined below).

RECITALS:

WHEREAS, Seller is a debtor in bankruptcy before the United States Bankruptcy Court for the District of New Hampshire (the “*Court*”), and Seller and Buyer are parties to that certain Asset Purchase Agreement, dated July 30, 2021, as may be amended from time to time (the “*Purchase Agreement*”), pursuant to which Buyer and/or its affiliates are purchasing substantially all of the assets of Seller; and

WHEREAS, the Court has approved the transaction pursuant to the Purchase Agreement, including the assignment and assumption of the Assumed Liabilities and the Assumed Contracts And Leases (each as defined below) from Seller to Buyer pursuant to 11 U.S.C §363; and

WHEREAS, Seller is a party to certain executory contracts which are being assumed by Seller and assigned to Buyer (the “*Assumed Contracts and Leases*”) pursuant to the Purchase Agreement and, among other things, 11 U.S.C §365; and

WHEREAS, pursuant to the Purchase Agreement, and in consideration for the sale, assignment, transfer, delivery and conveyance of the Purchased Assets to Buyer, Buyer, as applicable, has agreed to assume from Seller and agrees to pay, perform and discharge when due in accordance with their respective terms and subject to the respective conditions thereof, (i) all of the Assumed Liabilities from Seller, and (ii) all of the Assumed Contracts And Leases.

NOW THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, agreements and conditions set forth herein and in the Purchase Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment and Assumption of Assumed Liabilities. Effective as of the date first set forth above (the “*Effective Date*”), Seller hereby assigns and Buyer hereby assumes and agrees to pay, perform and discharge when due in accordance with their respective terms and subject to the respective conditions thereof, all of the Assumed Liabilities as set forth in the Purchase Agreement. Except for the Assumed Liabilities, Buyer will not assume any liability or obligation of Seller whatsoever, and Seller will retain all Excluded Liabilities.

2. Assignment of Assumed Contracts And Leases. Effective as of the Effective Date, Seller hereby transfers and assigns to Buyer all right, title and interest of Seller in and to the Assumed Contracts And Leases set out on Exhibit A hereto. Pursuant to Section [] of the Sale Order entered by the Bankruptcy Court on [], 2021 as Docket No. [], Buyer reserves the right to add additional matters to Exhibit A as provided in the Purchase Agreement.

3. Assumption. Effective as of the Effective Date, Buyer hereby assumes all obligations of Seller under the Assumed Contracts And Leases arising from and after the Effective Date and assumes and agrees to fully perform all of the terms, conditions, covenants and agreements of the Assumed Contracts And Leases on the part of the Seller thereunder to be kept and performed during the remaining term of the

Assumed Contracts And Leases and any extension or renewal thereof, accruing on and after the Effective Date or otherwise attributable to the period commencing on such date and continuing thereafter. Seller shall have no further liability therefore pursuant to 11 U.S.C §365(k).

4. Reference to the Purchase Agreement. The provisions of this Agreement are subject in all respects to the terms of the Purchase Agreement. Nothing contained in this Agreement shall be deemed or construed to alter, modify, add to or waive any of the rights, obligations, terms, covenants, conditions, or other provisions contained in the Purchase Agreement.

5. Captions. The Section headings contained in this Assignment are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Assignment or the intent of any provision of this Assignment.

6. Further Assurances. The parties hereto shall from time to time after the date hereof execute and deliver such additional instruments of conveyance in addition to this Assignment as one may reasonably request of the other to evidence more fully the assumption of the Assumed Liabilities and the assumption and assignment of the Assumed Contracts and Leases.

7. Notice. Notices shall be as provided in the Purchase Agreement.

8. Applicable Law. This Assignment shall be governed by and construed in accordance with the laws of the State of New Hampshire without regard to principles of conflicts of law.

9. Amendment; Waiver. This Assignment may be modified or supplemented only by written agreement of the parties hereto.

10. Counterparts. This Assignment may be executed in separate counterparts, each of which shall be an original and all of which shall be deemed to be one and the same bill of sale. Electronic signatures shall be deemed to be original signatures.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption Agreement to be executed and delivered as of the date and year first above written.

BUYER:

COVENANT LIVING SERVICES

By: _____

Name: Terri S. Cunliffe

Title: President and CEO

SELLER:

THE PROSPECT-WOODWARD HOME D/B/A
HILLSIDE VILLAGE KEENE

By: _____

Name: Toby Shea

Title: Chief Restructuring Officer

EXHIBIT A
(Assumed Contracts And Leases)

EXHIBIT C
(Form of Deed)

Return to:

QUITCLAIM DEED

KNOW ALL PERSONS BY THESE PRESENTS THAT, **THE PROSPECT – WOODWARD HOME**, a New Hampshire non-profit corporation, with a principal office address of 194-202 Court Street, Keene, New Hampshire 03894, for consideration paid, grants to _____, a _____, with a principal office address of _____, with [QUITCLAIM COVENANTS]: the following property:

PARCEL ONE:

Two parcels of land, with the buildings thereon, located in the City of Keene, County of Cheshire and State of New Hampshire, bounded and described as follows:

East Parcel

Beginning at a granite bound in the southeasterly sideline of Wyman Road at a corner of lands now or formerly of Bruce L. Borden Revocable Trust & Phyllis R. Borden Revocable Trust; Thence

South 30° 06' 19" East along said Trusts and a barbed wire fence line a distance of 80.54 feet to a 5/8" capped rebar; Thence

South 40° 34' 37" East along said Trusts and a barbed wire fence line a distance of 157.49 feet to a 5/8" capped rebar; Thence

South 53° 50' 21" East along said Trusts and a barbed wire fence line a distance of 198.00 feet to a 5/8" capped rebar at a corner of lands now or formerly of Kendal J. & Patricia L. Dacey; Thence

South 49° 22' 58" East along said Dacey and a barbed wire fence line a distance of 129.10 feet to a 5/8" capped rebar at a corner of other lands now or formerly of Bruce L. Borden Revocable Trust & Phyllis R. Borden Revocable Trust ; Thence

South 52° 05' 34" West along said Trusts a distance of 247.64 feet to a 5/8" capped rebar; Thence

South 43° 30' 35" East along said Trusts and crossing Black Brook a distance of 618.89 feet to a 5/8" capped rebar; Thence

North 69° 56' 24" East along said Trusts and again crossing Black Brook a distance of 384.68 feet to a 5/8" capped rebar in the westerly line of lands now or formerly of Caitlin Whitehead and being in the northerly bank of said Brook; Thence

South 35° 17' 13" East along said White head, crossing the Brook and along lands now or formerly of Monadnock Economic Development Corporation (MEDC) a distance of 83.47 feet to a 5/8" capped rebar; Thence

South 35° 17' 13" East along (MEDC) a distance of 600.39 feet to a 5/8" capped rebar at a corner; Thence

South 83° 19' 36" West along MEDC a distance of 550.19 feet to a 5/8" capped rebar at a lot corner; Thence

South 83° 19' 36" West along MEDC a distance of 228.72 feet to a 36" white pine; Thence

South 85° 10' 21" West along MEDC a distance of 475.98 feet to a 5/8" capped rebar; Thence

South 85° 34' 16" West along MEDC and partially along a barbed wire fence and crossing a woods road a distance of 387.36 feet to a 1" pipe at the north east corner of lands now or formerly of Lory Family Revocable Trust; Thence

South 84° 37' 53" West along Lori and partially along a wire fence a distance of 118.53 feet to a 5/8" capped rebar in a stone wall in the easterly sideline of Wyman Road, as laid out and shown on a plan titled, "Road Layout & Widening Plan, Prepared for City of Keene & The Prospect-Woodward Home," dated February 1, 2017; by Russell J. Huntley, SVE Associates; Thence

North 5° 04' 49" West along the wall and Road a distance of 14.81 feet to a 5/8" capped rebar; Thence

North 10° 41' 52" West along the wall and Road a distance of 133.61 feet to a 5/8" capped rebar; Thence

North 6° 04' 08" West along the wall and Road a distance of 98.44 feet to a 5/8" capped rebar; Thence

North 6° 02' 17" West along the Road a distance of 121.26 feet to a granite bound with a disk; Thence

North 6° 36' 08" West along the Road a distance of 200.00 feet to a granite bound with a disk; Thence

South 83° 23' 52" West along the Road a distance of 12.49 feet to a granite bound with a disk; Thence

North 5° 42' 48" West along the Road a distance of 373.56 feet to a granite bound with a disk; Thence

Following a curve to the right with a Delta Angle of 43° 46' 13" and a radius of 300.00 feet along the road an arc length of 229.18 feet to a granite bound with a disk; Thence

North 38° 02' 17" East along the Road a distance of 21.93 feet to a granite bound with a disk; Thence

South 51° 57' 43" East along the Road a distance of 5.00 feet to a granite bound with a disk; Thence

North 38° 02' 17" East along the road a distance of 70.00 feet to a granite bound with a disk; Thence

Following a curve to the left with a delta Angle of 3° 48' 53" and a radius of 1151.50 feet along the Road an arc length of 76.66 feet to a granite bound with a drill hole; Thence

North 34° 13' 24" East a distance of 97.16 feet to a granite bound with a drill hole; Thence

Following a curve to the right with a Delta Angle of 16° 20' 50" and a radius of 237.87 feet along the Road an arc length of 67.87 feet to a granite bound with a disk; Thence

North 50° 34' 12" East along the Road a distance of 282.19 feet to the Point of Beginning.

West Parcel

Beginning at a granite bound in the westerly sideline of Wyman Road at a corner of lands now or formerly of Spofford Stage Real Estate, LLC; Thence

South 84° 41' 40" West along said Spofford Stage a distance of 148.97 feet to a 5/8" capped rebar; Thence

South 86° 51' 14" West along said Spofford Stage a distance of 101.63 feet to a 5/8" capped rebar; Thence

South 85° 56' 04" West along said Spofford Stage a distance of 141.21 feet to a 5/8" capped rebar; Thence

South 82° 37' 14" West along said Spofford Stage a distance of 36.61 feet to a 5/8" capped rebar at the southeasterly corner of Shalldu LTD; Thence

North 6° 02' 39" East a distance of 436.91 feet to a 5/8" capped rebar; Thence
North 10° 53' 53" West a distance of 34.20 feet to a 5/8" capped rebar; Thence
North 10° 53' 53" West a distance of 982.01 feet to a 5/8" capped rebar; Thence
North 85° 26' 08" East a distance of 354.04 feet to a 5/8" capped rebar; Thence

South 30° 29' 51" East a distance of 323.46 feet to a 5/8" capped rebar in a stone wall in the westerly sideline of Wyman Road, as laid out and shown on a plan titled, "Road Layout & Widening Plan, Prepared for City of Keene & The Prospect-Woodward Home," dated February 1, 2017; by Russell J. Huntley, SVE Associates; Thence

South 35° 36' 21" West along the wall and the Road a distance of 60.85 feet to a point; Thence

South 32° 58' 21" West partially along the wall and along the Road a distance of 38.21 feet to a granite bound with a disk; Thence

South 4° 46' 31" East along the Road a distance of 305.92 feet to a 5/8" capped rebar at the end of a stone wall; Thence

South 8° 15' 21" East along the wall and the Road a distance of 136.54 feet to a 5/8" capped rebar; Thence

South 7° 10' 09" East along the wall and the Road a distance of 60.99 feet to a granite bound with a disk; Thence

South 83° 23' 52" West along the Road a distance of 6.65 feet to a granite bound with a disk; Thence

South 6° 36' 08" East along the Road a distance of 202.21 feet to a granite bound with a disk; Thence

South 5° 20' 47" East along the Road a distance of 134.80 feet to a granite bound with a drill hole; Thence

Following a curve to the left with a Delta Angle of 2° 59' 18" and a radius of 2421.72 feet along the Road an arc length of 126.30 feet to a granite bound with a disk; Thence

South 8° 20' 05" East along the Road a distance of 105.61 feet to the Point of Beginning.

PARCEL TWO:

A certain tract of land with the buildings thereon situate on the northerly side of Wyman Road in the City of Keene, County of Cheshire and State of New Hampshire, bounded and described as follows:

Beginning at a 5/8" capped rebar (to be set) in the northerly side of Wyman Road at the southwesterly corner of the premises herein conveyed, being the northeasterly corner of other land now or formerly of Kendall W. Lane, et al;

thence N. 16° 41' 18" W. three hundred twenty-four and twenty-six hundredths (324.26) feet, more or less, along said other land of Lane to a 5/8" capped rebar (to be set);

thence N. 80° 44' 45" W. three hundred fifty-four and four hundredths (354.04) feet, more or less, along said other land of Lane to a 5/8" capped rebar (to be set) at the northwesterly corner of said other land of said Lane, being the southeasterly corner of land now or formerly of Monadnock Economic Development Corp.;

thence N. 02° 55' 00" E. seven hundred seventy-two and thirty-eight hundredths (772.38) feet, more or less, along said Monadnock Economic Development Corp. land to a 5/8" capped rebar up 8" at the northwesterly corner of the premises herein conveyed;

thence N. 89° 29' 27" E. two hundred forty-one and fifty-eight hundredths (241.58) feet, more or less, along a stone wall to the end of said stone wall;

thence N. 89° 29' 27" E. five hundred twenty-four and eighty-one hundredths (524.81) feet, more or less, to a 5/8" rebar with cap (to be set) at the northeast corner of the premises herein conveyed;

thence S. 13° 57' 27" E. eight hundred six and fifty hundredths (806.50) feet, more or less, along land now or formerly of Thomas D. Borden, et al, to the 5/8" rebar with cap (to be set) in the north line of Wyman Road, being the southeast corner of the premises herein conveyed;

thence S. 64° 23' 24" W. three hundred twenty-nine and two hundredths (329.02) feet, more or less, to a point at the end of a stone wall;

thence S. 48° 38' 51" W. one hundred eighty-three and fifty-six hundredths (183.56) feet, more or less, along a stone wall to a point at the end of said stone wall;

thence S. 51° 23' 44" W. one hundred five and eighty-seven hundredths (105.87) feet, more or less, to a point in the end of a stone wall;

thence S. 50° 21' 11" W. fifty-two and forty-eight hundredths (52.48) feet, more or less, along a stone wall to the 5/8" rebar with cap (to be set) at the point of beginning, the last four courses being along the northerly side of said Wyman Road.

Being Lot 919-08-003.02 as shown on a plan entitled "Two Lot Subdivision Plan prepared for Kendall Lane of land located at Tax Map 919, Block 8, Lot 3, dated 8/15/05, revised 9/26/05 & 10/24/05, by SVE Associates and approved by the City of Keene Planning Board November 1, 2005, recorded in Cabinet 13, Drawer 1- 140 of the Cheshire County Registry of Deeds.

PARCEL THREE:

A certain tract or parcel of land off Black Brook Road in Keene, Cheshire County, New Hampshire, shown as "Area to be Conveyed" on a plan entitled "Boundary Line Adjustment Plan" prepared by SVE Associates for The Prospect-Woodward Home, dated August 17, 2017, revised on February 12, 2018, and recorded at the Cheshire County Registry of Deeds as Plan No. 18047, more particularly bounded and described as follows:

Beginning at an iron rebar to be set along the boundary between land of the within Grantor and land of the within Grantee, said rebar to be located 270.92 feet, more or less, east of the easterly sideline of Wyman Road,

Thence North 85° 34' 16" East 234.97 feet, more or less, along said boundary line to an iron rebar to be set,

Thence South 5° 25' 53" East 100.00 feet, more or less, to an iron rebar to be set,

Thence South 85° 33' 57" West 103.74 feet, more or less, to an iron rebar to be set,

Thence North 5° 25' 53" West 65.01 feet, more or less, to an iron rebar to be set,

Thence South 85° 34' 16" West 131.23 feet, more or less, to an iron rebar to be set,

Thence North 5° 25' 53" West 35.01 feet, more or less, to the point of beginning.

Together with the sewer line easement granted to The Prospect-Woodward Home as recorded in said Registry at Book 3001 Page 444.

Subject to those Permitted Exceptions listed on Exhibit A attached hereto, insofar as they may be in force and applicable.

Meaning and intending to convey the premises conveyed to The Prospect – Woodward Home by Warranty deed of Kendall W. Lane and Molly B. Lane dated April 12, 2017 and recorded in the Cheshire County Registry of Deeds at Book 2989, Page 328 and Warranty deed of Miracles In Motion dated September 29, 2017 and recorded in the Cheshire County Registry of Deeds at Book 3002 Page 151 and Warranty deed of NH Black Brook LLC dated March 15, 2018 and recorded in the Cheshire County Registry of Deeds at Book 3035 Page 945.

[SIGNATURE(S) ON FOLLOWING PAGE(S)]

Executed by its duly-authorized officer this _____ day of _____, 202__.

THE PROSPECT – WOODWARD HOME

By _____
Name: _____
Title: _____

STATE OF NEW HAMPSHIRE
COUNTY OF _____ SS

The foregoing instrument was acknowledged before me this _____ day of _____, 202__ by _____ of The Prospect – Woodward Home, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same as the duly authorized _____ of The Prospect – Woodward Home for the purposes therein contained.

Notary Public/Justice of the Peace
Commission expires

EXHIBIT A
PERMITTED EXCEPTIONS

1. Liens for taxes, charges and assessments which become due and payable subsequent to _____, 20__.
2. Application for Current Use Taxation by Mary Dodds, recorded with Cheshire County Registry of Deeds at Vol. 885, Page 223 and at Vol. 901, Page 70, as affected by Partial Release dated 5/12/00 and recorded at Book 1767, Page 757 and by Amendment dated 10/7/13 and recorded at Book 2843, Page 651 and further partial releases at Book 2842, Page 889; Book 2998, Page 1137; Book 2998, Page 1135; Book 3020, Page 96; Book 3020, Page 152; Book 3035, Page 407; Book 3035, Page 409; Book 3037, Page 444; and Book 3078 Page 417.
3. Drainage Rights acquired by City of Keene by virtue of Layout of Drainage of Ash Swamp, Tannery, White and Black Brooks Water Shed dated 3/16/61 and recorded 3/22/61 with Cheshire County Registry of Deeds at Vol. 679, Page 105.
4. Utility Easement dated 3/12/96 and recorded 3/14/96 with Cheshire County Registry of Deeds at Book 1552, Page 578.
5. All matters as shown on plans recorded at Cabinet 13, Drawer 1, #140, Cabinet 11 Drawer 10 #111, Cabinet 12, Drawer 3 #90 and 91, Cabinet 11, Drawer 3 #120 and Cabinet 11, Drawer 10, #103, Plan # 17069, 17070, 17071, 17072, 18046, and 18047 as well as on other plans depicting locus premises, as applicable.
6. Cross Easement Agreement described in Deed recorded with Cheshire County Registry of Deeds at Book 3001, Page 450 as amended at Book 3111, Page 127.
7. Easement recorded with Cheshire County Registry of Deeds at Book 3012, Page 169.
8. Rights of the City of Keene under a Return of Layout of drainage of Ash Swamp, Tannery, White, Black Books recorded with Cheshire County Registry of Deeds at Vol 679, Page 105. See also Vol 676, Page 563.
9. Rights of Keene Economic Development and Revitalization Corp recorded with Cheshire County Registry of Deeds at Book 1552, Page 578. See also Plan Cabinet 11, Drawer 10 #103.
10. All easements described in Deed recorded with Cheshire County Registry of Deeds at Book 1553, Page 532.
11. Drainage easement recorded with Cheshire County Registry of Deeds at Book 3001, Page 442.
12. Sewer line easement described in Deed recorded with Cheshire County Registry of Deeds Book 3001, Page 444.

EXHIBIT D
(Form of Bid Procedures Order)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home,	)	Case No. 21-_____ (____)
)	
Debtor. ¹)	
)	

ORDER (A) APPROVING BIDDING PROCEDURES IN CONNECTION WITH THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS, (B) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (C) AUTHORIZING THE DEBTOR TO ENTER INTO THE STALKING HORSE AGREEMENT, (D) AUTHORIZING PAYMENT OF THE STALKING HORSE PAYMENT AS AN ADMINISTRATIVE EXPENSE, (E) SCHEDULING AN AUCTION AND A SALE HEARING, (F) APPROVING PROCEDURES FOR THE ASSUMPTION AND ASSIGNMENT OF CONTRACTS, AND (G) GRANTING RELATED RELIEF

Upon the motion (the “Motion”)² of the above-captioned debtor as debtor-in-possession (the “Debtor”) for entry of an order (this “Order”) (a) authorizing and approving the bidding procedures attached hereto as **Exhibit 1** (the “Bid Procedures”) in connection with the sale of substantially all of the Debtor’s assets (the “Assets”), (b) approving the form and manner of notice in substantially the form attached hereto as **Exhibit 2** (the “Sale Notice”) of an auction (the “Auction”) and sale hearing (the “Sale Hearing”) with respect to the sale of the Assets free and clear of liens, claims, encumbrances, and other interests (the “Sale”), (c) authorizing the Debtor to enter into the Stalking Horse Agreement (as defined hereinafter), (d) authorizing payment of the Stalking Horse Payment as a super priority administrative expense, (e) scheduling the Auction and the Sale Hearing, and (f) approving procedures for the possible

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431

² Reference is made herein to the Motion, the procedures that are attached to this Order as **Exhibit 1** (the “Bid Procedures”), and that certain Asset Purchase Agreement dated as of August [●], 2021 between Covenant Living Services (the “Stalking Horse”) and Debtor (the “Stalking Horse Agreement”). Capitalized terms used but not defined in this Order shall have the meanings stated in the Motion, the Bid Procedures, or the Stalking Horse Agreement, as applicable.

assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale (collectively, the “Contracts”); the Court having reviewed the Motion and the First Day Declaration; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. 157 and §§ 1334(b); and the Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtor, the estate, creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore,

THE COURT FINDS THAT:

A. The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. The Debtor has articulated good and sufficient reasons for this Court to (i) approve the Bid Procedures; (ii) authorize the Debtor to enter into the Stalking Horse Agreement; (iii) authorize payment of the Stalking Horse Payment as an allowed super-priority administrative expense; (iv) schedule the Auction and Sale Hearing and approve the manner of notice of the Auction and Sale Hearing; and (v) approve procedures for the assumption and assignment of the Contracts, including notice of the proposed cure amounts.

C. The Debtor reasonably determined in the exercise of the business judgment that the Bid Procedures are fair, reasonable, and appropriate and represent the best method for maximizing the value of the Assets for the benefit of the Debtor and its estate.

D. The Bid Procedures were negotiated in good faith by the Debtor and the Stalking Horse for purposes of Bankruptcy Code section 363(m).

E. Assumption and Assignment Procedures. The Motion, this Order, and the assumption and assignment procedures (the “Assignment Procedures”) provide counterparties with proper and reasonable notice of the potential assumption by the Debtor and assignment to the Successful Bidder of their Contracts, the procedures associated therewith, and any cure amounts relating thereto.

F. Sale Notice. The Sale Notice provides interested parties with timely and proper notice of the proposed Sale, including, without limitation: (a) the date, time, and place of the Auction (if one is held); (b) the Bid Procedures; (c) the deadline for filing objections to the Sale and entry of the Sale Order, and the date, time, and place of the Sale Hearing; (d) reasonably specific information concerning of the Assets to be sold; (e) a description of the Sale as being free and clear of liens, claims, encumbrances, and other interests (collectively, “Interests”), with all such Interests attaching with the same validity and priority to the Sale proceeds; and (f) notice of the proposed assumption and assignment of Contracts to the Successful Bidder. No other or further notice of the Sale shall be required.

G. The Debtor has demonstrated a compelling business justification for the payment of the Stalking Horse Payment under the circumstances set forth in the Stalking Horse Agreement, including without limitation, (i) the amount of the proposed Stalking Horse Payment is reasonable as compared to other cases with circumstances, (ii) the presence of a stalking horse will encourage

competitive binding, and (iii) because any Overbid must surpass the amount of the Stalking Horse Payment, the estate will benefit even if the Stalking Horse Payment is made.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. All objections to the relief requested in the Motion that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled.
3. The Bid Procedures, in the form attached hereto as **Exhibit 1**, are approved in their entirety and incorporated into this Order by reference, and the Bid Procedures shall govern the sale of the Assets, including the Auction, and the Debtor is authorized to take any and all actions necessary to implement the Bid Procedures.

II. The Auction

4. As further described in the Bid Procedures, the Auction, if any, shall take place on October [●], 2021³ at 10:00 a.m. (prevailing Eastern Time), at [●] or such later time on such day or other place as may be set pursuant to the Bid Procedures. The Debtor may permit bidders to participate remotely subject to all of the other terms contained herein.

5. The Bond Trustee shall be deemed to be a Qualified Bidder and is not required to make any Good Faith Deposit. The Bond Trustee may participate in the Auction and may credit bid up to the conclusion of the Auction, in its sole and absolute discretion, any portion and up to the entire amount of the Bond Trustee's claims at any time on all the Assets constituting its collateral; provided, however, the Bond Trustee must bid in cash at least the amount of the Stalking Horse Payment, which amount must be payable in cash at the Closing (the "Credit Bid"). Upon exercise of a Credit Bid, the Bond Trustee shall not be required to take title to or ownership of, or

³ [All of the dates need to be calculated to satisfy Section 5.8 of the APA]

have any obligation in connection with, or be deemed to have taken title to or ownership of, or have any obligation in connection with, any Assets, and the Bond Trustee shall have the right to designate any person or entity in its sole and absolute discretion that shall take title to the Assets that are subject to the Credit Bid. The Bond Trustee will not be a Backup Bidder unless the Bond Trustee consents in writing otherwise. If the Bond Trustee elects to exercise its right to Credit Bid, such bid shall provide that the Stalking Horse Payment must be paid in cash.

6. Subject to the prior paragraph, the Stalking Horse shall have the right (including as part of any Overbid) to credit bid all or a portion of its Stalking Horse Payment (if any) pursuant to Bankruptcy Code section 363(k).⁴

7. In the event of a competing Qualified Bid, all Qualified Bidders will be entitled, but not obligated, to submit Overbids. The initial Overbid shall be equal to or exceed \$34,010,000, the aggregate amount of the Stalking Horse Bid (\$33,000,000), Stalking Horse Payment (\$910,000), and the Minimum Bid Increment (\$100,000).

8. The Debtor may, in consultation with the Bond Trustee (a) determine which Qualified Bid (including the Credit Bid) is the highest or otherwise best offer; (b) reject at any time before the entry of the Sale Order any Bid (other than the Stalking Horse Bid and any Credit Bid) that, in the discretion of the Debtor, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bid Procedures, or (iii) contrary to the best interest of the Debtor's estate and its creditors; (c) impose such other terms and conditions upon Qualified Bidders as the Debtor determines to be in the best interest of the Debtor's estate; and (d) continue or cancel the Auction (provided that the Auction may be cancelled if, by the Bid Deadline,

⁴ The Stalking Horse credit bid shall include the full amount of the eligible Expense Reimbursement.

no Qualified Bid, other than the Stalking Horse Bid, has been received by the Debtor and the Bond Trustee has not indicated its intention to exercise its right to submit a Credit Bid).

9. No person or entity, other than the Stalking Horse Bidder, shall be entitled to any expense reimbursement, breakup fee, topping or termination fee, or other similar fee or payment, and by submitting a Bid, such person or entity is deemed to have waived its right to request or file with this Court any request for expense reimbursement or any other fee of any nature in connection with the Auction and the Sale, whether by virtue of Bankruptcy Code section 503(b) or otherwise.

III. Assumption and Assignment Notices & Procedures

10. As soon as practicable, the Debtor shall serve on all non-Debtor counterparties (the “Contract Counterparties”) to any Contract that may be assumed by the Debtor and assigned to the Successful Bidder a notice, which shall be substantially in the form attached hereto as **Exhibit 3** (a “Cure and Possible Assumption and Assignment Notice”), setting forth the Debtor’s calculation of the cure amount, if any, that would be due and owing to such Contract Counterparty if the Debtor decided to assume, or assume and assign, such Contract, and alerting such Contract Counterparty that its Contract may be assumed and assigned to the Successful Bidder.

11. The presence of a Contract on the Cure and Possible Assumption and Assignment Notice does not constitute an admission that such Contract is an executory contract or unexpired lease, and the presence of a Contract on any notice shall not prevent the Debtor from subsequently withdrawing such request for assuming or rejecting such Contract any time before such Contract is actually assumed and assigned or rejected pursuant to the Sale Order.

12. Any Contract Counterparty that objects to the cure amount set forth on the Cure and Possible Assumption and Assignment Notice or to the possible assignment of its Contract must file an objection with the Bankruptcy Court (a “Contract Objection”) on or before 4:00 p.m. (prevailing Eastern Time) on October [●], 2021, which Contract Objection must also be served on

(a) counsel for the Debtor, (i) Polsinelli PC, 600 Third Avenue, 42nd Floor, New York, New York 10016, Attn: Jeremy R. Johnson (jeremy.johnson@polsinelli.com) and Attn: Stephen J. Astringer (sastringer@polsinelli.com), and (ii) Hinckley, Allen & Snyder LLP, 650 Elm Street, Manchester, New Hampshire 03101, Attn: Daniel M. Deschenes (ddeschenes@hinckleyallen.com) and 28 State Street, Boston, Massachusetts 02109, Attn: Jennifer V. Doran (jdoran@hinckleyallen.com); (b) counsel for the Bond Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: Daniel S. Bleck (dsbleck@mintz.com); (c) counsel for the Stalking Horse, (i) Covenant Living Communities & Services, 5700 Old Orchard Rd, Skokie, Illinois 60077, Attn: David G. Erickson, and (ii) Erickson Peterson Cramer, 350 St. Peter Street, Suite 601, St. Paul, Minnesota 55102, Attn: Julie A. Peterson (jpeterson@epclawyers.com); (d) the Office of the United States for the District of New Hampshire; and (e) the Clerk of the Bankruptcy Court for the District of New Hampshire (collectively, the “Notice Parties”).

13. If a Contract Counterparty does not timely file and serve a Contract Objection, that party will be forever barred from objecting to (a) the Debtor’s proposed cure amount, or (b) the potential assignment of that party’s Contract to the Successful Bidder. If a Contract Counterparty files a timely Contract Objection asserting a higher cure amount than the amount listed in the Cure and Possible Assumption and Assignment Notice, or objecting to the possible assignment of that Contract Counterparty’s Contract, and the parties are unable to consensually resolve the dispute, the amount to be paid under Bankruptcy Code section 365 (if any) or, as the case may be, the Debtor’s ability to assign the Contract to the Successful Bidder will be determined at the Sale Hearing.

14. No later than 4:00 p.m. (prevailing Eastern Time), on October [●], 2021 (the “Bid Deadline”), each bidder other than the Stalking Horse (each an “Other Bidder”) shall (i) designate

in writing to the Debtor which of the Contracts are to be assumed by the Debtor and assigned to such Other Bidder if such Other Bidder becomes the Successful Bidder and (ii) submit to the Debtor financial and other information about such Other Bidder to demonstrate that such Other Bidder is able to provide adequate assurance of future performance as required by Bankruptcy Code section 365 (the “Other Bidder Adequate Assurance Information”).

15. If the Successful Bidder or Backup Bidder is an Other Bidder, at least three (3) days before the Sale Hearing, the Debtor shall provide written notice to the Contract Counterparties to each Contract designated by such Other Bidder for assumption by the Debtor and assignment to such Other Bidder (each an “Other Bidder Designated Contract”) advising that such Other Bidder is the Successful Bidder or Backup Bidder (as applicable) and that Contract has been designated for assumption by the Debtor and assignment to such Other Bidder.

16. By October [●], 2021, the Debtor shall file with the Court and serve on the Contract Counterparties who are parties to a Contract to be assumed and assigned a further notice, substantially in the form attached hereto as **Exhibit 4** (the “Assumption Notice”), identifying the Successful Bidder, stating which Contracts will be assumed and assigned to the Successful Bidder, and providing such Contract Counterparties with the Successful Bidder’s assurance of future performance.

17. Any Contract Counterparty that objects to the adequacy of the assurance set forth in the Assumption Notice must file an objection (an “Adequate Assurance Objection”) with the Bankruptcy Court prior to the Sale Hearing, or note its Adequate Assurance Objection at the Sale Hearing.

18. If a Contract Counterparty does not make an Adequate Assurance Objection prior to or at the Sale Hearing, such party will be forever barred from objecting to the adequacy of the

assurance to be provided by the Successful Bidder. If a Contract Counterparty makes an Adequate Assurance Objection prior to or at the Sale Hearing, and the parties are unable to consensually resolve the dispute, the adequacy of the assurance provided by the Successful Bidder will be determined at the Sale Hearing.

IV. Notice of the Sale Process

19. The Sale Notice, the Cure and Possible Assumption and Assignment Notice, and the Assumption Notice, in substantially the forms attached to this Order as **Exhibit 2**, **Exhibit 3**, and **Exhibit 4** are approved.

20. Within five (5) business days after the entry of this Order, the Debtor (or its agents) shall serve the Sale Notice by first-class mail upon: (a) the Office of the United States Trustee for Region 1, James C. Cleveland Building, 53 Pleasant Street, Suite 2300, Concord, NH 03301; (b) counsel to the Bond Trustee; (c) the Contract Counterparties; (d) all parties who have expressed a written interest in the Assets; (e) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim, or interest in the Assets; (f) the Internal Revenue Service; (g) all other applicable state and local taxing authorities; (h) all the Debtor's other creditors; (i) each governmental agency that is an interested party with respect to the Sale and transactions proposed thereunder; and (j) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002.

V. The Sale Hearing

21. The Sale Hearing shall be held before the Court on October [●], 2021 at [●] (prevailing Eastern Time) or at such time thereafter as counsel may be heard or at such other time the Bankruptcy Court may determine. The Debtor will seek entry of an order of the Court at the Sale Hearing approving and authorizing the Sale of the Assets to the Successful Bidder. Upon entry of this Order, the Debtor is authorized to perform any obligation intended to be performed

prior to the Sale Hearing or entry of the Sale Order with respect thereto. The Sale Hearing may be continued from time to time without further notice other than such announcement being made in open court or a notice of adjournment being filed with the Court and served on the Notice Parties.

VI. Objections to the Sale

22. Objections, if any, to the relief requested in the Motion relating to the Sale (except for any objection that arises at the Auction), including the transaction contemplated by the Stalking Horse Agreement (the “Stalking Horse Bid”), must be in writing, filed with the Court, and be served so that it is actually received no later than October [●], 2021 no later than 4:00 p.m. (prevailing Eastern time). Objections shall be served on the Notice Parties. A party’s failure to timely file or make an objection in accordance with this Order shall forever bar the assertion of any objection to the Sale, entry of the Sale Order, and/or consummation of the Sale with the Successful Bidder pursuant to the applicable purchase agreement, including, without limitation, the assumption and assignment of the Contracts to the Successful Bidder pursuant to the applicable purchase agreement, and shall be deemed to constitute such party’s consent to entry of the Sale Order and consummation of the Sale and all transactions related thereto, including, without limitation such assumption and assignment.

VII. The Stalking Horse Payment

23. If the Stalking Horse Agreement has not been terminated by the Debtor based on a material breach by the Stalking Horse and the Debtor sells all or any substantial portion of the Assets in a transaction or series of transactions with one or more persons other than the Stalking Horse pursuant to the terms of the Bid Procedures, upon consummation of such transaction or transactions, from the proceeds of such a sale or sales (such a transaction, an “Alternative Transaction”), the Debtor shall pay the Stalking Horse the sum of \$660,000 plus up to \$250,000 of actual expenses (the “Stalking Horse Payment”). The Stalking Horse Payment shall be treated

as a super priority post-petition claim, the liability on which is an administrative expense in this case under Bankruptcy Code section 503(b)(1) and as a direct cost of such a sale or sales. No further order of this Court shall be required to pay the Stalking Horse Payment to the Stalking Horse (other than if a dispute arises with respect to the appropriate amount of the Expense Reimbursement); *provided, however*, that under no circumstances shall the Stalking Horse Payment be paid to the Stalking Horse other than from the first proceeds received by or upon behalf of the Debtor from the Alternative Transaction pursuant to the Bid Procedures. For the purposes of all calculations used in the Bid Procedures, the Stalking Horse Payment shall be equal to \$910,000.

VIII. Other Relief Granted

24. Nothing in this Order, the Stalking Horse Agreement or the Motion shall be deemed to or constitute the assumption or assignment of a Contract.

25. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a). The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

26. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry, notwithstanding any provision in the Bankruptcy Rules or the Local Rules to the contrary, and the Debtor may, in its discretion and without further delay, take any action and perform any act authorized by this Order.

27. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: _____, 2021
Concord, New Hampshire

UNITED STATES BANKRUPTCY JUDGE

Exhibit 1 to Bid Procedures Order

Bid Procedures

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home,	)	Case No. 21- _____ (____)
)	
Debtor. ¹)	
)	

BIDDING PROCEDURES

By the Motion dated [●], 2021, the above-captioned debtor and debtor in possession (the “Debtor”) sought approval of, among other things, the procedures through which it will determine the highest or otherwise best price for the sale of substantially all of the Debtor’s assets and operations being offered for sale (the “Assets”) described in that certain Asset Purchase Agreement dated as of August [●], 2021 between Covenant Living Communities and Services (the “Stalking Horse”) and the Debtor (the “Stalking Horse Agreement”), a copy of which is attached to the Motion as **Exhibit A**.

On [●], 2021, the U.S. Bankruptcy Court for the District of New Hampshire (the “Bankruptcy Court”) entered an order (the “Sale Procedures Order”), which, among other things, authorized the Debtor to determine the highest or otherwise best bid for the Assets through the process and procedures set forth below (the “Bid Procedures”)² to be employed for the proposed sale (the “Sale”) of the Assets. It is contemplated that the Sale will be implemented through a purchase agreement, subject to the receipt of higher and better bids at an auction (the “Auction”) and the corresponding entry into a sale agreement with a Successful Bidder (as defined below) according to these Bid Procedures. The Bankruptcy Court has jurisdiction with respect to any dispute that may arise with respect to these Bid Procedures. These Bid Procedures set forth the process (the “Bidding Process”) by which the Debtor is authorized to conduct the Auction for the Sale of its Assets.

Important Dates (All times are prevailing Eastern Time)³

- [●], **2021 at 4:00 p.m.:** Debtor to send Cure and Possible Assumption and Assignment Notices to All Contract Counterparties and Notice of the Sale
- [●], **2021 at 4:00 p.m.:** Deadline to (a) submit Bid to be considered for the Auction; (b) file and serve any Cure Objection; and (c) file and serve objections to relief requested at Sale Hearing (except for any objection that arises at the Auction)

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Bid Procedures Order.

³ [Need to match Section 5,8 of the APA.]

- [●], 2021 at 10:00 a.m.: Proposed date of Auction
- [●], 2021 at 4:00 p.m.: Debtor to file notice of Successful Bidder, Backup Bidder, and Assumption Notices
- [●], 2021 at [●]: Proposed date of Sale Hearing and deadline to make an Adequate Assurance Objection (either by filing such Adequate Assurance Objection with the Court prior to the Sale Hearing or noting its Adequate Assurance Objection at the Sale Hearing)

Marketing Process

The Debtor, in consultation with Grandbridge Real Estate Capital LLC (“Grandbridge”), developed a list of parties who the Debtor believes may potentially be interested in and who the Debtor reasonably believes would have the financial resources to consummate a Sale, which list includes both potential strategic investors and financial investors (each, individually, a “Contact Party”, and collectively, the “Contact Parties”). The Debtor shall consult with the Bond Trustee and any official committee appointed in the Chapter 11 Case (together, the “Consultation Parties”) on all aspects of the Bidding Process and the Sale process. Grandbridge has or will contact the Contact Parties to explore their interest in pursuing a Sale. The Contact Parties may include parties that the Debtor or its advisors have previously contacted regarding a Sale, regardless of whether such parties expressed any interest, at such time, in pursuing a Sale. The Debtor will continue to discuss and may supplement the list of Contact Parties throughout the marketing process, as appropriate and in consultation with the Consultation Parties.

The Debtor shall distribute to each Contact Party an “Information Package” that is comprised of:

- (a) a cover letter;
- (b) a copy of these Bid Procedures; and
- (c) a copy of a confidentiality agreement (the “Confidentiality Agreement”).

To participate in the Bidding Process and to receive access to any materials relating to the Assets (the “Diligence Materials”), a party must submit to the Debtor an executed Confidentiality Agreement, signed and transmitted by the person or entity wishing to have access to the Diligence Materials.

A party who qualifies for access to the Diligence Materials shall be a “Preliminarily Interested Investor.” All due diligence requests must be directed to Grandbridge.

Bid Qualification Process⁴

To be eligible to participate in the Auction, each offer, solicitation or proposal (each, a “Bid”), and each party submitting such a Bid (each, a “Bidder”), must be determined by the Debtor, in consultation with the Consultation Parties, to satisfy each of the following conditions:

- (1) Good Faith Deposit: Each Bid must be accompanied by a deposit in the amount of One Million Dollars (\$1,000,000) to be deposited into an interest-bearing escrow account to be identified and established by the Debtor (the “Good Faith Deposit”).
- (2) Terms: A Bid must include executed transaction documents pursuant to which the Bidder proposes to effectuate the Sale, including an asset purchase agreement (the “Transaction Documents”). The Transaction Documents shall also identify any executory contracts and unexpired leases of the Debtor that the Bidder wishes to have assumed and assigned to it pursuant to the Sale (collectively, the “Assigned Contracts”).
- (3) Principal Terms: A Bid must have a Purchase Price of at least \$34,010,000.⁵ A Bid must include an executed asset purchase agreement similar in form and substance to Stalking Horse Agreement, as modified by the potential purchaser, pursuant to which the Bidder proposes to effectuate the contemplated transaction and a black-lined copy of the asset purchase agreement marked to show all changes requested by the Bidder, including specifications of the proposed purchase price and any changes to any exhibits or schedule to the agreement. A Bid must identify with particularity each and every condition to closing and all executory contracts to be assumed and assigned pursuant to the asset purchase agreement as well which liabilities it will be assuming, which must include the Residency Agreements (as defined in the Stalking Horse Agreement). A Bid should propose a transaction involving substantially all, or a portion of, the Debtor’s Assets or operations. The Debtor, in consultation with the Consultation Parties, shall evaluate all Bids to determine whether such Bid(s) maximizes the value of the Debtor’s estate as a whole. The asset purchase agreement must include a commitment to close by no later than the Closing Date (as defined in the Stalking Horse Agreement).
- (4) Corporate Authority: Each Bidder must provide written evidence, reasonably acceptable to the Debtor, in consultation with the Consultation Parties, demonstrating appropriate corporate authorization to consummate the proposed transaction; *provided, however*, that, if the Bidder is an entity specially formed for the purpose of effectuating the transaction, then the Bidder must furnish written evidence reasonably acceptable to the Debtor, in consultation with the Consultation Parties, of the approval of the transaction by the equity holder(s) of such Bidder.

⁴ None of the Bid Qualification Process requirements apply to the Stalking Horse or the Stalking Horse Agreement, as may be amended (the “Stalking Horse Bid”). For avoidance of doubt, the Stalking Horse Bid is a Qualified Bid and the Stalking Horse Bidder is a Qualified Bidder.

⁵ The Purchase Price must be higher than the aggregate of the Stalking Horse Bid (\$33,000,000), Stalking Horse Payment (\$910,000), and Initial Overbid (\$100,000).

- (5) Government Approvals Timeframe: Each Bid must set forth an estimated timeframe for obtaining any required governmental, licensing, regulatory or other approvals or consents for consummating any proposed purchase.
- (6) Consent to Jurisdiction: By submitting a Bid, each Bidder agrees and shall be deemed to have agreed to submit to the jurisdiction of the Bankruptcy Court and waives any right to a jury trial in connection with any disputes relating to the Debtor's qualification of bids, the Auction, if any, the construction and enforcement of the Bidding Procedures, the sale documents and the closing, as applicable.
- (7) Proof of Financial Ability to Perform: Each Bidder must provide written evidence, sufficient for the Debtor to reasonably conclude, in consultation with the Consultation Parties, that the Bidder has the necessary financial ability to close the transaction and provide adequate assurance of future performance under all Assigned Contracts to be assumed and assigned in such transaction. Such information should include, *inter alia*, the following:
 - (a) contact names and numbers for verification of financing sources,
 - (b) evidence of the Bidder's internal resources and proof of any debt or equity funding commitments that are needed to close the transaction;
 - (c) the Bidder's current financial statements; and
 - (d) any such other form, financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor, in consultation with the Consultation Parties, demonstrating that such Bidder has the ability to close the transaction; *provided, however*, that the Debtor shall determine, in its reasonable discretion, in consultation with the Debtor's advisors and the Consultation Parties, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Bidder's financial qualifications.
- (8) Contingencies: A Bid may not be conditioned on obtaining financing or any internal approval, or on the outcome or review of due diligence, but may be subject to the accuracy in all material respects at the closing of specified representations and warranties.
- (9) Irrevocable: A Bid must be irrevocable through the Auction; *provided, however*, that if such Bid is accepted as the Successful Bid or the Backup Bid (as defined herein), such Bid shall continue to remain irrevocable, subject to the terms and conditions of the Bid Procedures.
- (10) Disclaimer of Fees: Each Bid (other than a Stalking Horse Bid) must disclaim any right to receive any break-up fee, expense reimbursement, termination fee, or any other similar form of compensation.

- (11) **Bid Deadline:** Regardless of when a party qualifies as a Preliminarily Interested Investor, the Debtor must receive a Bid in writing, on or before [●], 2021 at 4:00 p.m. or such later date as may be agreed to by the Debtor but no later than [●], 2021 (the “**Bid Deadline**”). Bids must be sent to the following by the Bid Deadline to be considered: (a) counsel for the Debtor, (i) Polsinelli PC, 600 Third Avenue, 42nd Floor, New York, New York 10016, Attn: Jeremy R. Johnson (jeremy.johnson@polsinelli.com) and Attn: Stephen J. Astringer (sastringer@polsinelli.com), and (ii) Hinckley, Allen & Snyder LLP, 650 Elm Street, Manchester, New Hampshire 03101, Attn: Daniel M. Deschenes (ddeschenes@hinckleyallen.com) and 28 State Street, Boston, Massachusetts 02109, Attn: Jennifer V. Doran (jdoran@hinckleyallen.com); (b) broker for the Debtor, Grandbridge Real Estate Capital LLC, 1408 North Westshore Boulevard, Suite 910, Tampa, Florida 33607, Attn: Allen McMurtry; (c) counsel to the Bond Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: Daniel S. Bleck (dsbleck@mintz.com); and (d) counsel the Committee, if any (collectively, the “**Notice Parties**”).

A Bid received from a Bidder before the Bid Deadline that meets the above requirements shall constitute a “**Qualified Bid**,” and such Bidder shall constitute a “**Qualified Bidder**.”

Credit Bid

The Bond Trustee shall be deemed to be a Qualified Bidder and is not required to make any Good Faith Deposit in submitting a Credit Bid (defined below). The Bond Trustee may participate in the Auction and may Credit Bid at any time up to the conclusion of the Auction, in its sole and absolute discretion, any portion and up to the entire amount of its claim; provided, however, the Bond Trustee must bid in cash at least the amount of the Stalking Horse Payment, which amounts must be payable in cash at the Closing (a “**Credit Bid**”). Upon exercise of a Credit Bid, the Bond Trustee shall not be required to take title to or ownership of, or have any obligation in connection with, or be deemed to have taken title to or ownership of, or have any obligation in connection with, the Assets, and the Bond Trustee shall have the right to designate any person or entity in its sole and absolute discretion that shall take title to the Assets that are subject to the Credit Bid. The Bond Trustee will not be a Backup Bidder unless it consents in writing otherwise. If the Bond Trustee elects to exercise its right to Credit Bid, such bid shall provide that the Stalking Horse Payment must be paid in cash. If the Bond Trustee or its designee elects to Credit Bid, the Bond Trustee shall no longer be a Consultation Party.

Auction

If one or more Qualified Bids is received by the Bid Deadline (other than the Stalking Horse Bid) and/or the Bond Trustee has indicated its intent to submit a Credit Bid, the Debtor will conduct the Auction to determine the highest and best Qualified Bid. This determination shall take into account any factors the Debtor, upon consultation with the Consultation Parties, reasonably deems relevant to the value of the Qualified Bid to the estate, including, *inter alia*, the following: (a) the amount and nature of the consideration; (b) the proposed assumption of any liabilities and/or Assigned Contracts, if any; (c) the ability of the Qualified Bidder to close the proposed Transaction; (d) the proposed

closing date and the likelihood, extent and impact of any potential delays in closing; (e) any purchase price adjustments; (f) the impact of the Sale on any actual or potential litigation; and (g) the net after-tax consideration to be received by the Debtor's estate (collectively, the "Bid Assessment Criteria"). If no Qualified Bid (other than the Stalking Horse Bid) is received by the Bid Deadline and the Bond Trustee has not indicated its intent to submit a Credit Bid, no Auction shall be conducted and the Stalking Horse Bid shall be deemed the Successful Bid. Only Qualified Bidders may participate in the Auction.

The Auction, if necessary, shall take place on [●], 2021 at 10:00 a.m., at the offices of Debtor's counsel, [●] or such later time on such day but not later than [●], 2021 or other place as the Debtor shall notify all Bidders who have submitted Qualified Bids. The Debtor may permit bidders to participate remotely subject to all of the other terms contained herein. The Auction shall be transcribed or videotaped, and shall be conducted according to the following procedures:

The Debtor Shall Conduct the Auction

The Debtor and its professionals shall direct and preside over the Auction in consultation with the Consultation Parties. At the start of the Auction the Debtor shall describe the terms of the highest and best Qualified Bid(s) (the "Auction Baseline Bid").

All Bids made thereafter shall be Overbids (as defined below) and shall be made and received on an open basis and all material terms of each Overbid shall be fully disclosed to all Bidders who have submitted Qualified Bids. The Debtor shall maintain a transcript of all Bids made and announced at the Auction, including the Auction Baseline Bid and all Overbids.

Stalking Horse Rights

The Stalking Horse Payment shall be taken into account with each round of bidding and in each phase of the Auction by adding the amount of the Stalking Horse Payment to the amount of each bid made by the Stalking Horse. Any credit bids submitted by a party other than the Stalking Horse shall include a cash component that is sufficient to (a) pay the amount of the Stalking Horse Payment and (b) pay for any Assets that are unencumbered by the first priority perfected liens in favor of the credit bidder. Within at least two days prior to the Auction, if the Stalking Horse is not the highest and best Bid, the Debtor shall advise the Stalking Horse of the Auction Baseline Bid and shall provide a copy of the asset purchase agreed associated with such Auction Baseline Bid. The Stalking Horse Payment used in the bidding calculations hereunder shall be \$910,000.

Terms of Overbids

An "Overbid" is any Bid made at the Auction subsequent to the Debtor's announcement of the Auction Baseline Bid. To submit an Overbid for purposes of this Auction, a Bidder must comply with the following conditions:

(1) Minimum Overbid Increment

The initial minimum Overbid shall be \$100,000. In advance of the Auction and after a review of the Qualified Bids received, the Debtor, in consultation with its advisors and the Consultation Parties, shall determine the increments of any subsequent Overbid after the Auction Baseline Bid but

such amount shall not be less than \$100,000 (the “Minimum Overbid Increment”) for a Bid for all of the Debtor’s Assets, and in an amount to be determined by the Debtor, in consultation with the Consultation Parties at the Auction; *provided*, that the Debtor shall retain the right to modify the bid increment requirements at the Auction in consultation with the Consultation Parties. Additional consideration in excess of the amount set forth in the Auction Baseline Bid may include only cash, the assumption of debt, or a Credit Bid.

(2) **Remaining Terms are the Same as for Qualified Bids**

Except as modified herein, an Overbid must comply with the conditions for a Qualified Bid set forth above; *provided, however*, that the Bid Deadline shall not apply. Any Overbid shall remain open and binding on the Bidder unless and until the Debtor, in consultation with the Consultation Parties, accepts a higher Overbid, subject to such Bidder remaining a Backup Bidder.

To the extent not previously provided (which shall be determined by the Debtor in consultation with the Consultation Parties), a Bidder submitting an Overbid must submit, as part of its Overbid, written evidence (in the form of financial disclosure, credit-quality support information or other enhancement reasonably acceptable to the Debtor in consultation with the Consultation Parties) demonstrating such Bidder’s ability to close the transaction proposed by such Overbid.

(3) **Announcing Overbids**

The Debtor shall announce at the Auction the material terms of each Overbid, the basis for calculating the total consideration offered in each such Overbid and the resulting benefit to the Debtor’s estate based on, *inter alia*, the Bid Assessment Criteria.

(4) **Consideration of Overbids**

The Debtor reserves the right, in its reasonable business judgment, to make one or more adjournments in the Auction to, among other things: facilitate discussions between the Debtor and individual Bidders, allow individual Bidders to consider how they wish to proceed, and give Bidders the opportunity to provide the Debtor with such additional evidence as the Debtor in its reasonable business judgment and in consultation with the Consultation Parties, may require, that the Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount.

No Collusion; Good-Faith Bona Fide Offer

Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (i) it has not engaged in any collusion with respect to the Sale or Bidding Process (including that it has no agreement with any other Bidder or Qualified Bidder to control the price) and (ii) its Qualified Bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bidder or the Backup Bidder.

Backup Bidder

Notwithstanding anything in the Bid Procedures to the contrary, if an Auction is conducted, the party with the next highest or otherwise best Qualified Bid(s) at the Auction, as determined by the Debtor, in the exercise of its business judgment, shall be required to serve as a backup bidder (the “Backup Bidder”). The Backup Bidder shall be required to keep its final Bid at Auction (or if the Backup Bidder submitted one or more Overbids at the Auction, its final Overbid) (the “Backup Bid”) open and irrevocable until sixty (60) days after entry of the Sale Order (the “Outside Backup Date”) or the closing of the transaction with the Successful Bidder. Following entry of the Sale Order, if the Successful Bidder fails to consummate an approved transaction because of a breach or failure to perform on the part of such Successful Bidder, the Debtor may designate the Backup Bidder to be the new Successful Bidder, and the Debtor will be authorized, but not required, to consummate the transaction with the Backup Bidder without further order of the Bankruptcy Court. In such case, the defaulting Successful Bidder’s deposit, if any, shall be forfeited to the Debtor’s estate, and the Debtor specifically reserves the right to seek all available damages from the defaulting Successful Bidder. The closing date to consummate the transaction with the Backup Bidder shall be the later of (a) sixty (60) days after the date that the Debtor provides notice to the Backup Bidder that the Successful Bidder failed to consummate a Sale and that the Debtor desires to consummate the transaction with the Backup Bidder, or (b) March 31, 2022 (the “Outside Closing Date”). The deposit, if any, of the Backup Bidder shall be held by the Debtor until the earlier of two (2) business days after (a) the closing of the Sale with the Successful Bidder and (b) the Outside Backup Date; provided, however, that in the event the Successful Bidder does not consummate the transaction as described above and the Debtor provides notice to the Backup Bidder, the Backup Bidder’s deposit shall be held until the closing of the transaction with the Backup Bidder. In the event that the Debtor fails to consummate a transaction with the Backup Bidder as described above, the Backup Bidder’s deposit shall be forfeited to the Debtor’s estate, and the Debtor specifically reserves the right to seek all available damages from the defaulting Backup Bidder.

Additional Procedures

The Debtor may announce at the Auction additional procedural rules that are reasonable under the circumstances (*e.g.*, the amount of time to make subsequent Overbids) for conducting the Auction so long as such rules are not inconsistent with these Bid Procedures.

Consent to Jurisdiction as Condition to Bidding

All Qualified Bidders, and all Bidders at the Auction shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to the Stalking Horse Agreement, the Auction or the construction and enforcement of any Transaction Documents.

Rights to Credit Bid

The Bond Trustee shall have the right to Credit Bid as set forth in the Bid Procedures Order. The Stalking Horse Bidder shall have the right (including as part of any Overbid) to credit bid all or a portion of the value of the Stalking Horse Payment at the Auction, including the full amount

of the potential Expense Reimbursement for the Assets pursuant to Bankruptcy Code section 363(k).

Closing the Auction

The Auction shall continue until there is only one or more Qualified Bid(s) that the Debtor determines in its reasonable business judgment, after consultation with its financial and legal advisors and the Consultation Parties, is the highest and best Qualified Bid(s) at the Auction (the “Successful Bid” and the Bidder submitting such Successful Bid, the “Successful Bidder”). In making this decision, the Debtor, in consultation with its financial and legal advisors and the Consultation Parties, shall consider the Bid Assessment Criteria. The Auction shall not close unless and until all Bidders who have submitted Qualified Bids have been given a reasonable opportunity to submit an Overbid at the Auction to the then-existing Overbid. Prior to the conclusion of the Auction, the Successful Bidder and the Backup Bidder shall have submitted fully executed Transaction Documents memorializing the terms of the Successful Bid(s) and Backup Bid.

Bid Protections

The Stalking Horse is entitled to the Stalking Horse Payment, to the extent it becomes payable, pursuant to the terms of the Stalking Horse Agreement and the Bid Procedures Order.

Except for the Stalking Horse, no other party submitted an offer or Bid for the Assets or a Qualifying Bid shall be entitled to any expense reimbursement, breakup fee, termination, or similar fee or payment or any other protection against the Debtor designating another party as the Successful Bidder or Backup Bidder.

Procedures for Determining Cure Amounts and Adequate Assurance for Contract Counterparties to Assigned Contracts.

By [●], 2021, the Debtor shall send a notice to each counterparty to an executory contract or unexpired lease (each a “Contract Counterparty”) setting forth the Debtor’s calculation of the cure amount, if any, that would be owing to such Contract Counterparty if the Debtor decided to assume or assume and assign such executory contract or unexpired lease, and alerting such Contract Counterparty that its contract may be assumed and assigned to the Successful Bidder (the “Cure and Possible Assumption and Assignment Notice”), a copy of which is attached to the Bid Procedures Order as **Exhibit 3**. Any Contract Counterparty that objects to the cure amount set forth in the Cure and Possible Assumption and Assignment Notice or the possible assignment of its executory contract or unexpired lease must file an objection (a “Contract Objection”) on or before 4:00 p.m. (prevailing Eastern Time) on [●], 2021, which Contract Objection must be served on the Notice Parties. If a Contract Counterparty does not timely file and serve a Contract Objection, that party will be forever barred from objecting to (a) the Debtor’s proposed cure amount, or (b) the assignment of that party’s executory contract or unexpired lease to the Successful Bidder. Where a Contract Counterparty to an Assigned Contract files a timely Contract Objection asserting a higher cure amount than the amount listed in the Cure and Possible Assumption and Assignment Notice, or an objection to the possible assignment of that Contract Counterparty’s executory contract or unexpired lease, and the parties are unable to consensually resolve the dispute, the amount to be paid under Bankruptcy Code section 365 (if any) or, as the

case may be, the Debtor's ability to assign the executory contract or unexpired lease to the Successful Bidder will be determined at the Sale Hearing.

By [●], 2021, the Debtor shall file with the Court and serve on the Contract Counterparties a further notice substantially in the form attached to the Bid Procedures Order as **Exhibit 4** (the "Assumption Notice") identifying the Successful Bidder, stating which Contracts will be assumed and assigned to the Successful Bidder, and providing such Contract Counterparties with the Successful Bidder's assurance of future performance. Any Contract Counterparty that objects to the adequacy of the assurance set forth in the Assumption Notice must file an objection with the Bankruptcy Court (an "Adequate Assurance Objection") prior to the Sale Hearing or note its Adequate Assurance Objection at the Sale Hearing. If a Contract Counterparty does not make an Adequate Assurance Objection prior to or at the Sale Hearing, such party will be forever barred from objecting to the adequacy of the assurance to be provided by the Successful Bidder. If a Contract Counterparty makes an Adequate Assurance Objection prior to or at the Sale Hearing, and the parties are unable to consensually resolve the dispute, the adequacy of the assurance provided by the Successful Bidder will be determined at the Sale Hearing.

Sale Hearing

The Bankruptcy Court has scheduled a hearing (the "Sale Hearing") on [●], 2021, at [●] (prevailing Eastern Time), at which the Debtor will seek approval of the Sale to the Successful Bidder. Objections to the Sale of the Assets to the Successful Bidder or Back-Up Bidder must be filed and served so that they are actually received by the Debtor no later than 4:00 p.m. (ET) on [●], 2021 (except for any objection that arises at the Auction) on the Notice Parties.

Return of Good Faith Deposits

The Good Faith Deposits of all Qualified Bidders shall be held in one or more interest-bearing escrow accounts by **[Title Company]** and shall not become property of the Debtor's estate absent further order of the Court. The Good Faith Deposits of any Qualified Bidder that is neither the Successful Bidder nor the Backup Bidder shall be returned to such Qualified Bidder not later than two (2) business days after the Sale Hearing. Upon the return of the Good Faith Deposits, their respective owners shall receive any and all interest that will have accrued thereon. If the Successful Bidder timely closes the winning transaction, its Good Faith Deposit shall be credited towards its purchase price. The forgoing notwithstanding, the Good Faith Deposit of the Stalking Horse shall be returned to the Stalking Horse pursuant to the provisions of the Stalking Horse Agreement.

Reservation of Rights

The Debtor reserves the right to modify these Bid Procedures in its reasonable business judgment in any manner, after consultation with the Consultation Parties, that will best promote the goals of the Bidding Process or impose, at or prior to the Auction, additional customary terms and conditions on the Sale of the Assets.

Attachment A to Bid Procedures

Form of Confidentiality Agreement

CONFIDENTIALITY AGREEMENT

Date: _____

Re: Confidentiality Agreement Regarding Potential Transaction

Ladies and Gentlemen:

In connection with your consideration of a possible acquisition of substantially all of the assets and assumption of certain liabilities ("Transaction") of The Prospect-Woodward Home d/b/a Hillside Village Keene (the "Company"), you have requested certain confidential and other information concerning the Company. You agree to treat any information concerning the Company, its affiliates, subsidiaries, management companies, and parent companies, whether furnished to you before or after the date of this letter, together with any and all analyses or other documents prepared by you or any of your directors, employees, advisors, attorneys, accountants, consultants, subcontractors, representatives or lending institutions (collectively, "Representatives") which contain or otherwise reflect such information (collectively, "Evaluation Material"), in accordance with this agreement. The term "Evaluation Material" does not include information that (a) was already in your possession prior to the time of disclosure to you by the Company or its Representatives, provided that such information was not furnished to you by a source known by you to be bound by a confidentiality agreement with the Company, or otherwise prohibited from disclosing the information to you, (b) was or becomes generally available to the public other than as a result of a disclosure by you or your Representatives, (c) becomes available to you on a non-confidential basis from a source other than the Company or its Representatives, provided that such source is not known by you to be bound by a confidentiality agreement with the Company, or otherwise prohibited from disclosing the information to you, or (d) that was or is independently developed by you without violating your obligations hereunder.

The Evaluation Material will be used solely for the purpose of evaluating the Transaction between the Company and you, will not be used in any way detrimental to the Company and its Representatives, and will be kept confidential by you and your Representatives, except to the extent that disclosure (a) has been consented to in writing by the Company, or (b) is made to your Representatives who need to know such information for the purpose of evaluating the Transaction (it being understood that such Representatives shall be informed by you of the confidential nature of the Evaluation Material). You shall be responsible for any breach of this agreement by any of your Representatives as if such Representative had been substituted for "you" as a party and signatory to this letter. You will not contact any shareholders, lenders, creditors, employees or directors of the Company regarding the Company without the prior written consent of the undersigned.

In the event that you or any of your Representatives are requested or required by law, regulatory authority or other applicable judicial or governmental order to disclose any Evaluation

Material, you will provide the Company with prompt notice of any such request or requirement so that the Company may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this agreement. In the event that such protective order or other remedy is not obtained, or that the Company waives compliance with the terms hereof, you may disclose only that portion of the Evaluation Material that is legally required.

In addition, without the prior written consent of the Company, you will not, and will direct your Representatives not to, disclose to any person (a) that the Evaluation Material has been made available to you or your Representatives, (b) that discussions are taking place concerning a Transaction, or (c) any terms or other facts with respect to the Transaction, including the status thereof.

It is understood and agreed that money damages may not be a sufficient remedy for any breach of this agreement, and that the Company is entitled to seek specific performance and injunctive or other equitable relief. Such remedy shall not be deemed to be the exclusive remedy for breach of this agreement, but shall be in addition to all other remedies available at law or equity to the Company.

The Company shall not be deemed to have made any representations or warranties as to the accuracy or completeness of the Evaluation Material. Only those representations or warranties that are made by the Company in a final definitive agreement regarding a Transaction, when, as and if executed, and subject to such limitations and restrictions as may be specified therein, will have any legal effect.

Within ten days after being so requested by the Company or its Representatives, except to the extent you are advised by legal counsel that complying with such request would be prohibited by law or regulatory authority, you will return or destroy all Evaluation Material. Any destruction of materials shall be confirmed by you in writing. Any Evaluation Material that cannot be returned or destroyed (such as oral Evaluation Material) shall remain confidential, subject to the terms of this agreement.

This agreement binds the parties hereto only with respect to the matters expressly set forth herein. As such, unless and until a subsequent definitive written agreement regarding a Transaction between the Company and you has been executed, (a) neither the Company nor you will be under any legal obligation of any kind whatsoever to negotiate or consummate a Transaction, and (b) you shall have no claim whatsoever against the Company or any of its respective directors, officers, owners, affiliates or Representatives arising out of or relating to any Transaction or Evaluation Material. No interest, license or any right respecting the Evaluation Material, other than expressly set out herein, is granted under this agreement by implication or otherwise.

Additionally, you agree not to solicit for employment any Company employees to whom you may be introduced or with whom you otherwise had contact as a result of your consideration of a Transaction for a period of two (2) years after the date of this agreement, provided that you shall not be restricted in any general solicitation for employees (including through the use of

employment agencies) not specifically directed at any such persons, and provided further that you shall not be restricted in hiring any such person who responds to any such general solicitation.

You hereby acknowledge that you are aware, and further agree that you will advise your Representatives, that Federal and State securities laws limit the circumstances in which any person who has material, non-public information about a company may purchase or sell securities of such a company and prohibit any such person from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities. Moreover, you agree that you shall not use any of the Evaluation Materials to purchase or attempt to purchase or otherwise engage in trading of claims of the Company (including, without limitation, claims held by trade creditors, bank lenders, other secured and unsecured lenders or any other parties).

You further acknowledge and confirm that (a) you have had the opportunity to have this agreement reviewed by counsel and have either utilized or waived this opportunity; and (b) the undersigned has due authority to bind you and your Representatives to the terms of this agreement.

This agreement shall be governed by and construed in accordance with the internal laws of the State of New Hampshire, without giving effect to applicable principles of conflicts of law to the extent that the application of the laws of another jurisdiction would be required thereby. Venue for any action to enforce the provisions of this letter agreement shall be properly laid in the United States Bankruptcy Court for the District of New Hampshire. This agreement shall be binding upon and shall insure to the benefit of the Company and its successors and assigns. This agreement constitutes the entire agreement between the parties hereto regarding the subject matter hereof. No amendments, changes or modifications may be made to this agreement without the express written consent of each of the parties hereto. If any term or provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms and provisions of this agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. No failure or delay by the Company in exercising any right hereunder or any partial exercise thereof shall operate as a waiver thereof or preclude any other or further exercise of any right hereunder.

Your obligations under this agreement shall remain in effect for a period of two years from the date hereof, except as otherwise stated herein.

Very truly yours,

The Prospect-Woodward Home d/b/a Hillside Village Keene:

Name:
Title:

Confirmed and Agreed to:

By: _____

Name:
Title:

Exhibit 2 to Bid Procedures Order

Sale Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home,	)	Case No. 21- _____ (____)
)	
Debtor. ¹)	
)	

**NOTICE OF BID PROCEDURES, AUCTION, HEARING AND DEADLINES
RELATING TO THE SALE OF SUBSTANTIALLY
ALL OF THE ASSETS OF THE DEBTOR**

PLEASE TAKE NOTICE that on [●], 2021, The Prospect-Woodward Home, as debtor and debtor-in-possession (the “Debtor”) in the above-captioned case (the “Bankruptcy Case”), filed a *Motion of the Debtor for Entry of (I) an Order (A) Approving Bid Procedures in Connection with the Sale of Substantially All of the Debtor’s Assets, (B) Approving the Form and Manner of Notice thereof, (C) Scheduling an Auction and Sale Hearing, (D) Approving Procedures for the Assumption and Assignment of Contracts, and (E) Granting Related Relief; and (II) an Order (A) Approving the Asset Purchase Agreement Between the Debtor and the Successful Bidder, and (B) Authorizing the Sale of Substantially All of the Debtor’s Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (C) Authorizing the Assumption and Assignment of Contracts, and (D) Granting Related Relief* [Docket No. ●] (the “Bid Procedures and Sale Motion”).² The Debtor seeks to complete a sale (the “Transaction”) of substantially all its assets (the “Assets”) to a prevailing bidder or bidders (the “Successful Bidder”) at an auction (the “Auction”) free and clear of all liens, claims, encumbrances and other interests pursuant to Bankruptcy Code section 363.

PLEASE TAKE FURTHER NOTICE that, on [●], 2021 the Bankruptcy Court entered an order [Docket No. ●] (the “Bid Procedures Order”) approving the bidding procedures set forth in the Bid Procedures and Sale Motion (the “Bid Procedures”), which set the key dates and times related to the sale of the Debtor’s Assets under the asset purchase agreement with the Successful Bidder. **All interested bidders should carefully read the Bid Procedures.** To the extent that there are any inconsistencies between the Bid Procedures and the summary description of its terms and conditions contained in this notice, the terms of the Bid Procedures shall control. Pursuant to the Bid Procedures Order, the Debtor has entered into an Asset Purchase Agreement (the “Stalking Horse Agreement”) for the sale of substantially all of the Debtor’s assets to [●] (the “Stalking Horse”) subject to competitive bidding as set forth in the Bid Procedures Order.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bid Procedures, the Debtor must receive a Qualified Bid from interested bidders in writing, on or before [●], 2021, or such later date as may be agreed to by the Debtor but not later than [●] (the “Bid Deadline”). To be

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Bid Procedures and Sale Motion.

considered, Qualified Bids must be sent to the following at or before the Bid Deadline: (a) counsel for the Debtor, (i) Polsinelli PC, 600 Third Avenue, 42nd Floor, New York, New York 10016, Attn: Jeremy R. Johnson (jeremy.johnson@polsinelli.com) and Attn: Stephen J. Astringer (sastringer@polsinelli.com), and (ii) Hinckley, Allen & Snyder LLP, 650 Elm Street, Manchester, New Hampshire 03101, Attn: Daniel M. Deschenes (ddeschenes@hinckleyallen.com) and 28 State Street, Boston, Massachusetts 02109, Attn: Jennifer V. Doran (jdoran@hinckleyallen.com); (b) broker for the Debtor, Grandbridge Real Estate Capital LLC, 1408 North Westshore Boulevard, Suite 910, Tampa, Florida 33607, Attn: [●]; and (c) counsel for the Bond Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: Daniel S. Bleck (dsbleck@mintz.com).

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bid Procedures, if the Debtor receives one or more Qualified Bids (other than the Credit Bid) by the Bid Deadline, the Auction will be conducted on [●], **2021 at 10:00 a.m.** (prevailing Eastern Time) at [●], or at such other place, date and time as may be designated by the Debtor. The Debtor may conduct the Auction remotely to the extent necessary to comply with applicable COVID-19 health guidelines.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bid Procedures, the Debtor has designated certain Assigned Contracts that may be assumed or assumed and assigned to the Successful Bidder. By [●], **2021**, the Debtor shall send a notice to each counterparty to an Assigned Contract setting forth the Debtor's calculation of the cure amount, if any, that would be owing to such counterparty if the Debtor decided to assume or assume and assign such Assigned Contract, and alerting such non-debtor party that its contract may be assumed and assigned to the Successful Bidder (the "Cure and Possible Assumption and Assignment Notice").

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bid Procedures, any counterparty that objects to the cure amount set forth in the Cure and Possible Assumption and Assignment Notice or the possible assignment of its Assigned Contract(s) must file with the Bankruptcy Court and serve an objection (a "Cure or Assignment Objection") so that it is actually received on or before **4:00 p.m. ET on [●], 2021** by (a) counsel for the Debtor, (i) Polsinelli PC, 600 Third Avenue, 42nd Floor, New York, New York 10016, Attn: Jeremy R. Johnson (jeremy.johnson@polsinelli.com) and Attn: Stephen J. Astringer (sastringer@polsinelli.com), and (ii) Hinckley, Allen & Snyder LLP, 650 Elm Street, Manchester, New Hampshire 03101, Attn: Daniel M. Deschenes (ddeschenes@hinckleyallen.com) and 28 State Street, Boston, Massachusetts 02109, Attn: Jennifer V. Doran (jdoran@hinckleyallen.com); (b) counsel for the Bond Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: Daniel S. Bleck (dsbleck@mintz.com); (d) the Office of the United States Trustee for the District of New Hampshire; and (e) the Clerk of the Bankruptcy Court for the District of New Hampshire (collectively, the "Notice Parties"). Where a counterparty to an Assigned Contract files a timely Cure or Assignment Objection asserting a higher cure amount than the amount listed in the Cure and Possible Assumption and Assignment Notice, or an objection to the possible assignment of that counterparty's Assigned Contract, and the parties are unable to consensually resolve the dispute, the amount to be paid under Bankruptcy Code section 365 (if any) or, as the case may be, the Debtor's ability to assign the Assigned Contract to the Successful Bidder will be determined at the Sale Hearing (as defined below).

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bid Procedures, if a Contract Counterparty does not make an Adequate Assurance Objection prior to or at the Sale Hearing, such party will be forever barred from objecting to the adequacy of the assurance provided by the Successful Bidder. Where a Contract Counterparty makes an Adequate Assurance Objection prior to or at the Sale Hearing, and the parties are unable to consensually resolve the dispute, the adequacy of the assurance provided by the Successful Bidder will be determined at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that a hearing will be held to approve the sale of the Assets to the Successful Bidder (the “Sale Hearing”) at the Bankruptcy Court on [●], **2021 at [●] (prevailing Eastern Time)**, or at such time thereafter as counsel may be heard or at such other time as the Bankruptcy Court may determine. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing or on the agenda for such Sale Hearing. Objections to the sale of the Assets to the Successful Bidder must be filed and served so that they are received no later than [●], **2021 at 4:00 p.m. (prevailing Eastern Time)** by the Notice Parties. Any Contract Counterparty that objects to the adequacy of the assurance set forth in the Assumption Notice must file an objection (an “Adequate Assurance Objection”) with the Bankruptcy Court prior to the Sale Hearing, or note its Adequate Assurance Objection at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that this notice is subject to the full terms and conditions of the Bid Procedures and Sale Motion, the Bid Procedures Order and the Bid Procedures, which shall control in the event of any conflict, and the Debtor encourages parties in interest to review such documents in their entirety. A copy of the Bid Procedures and Sale Motion, the Stalking Horse Agreement, the Bid Procedures and the Bid Procedures Order may be obtained (a) upon request to Donlin Recano (the notice and claims agent retained in the Chapter 11 Case) by calling [●]; (b) by visiting the website maintained in the Chapter 11 Case at [●] or (c) for a fee via PACER by visiting <https://ecf.nhb.uscourts.gov/>.

Dated ●, 2021

/s/ *Draft*

HINCKLEY, ALLEN & SNYDER LLP

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Manchester, New Hampshire 03101
Telephone: (603) 225-4334
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-and-

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Facsimile: (617) 345-9020
jdoran@hinckleyallen.com

-and-

POLSINELLI PC

Jeremy R. Johnson (*Pro Hac Vice Pending*)
Stephen J. Astringer (*Pro Hac Vice Pending*)
600 Third Avenue, 42nd Floor
New York, New York 10016
Telephone: (212) 684-0199
Facsimile: (212) 684-0197
jeremy.johnson@polsinelli.com
sastringer@polsinelli.com

*Proposed Counsel to the Debtor and Debtor
in Possession*

Exhibit 3 to Bid Procedures Order

Cure and Possible Assumption and Assignment Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home,	)	Case No. 21- _____ (____)
)	
Debtor. ¹)	
)	

**NOTICE TO COUNTERPARTIES TO POTENTIALLY ASSUMED
EXECUTORY CONTRACTS AND UNEXPIRED LEASES REGARDING CURE
AMOUNTS AND POSSIBLE ASSIGNMENT TO SUCCESSFUL BIDDER AT AUCTION**

PLEASE TAKE NOTICE that on [●], 2021, the above-captioned debtor and debtor in possession (the “**Debtor**”) filed a motion (the “Bid Procedures and Sale Motion”) with the United States Bankruptcy Court for the District of New Hampshire (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that on [●], 2021, the Bankruptcy Court entered an order [Docket No. ●] (the “Bid Procedures Order”) approving Bid Procedures (the “Bid Procedures”), which set key dates, times and procedures related to the sale of substantially of the Debtor’s assets (the “Assets”). To the extent that there are any inconsistencies between the Bid Procedures and the summary description of the terms and conditions contained in this Notice, the terms of the Bid Procedures shall control. Pursuant to the Bid Procedures Order, the Debtor has entered into an Asset Purchase Agreement (the “Stalking Horse Agreement”) for the sale of substantially all of the Debtor’s assets to Covenant Living Services (the “Stalking Horse”) subject to competitive bidding as set forth in the Bid Procedures Order.

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU OR ONE OF YOUR AFFILIATES IS A COUNTERPARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE LISTED BELOW WITH THE DEBTOR:²

[Counterparty Name]	[Contract/Lease]	Cure Amount
---------------------	------------------	-------------

Pursuant to the Bid Procedures, the Debtor may assume the Executory Contract(s) or Unexpired Lease(s) listed above to which you are a counterparty. Also pursuant to the Bid Procedures, the Debtor may assign the Executory Contract(s) or Unexpired Lease(s) to the successful bidder (the “Successful Bidder”) at an auction of substantially all of the Debtor’s assets currently scheduled for [●], 2021 at [●]. The Debtor has conducted a review of its books and records and has determined that the cure amount for unpaid monetary obligations under such contract or lease is \$[AMOUNT] (the “Cure Amount”). If you (a) object to the proposed

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431

² This Notice is being sent to counterparties to Executory Contracts and Unexpired Leases. This Notice is not an admission by the Debtor that such contract or lease is executory or unexpired.

assumption or disagree with the proposed Cure Amount, or (b) object to the possible assignment of such Executory Contract(s) or Unexpired Lease(s) to the Successful Bidder, **you must file an objection with the Bankruptcy Court no later than [●], 2021 at 4:00 p.m. (prevailing Eastern Time)**, (the “Objection Deadline”) and serve such objection on the following parties:

Counsel to the Debtor	Counsel to Bond Trustee
<p style="text-align: center;">Polsinelli PC 600 Third Avenue 42nd Floor New York, New York 10016 Attn: Jeremy R. Johnson Jeremy.johnson@polsinelli.com Attn: Stephen Astringer sastringer@polsinelli.com</p> <p style="text-align: center;">-and-</p> <p style="text-align: center;">Hinkley, Allen & Snyder LLP 650 Elm Street Manchester, New Hampshire 03101 Attn: Daniel M. Deschenes ddeschenes@hinckleyallen.com</p> <p style="text-align: center;">-and-</p> <p style="text-align: center;">28 State Street Boston, Massachusetts 02109 Attn: Jennifer V. Doran jdoran@hinckleyallen.com</p>	<p style="text-align: center;">Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. One Financial Center Boston, Massachusetts 02111 Attn: Daniel S. Bleck dsbleck@mintz.com</p>
Clerk of the Bankruptcy Court	The United States Trustee
<p style="text-align: center;">United States Bankruptcy Court for the District of New Hampshire</p>	<p style="text-align: center;">Office of the United States Trustee for the District of New Hampshire</p>
Counsel to the Committee	
<p style="text-align: center;">If appointed</p>	

If no objection to the Cure Amount or the assignment of your Executory Contract(s) or Unexpired Lease(s) to the Successful Bidder is filed by the Objection Deadline, **you will be deemed to have stipulated that the Cure Amount as determined by the Debtor and set forth above is correct and you shall be forever barred, estopped and enjoined from (a) asserting any additional cure amount under the above-listed Executory Contract(s) and Unexpired**

Lease(s) or (b) objecting to the assumption and assignment of the above-listed Executory Contract(s) and Unexpired Lease(s) to the Successful Bidder.

Dated: ●, 2021

/s/ Draft

HINCKLEY, ALLEN & SNYDER LLP

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*Proposed Counsel to the Debtor and Debtor
in Possession*

Exhibit 4 to Bid Procedures Order

Assumption Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home,	)	Case No. 21- _____ (____)
)	
Debtor. ¹)	
)	

**NOTICE OF PROPOSED ASSIGNMENT
OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

PLEASE TAKE NOTICE that on [●], 2021, the above-captioned debtor and debtor in possession (the “Debtor”) filed a petition for relief pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Hampshire (the “Bankruptcy Court”). On [●], 2021, the Debtor filed a motion (the “Sale Motion”)² to sell substantially all of its assets (the “Assets”) free and clear of all liens, claims, encumbrances, and other interests (the “Sale”) and assume and assign certain of its executory contracts and unexpired leases (collectively, the “Contracts”) to the purchaser of the Assets.³

PLEASE TAKE FURTHER NOTICE that the Debtor is soliciting offers for the purchase of its Assets consistent with the bidding procedures (the “Bid Procedures”) approved by the Court by the entry of an order on [●], 2021 (the “Bid Procedures Order”).⁴ The Bid Procedures include, among other things, procedures for the assumption and assignment of the Contracts (the “Assumption Procedures”).

PLEASE TAKE FURTHER NOTICE that, accordingly, pursuant to the Bid Procedures Order, the Debtor has selected [●] as the Successful Bidder for the Sale of its Assets and, by this written notice, the Debtor notifies you that the Successful Bidder has determined, in the exercise of its business judgment, that the Contracts and any modifications thereto set forth on **Schedule 1** attached hereto (collectively, the “Assigned Contracts”) shall be assumed and assigned to the

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431

² *Motion of the Debtor for Entry of (I) an Order (A) Approving Bid Procedures in Connection with the Sale of Substantially All of the Debtor’s Assets, (B) Approving the Form and Manner of Notice thereof, (C) Scheduling an Auction and Sale Hearing, (D) Approving Procedures for the Assumption and Assignment of Contracts, and (E) Granting Related Relief; and (II) an Order (A) Approving the Asset Purchase Agreement Between the Debtor and the Successful Bidder, and (B) Authorizing the Sale of Substantially All of the Debtor’s Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (C) Authorizing the Assumption and Assignment of Contracts, and (D) Granting Related Relief* [Docket No. ●]

³ Capitalized terms used but not defined herein shall have all the meanings ascribed to them in the Sale Motion.

⁴ *Order (A) Approving Bid Procedures in Connection with the Sale of Substantially All of the Debtor’s Assets, (B) Approving the Form and Manner of Notice Thereof, (C) Scheduling an Auction and a Sale Hearing, (D) Approving Procedures for the Assumption and Assignment of Contracts, and (E) Granted Related Relief* [Docket No. ●].

Successful Bidder, subject to the Successful Bidder's payment of the cure amount set forth on **Schedule 1**, or such other cure amounts as are agreed by the parties.

PLEASE TAKE FURTHER NOTICE that the Successful Bidder has the right under certain circumstances to designate additional Contracts as Assigned Contracts or remove certain Contracts from the list of Assigned Contracts prior to closing.

PLEASE TAKE FURTHER NOTICE that copies of the Sale Motion, the Bid Procedures, and the Bid Procedures Order, as well as all related exhibits, including the proposed Sale Order, are available: (a) upon request to Donlin Recano (the notice and claims agent retained in the Chapter 11 Case) by calling [●]; (b) by visiting the website maintained in the Chapter 11 Case at [●]; or (c) for a fee via PACER by visiting <https://ecf.nhb.uscourts.gov/>.

PLEASE TAKE FURTHER NOTICE that, except as otherwise provided by the Bid Procedures Order, the time for filing objections to (a) the cure amounts related to the Assigned Contracts and (b) the Debtor's ability to assume and assign the Assigned Contracts has passed and no further notice or action is necessary with respect to such matters.

PLEASE TAKE FURTHER NOTICE that any Contract Counterparty that objects to the adequacy of the Successful Bidder's assurance of continued performance set forth in **Schedule 1** hereto must file an objection with the Bankruptcy Court prior to the Sale Hearing or note such objection at the Sale Hearing.

Dated: ●, 2021

/s/ *Draft*

HINCKLEY, ALLEN & SNYDER LLP

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*Proposed Counsel to the Debtor and Debtor
in Possession*

Schedule 1 to Assumption Notice

Assigned Contracts¹

Counterparty	Description of Assigned Contracts or Leases	Cure Amount

¹ The presence of a contract or lease on this **Schedule 1** does not constitute an admission by the Debtor that such contract is an executory contract or such lease in an unexpired lease pursuant to Bankruptcy Code section 365 or any other applicable law, and the Debtor reserves all rights to withdraw any proposed assumption and assignment or to reject any contract or lease at any time before such contract or lease is assumed and assigned pursuant to an order of the Court.

Exhibit B to Motion

Proposed Form of Sale Order

[To be filed prior to the Sale Hearing]

Exhibit E
(Form of Sale And Procedures Motion)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home,	)	Case No. 21-_____ (____)
)	
Debtor. ¹)	
)	

MOTION OF THE DEBTOR FOR ENTRY OF (I) AN ORDER (A) APPROVING BIDDING PROCEDURES IN CONNECTION WITH THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS, (B) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (C) AUTHORIZING THE DEBTOR TO ENTER INTO THE STALKING HORSE AGREEMENT, (D) AUTHORIZING PAYMENT OF THE STALKING HORSE PAYMENT AS AN ADMINISTRATIVE EXPENSE, (E) SCHEDULING AN AUCTION AND SALE HEARING, (F) APPROVING PROCEDURES FOR THE ASSUMPTION AND ASSIGNMENT OF CONTRACTS, AND (E) GRANTING RELATED RELIEF; AND (II) AN ORDER (A) APPROVING THE ASSET PURCHASE AGREEMENT BETWEEN THE DEBTOR AND THE SUCCESSFUL BIDDER, (B) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CONTRACTS, AND (D) GRANTING RELATED RELIEF

The debtor and debtor-in-possession in the above-captioned case (the “Debtor”) hereby moves (the “Motion”), pursuant to sections 105(a), 363, 364, 365, and 503 of title 11 of the United States Code (the “Bankruptcy Code”), and Rules 2002, 6004, 6006, 9006, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for entry of (i) an order approving the bid procedures, substantially in the form attached hereto as Exhibit A (the “Bid Procedures Order”), including (a) approving the proposed auction and bid procedures, attached as Exhibit 1 thereto (the “Bid Procedures”) for the proposed sale of substantially all the Debtor’s assets (the “Sale”), (b) authorizing the Debtor to enter into the Stalking Horse Agreement (as defined below), (c) authorizing payment of the Stalking Horse Payment as an administrative

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431

expense, (d) scheduling an auction (“Auction”) if the Debtor receives two or more Qualified Bids (as defined below), (e) scheduling a hearing to consider approval of the Sale (the “Sale Hearing”), (f) approving the form and manner of notice thereof, and (g) establishing procedures (the “Assumption Procedures”) for the assumption and assignment of executory contracts and unexpired leases (collectively, the “Contracts”), including notice of proposed cure amounts; and, (ii) entry of an order approving the sale of substantially all of the Debtor’s assets (the “Sale Order”), including (w) approving the transaction documents between the Debtor and the Successful Bidder (as defined below), (x) authorizing the Sale to the Successful Bidder (after the Auction, if necessary) free and clear of liens, claims, interests and encumbrances, (y) authorizing the assumption and assignment of the Contracts, and (z) granting related relief. In support of this Motion, the Debtor relies upon and incorporates by reference the *Declaration of Toby Shea, Chief Restructuring Officer, in Support of the Debtor’s First Day Pleadings* filed with the Court concurrently herewith (the “First Day Declaration”). In further support of the Motion, the Debtor, by and through its undersigned counsel, respectfully states as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this case is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105(a), 363, 364, 365, and 503, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007 and 9014, and Local Rule 6004-1.

BACKGROUND

A. General Background

3. On [●], 2021 (the "Petition Date"), the Debtor filed a voluntary petition in this Court commencing a case for relief under chapter 11 of the Bankruptcy Code (the "Chapter 11 Case").

4. The Debtor continues to manage and operate its business as a debtor-in-possession pursuant to Bankruptcy Code sections 1107 and 1108.

5. No trustee, examiner or committee has been appointed in this Chapter 11 Case.

6. The factual background regarding the Debtor, including its business operations, its capital and debt structures, and the events leading to the filing of this Chapter 11 Case, is set forth in detail in the First Day Declaration and fully incorporated herein by reference.

B. The Debtor's Assets

7. The Debtor owns and operates a licensed continuing care retirement facility with 222 units, comprised of 141 independent living units, 43 assisted living units, 18 memory care units, and 20 licensed but not yet opened long term nursing care units (the "Facility") located on or about 95 Wyman Road, Keene, New Hampshire, comprising approximately 66 acres (the "Premises").

8. The Debtor's primary assets include the Facility, the Premises, and the assets used in Debtor's operation of the Facility (the "Assets").

9. The Debtor has, subject to this Court's approval, retained Grandbridge Real Estate Capital LLC ("Grandbridge") to conduct a marketing and sale process for substantially all of the Debtor's assets.

RELIEF REQUESTED

10. By this Motion, the Debtor seeks entry of the Bid Procedures Order, substantially in the form attached hereto as **Exhibit B**:

- (a) authorizing and approving the Bid Procedures, in substantially the form attached to the Bid Procedures Order as **Exhibit 1**, in connection with the Sale of substantially all of the Debtor's Assets;
- (b) approving the form and manner of notice, in substantially the form attached to the Bid Procedures Order as **Exhibit 2** (the "Sale Notice"), of the Auction and Sale Hearing for the Sale;
- (c) authorizing the Debtor to enter into that certain Asset Purchase Agreement with Covenant Living Communities and Services (the "Stalking Horse"), a copy of which is attached hereto as **Exhibit A** (the "Stalking Horse Agreement"), pursuant to which the Stalking Horse seeks to purchase the Assets (as defined in the Stalking Horse Agreement) from the Debtor as set forth therein;
- (d) authorizing payment of the Stalking Horse Payment as an administrative expense;
- (e) scheduling the Auction and Sale Hearing;
- (f) approving the Assumption Procedures for the Contracts in connection with the Sale; and
- (g) granting related relief.

11. Furthermore, the Debtor will seek entry of the Sale Order at the Sale Hearing:

- (a) authorizing and approving the Sale of all or substantially all of the Assets to the Successful Bidder (as defined in the Bid Procedures) on the terms substantially set forth in the Successful Bid;
- (b) authorizing and approving the Sale of all or substantially all of the Assets free and clear of liens, claims, encumbrances, and other interests, all in accordance with the Successful Bid;
- (c) authorizing the assumption and assignment of the Contracts; and
- (d) granting any related relief.

12. The Debtor reserves the right to file and serve any supplemental pleading or declaration that the Debtor deems appropriate or necessary in its reasonable business judgment,

including any pleading summarizing the competitive bid and sale process and the results thereof, in support of its request for entry of the Sale Order before the Sale Hearing.

Prepetition Marketing and Sale Process

13. Prior to the Petition Date, the Debtor engaged Grandbridge as its broker to conduct a prepetition marketing process for substantially all of the Debtor's assets. As a result of the prepetition marketing process, the Debtor has identified a number of potential purchasers for the Debtor's Assets. The Debtor executed NDAs with [●] potential purchasers, approximately [●] potential purchasers performed substantial diligence; and the Debtor received [●] term sheets from potential purchasers.

14. [Selection of second round bidders and solicitation of second round bids]

15. [consideration of second round bids and selection of potential stalking horse purchaser]

16. [diligence, APA execution]

17. To maximize the value of the Assets, the Debtor proposes to commence a sales process for the Assets, as it continues to negotiate with potential purchasers, develop strategies, and market the Assets for sale.

18. As part of the proposed postpetition sale process, the Debtor and its other professionals will continue to engage in the robust marketing effort for the Debtor's assets, which started well before the Petition Date, by continuing to contact both financial and strategic investors regarding a potential sale, including all parties contacted prior to the commencement of the Chapter 11 Case. All interested parties have been or, upon entry of the Bid Procedures Order, will be given an opportunity to execute a confidentiality agreement (a "Confidentiality Agreement") and be given access to the data room maintained by Grandbridge. Those parties that execute a

Confidentiality Agreement will be provided with substantial due diligence information concerning, and access to, the Debtor, including, without limitation, presentations by the Debtor and its advisors, and access to financial, operational, and other detailed information.

Stalking Horse Agreement

19. The key terms of the proposed transaction can be found in the Stalking Horse Agreement attached hereto as **Exhibit A**. The material terms of the Stalking Horse Agreement are as follows:

MATERIAL TERMS OF STALKING HORSE AGREEMENT²	
Purchase Price	<p>The Purchase Price payable under the Stalking Horse Agreement for the Assets is Thirty-Three Million and NO/00 Dollars (\$33,000,000.00) (the “Purchase Price”) as adjusted in accordance with this Section 2.5 of the Stalking Horse Agreement.</p> <p><i>See Stalking Horse Agreement at § 2.5.</i></p>
Assets	<p>Upon the terms and subject to the conditions contained in the Stalking Horse Agreement, at the Closing (as defined in Section 2.6), the Seller shall sell, assign, transfer, deliver and convey to Buyer, and Buyer shall purchase, acquire and accept from Seller pursuant to Sections 363 and 365 of the Bankruptcy Code, free and clear of all Liens except Permitted Liens, all of Seller’s right, title and interest in and to all of the following to the extent owned by the Seller and used in the Business, but excluding the Excluded Assets (as defined in Section 2.2) (collectively, the “Purchased Assets”):</p> <ul style="list-style-type: none">i. The Facility, the Premises, and the improvements thereon;ii. the Books and Records, Resident medical records, and Transferred Employee records;iii. the Assumed Contracts (including for Resident Agreements, any rights of Seller in the Entrance Fee And Option Deposits);iv. the Equipment;v. the Inventory;

² All capitalized terms that are used in this summary but not otherwise defined herein shall have the meanings set forth in the Stalking Horse Agreement. To the extent there are any discrepancies between the Stalking Horse Agreement and this summary, the terms of the Stalking Horse Agreement shall prevail.

	<ul style="list-style-type: none"> vi. to the extent transferable under applicable law, the Permits; vii. all intellectual property, including any trademarks, trade secrets, and the like; viii. general intangibles, and community specific intellectual property, including domain name www.hillsidevillagekeene.org, as well as the names “The Prospect-Woodward Home” and “Hillside Village Keene” and related logos and marketing materials; and ix. subject to Buyer being a non-profit, such funds being transferable, and the restrictions on the use of any such funds (such funds and restrictions as described in Schedule [●]), all of Seller’s rights in any endowment or donor-restricted funds held by Seller (collectively, the “<u>Endowment</u>”). <p><i>See Stalking Horse Agreement at § 2.1.</i></p>
<p>Assumed Liabilities</p>	<p>Upon the terms and subject to the conditions contained in the Stalking Horse Agreement, at the Closing, Buyer shall assume or otherwise be responsible for, which amounts shall be in addition to the Purchase Price, for (collectively, the “<u>Assumed Liabilities</u>”):</p> <ul style="list-style-type: none"> i. all Entrance Fee Obligations and obligations under Residency Agreements and Option Agreements; ii. all liabilities and obligations under the Purchased Assets accruing or arising after the Closing; iii. all liabilities and obligations associated with the Assumed Contracts from and after Closing and all Cure Amounts associated with such Assumed Contracts; and iv. all liabilities required to be paid by Buyer pursuant to this Agreement (such as, without limitation, any recording fee, one-half of the real property transfer Taxes, and to the extent the Endowment is transferred to Buyer, any obligations with regard to the use after the Effective Time of the Endowment in accordance with law). <p>Seller shall have no liability for any such liabilities or obligations.</p> <p><i>See Stalking Horse Agreement at § 2.3.</i></p>

Real Property Included	95 Wyman Road, Keene, New Hampshire
Releases	The Sale Order provides certain claims against the Debtor and/or the Purchaser are barred or otherwise waived. <i>See</i> Sale Order, ¶ 20, 22, 24, and 25.
Closing and Other Deadlines	<p>The closing of the transactions contemplated by the Stalking Horse Agreement (the “<u>Closing</u>”) shall take place at the offices of Hinckley Allen, 650 Elm Street, Manchester, New Hampshire, within seven (7) days after satisfaction or waiver of the conditions to Closing set out in <u>Article 6</u> of the Stalking Horse Agreement (the “<u>Closing Date</u>”), and in no event later than March 31, 2022 (the “<u>Outside Closing Date</u>”) (unless otherwise mutually agreed by the Parties, including with regard to a remote closing). The transactions contemplated hereby shall take place pursuant to, and in accordance with, the terms and conditions hereof. The Closing shall be effective as of 11:59 p.m. Eastern Time on the Closing Date or such other date and time as the parties may agree in writing (the “<u>Effective Time</u>”).</p> <p><i>See</i> Stalking Horse Agreement at § 2.6.</p>
Good Faith Deposit	<p>One Million Dollars and NO/00 (\$1,000,000.00) shall be paid as an earnest money deposit (the “<u>Deposit</u>”) to [●] (“<u>Escrow Agent</u>”) at the time of execution of the Stalking Horse Agreement, which will be held by Escrow Agent in accordance with the terms and conditions of this Agreement and the Escrow Agreement. The Deposit will be credited against the Purchase Price at Closing, and will otherwise be disbursed as provided in this Agreement, the Escrow Agreement and the Sale Order. Any interest on the Deposit shall follow the Deposit.</p> <p><i>See</i> Stalking Horse Agreement at § 2.5(b).</p>
Record Retention	<p>Following the Closing of the Sale, the Debtor shall have, and the Purchaser shall provide, reasonable access to their books and records, to the extent they are included in the Assets transferred to the Purchaser as part of the Sale as set forth in the Agreement.</p> <p><i>See</i> Proposed Sale Order at ¶ 29.</p>
Sale of Avoidance Actions	<p>Avoidance Actions are not being sold, assigned transferred, or conveyed to Purchaser, <i>provided, however</i>, that during the Chapter 11 Case, Seller shall not commence, assign, convey or abandon any Avoidance Actions against any of Seller’s ordinary course vendors, contract counterparties, contractors and other suppliers of services related to the Business who are doing business with Purchaser following the Closing, without the prior written consent of Buyer.</p>

	<i>See Stalking Horse Agreement §§ 2.2(d) and 5.9(j).</i>
Credit Bid	<p>The Bond Trustee may participate in the Auction and may credit bid up to the conclusion of the Auction, in its sole and absolute discretion, any portion and up to the entire amount of the Bond Trustee’s claims at any time on all the Assets constituting its collateral (the “<u>Credit Bid</u>”). Upon exercise of a Credit Bid, the Bond Trustee shall not be required to take title to or ownership of, or have any obligation in connection with, or be deemed to have taken title to or ownership of, or have any obligation in connection with, any Assets, and the Bond Trustee shall have the right to designate any person or entity in its sole and absolute discretion that shall take title to the Assets that are subject to the Credit Bid. The Bond Trustee will not be a Backup Bidder unless the Bond Trustee consents in writing otherwise. If the Bond Trustee elects to exercise its right to Credit Bid, the Stalking Horse Payment must be paid in cash in addition to the amount of the Credit Bid. If the Bond Trustee exercises its right to Credit it, the Bond Trustee must commit to fund the Chapter 11 Case and sale process.</p> <p>Subject to the prior paragraph, the Stalking Horse Bidder shall have the right (including as part of any Overbid) to credit bid all or a portion of its Bid Protections (if any) pursuant to Bankruptcy Code section 363(k).</p> <p><i>See Bid Procedures Order at ¶¶ 5, 6.</i></p>
Relief from Bankruptcy Rule 6004(h)	<p>For cause shown, pursuant to Bankruptcy Rules 6004(h), 6006(d), and 7062(g), this Sale Order shall not be stayed and shall be effective immediately upon entry, and the Debtors and the Purchaser are authorized to close the Sale immediately upon entry of this Sale Order. The Debtors and the Purchaser may consummate the Agreement at any time after entry of this Sale Order by waiving any and all closing conditions set forth in the Agreement that have not been satisfied and by proceeding to close the Acquired Asset Sale without any notice to the Court, any prepetition or postpetition creditor of the Debtors and/or any other party in interest.</p> <p><i>See Proposed Sale Order, ¶ 28.</i></p>

20. All of the Debtor’s rights, title, and interest in the Assets shall be sold free and clear of any liens, security interests, claims, charges, or encumbrances pursuant to section 363 of the Bankruptcy Code. The Debtor proposes that any such liens, security interests, claims, charges, or encumbrances shall attach to the amounts payable to the Debtor’s estate resulting from the Sale,

net of any transaction fees (the “Sale Proceeds”), in the same order of priority and subject to the rights, claims, defenses, and objections, if any, of all parties with respect thereto, subject to any further order of the Court.

21. The Stalking Horse Agreement was negotiated in good faith and at arm’s length, and the Debtor believes the terms of the proposed transaction are fair and reasonable under all the circumstances. In addition, the Debtor believes that the proposed postpetition marketing process described herein will provide sufficient time and opportunity for any other interested party to submit a higher or otherwise better offer for the Assets.

The Proposed Sale

22. The Debtor believes a prompt sale of the Assets represents the best option available for all stakeholders in the Chapter 11 Case. Moreover, it is critical for the Debtor to execute on any sale transaction as expeditiously as possible to maximize value for the Debtor’s estate.

23. By this Motion, the Debtor requests that the Court approve the following general timeline:

- (a) ***Contract Cure Objection Deadline:*** Objections to the potential assumption and assignment of any Contract will be filed and served no later than 4:00 p.m. (ET) on [●], 2021.
- (b) ***Bid Deadline:*** Bids for the Assets, including a marked-up form of the Stalking Horse Agreement, as well as the deposit and the other requirements for a bid to be considered a Qualified Bid (as defined in the Bid Procedures) must be received by no later than [●], 2021 at 4:00 p.m. (prevailing Eastern Time) (the “**Bid Deadline**”).
- (c) ***Auction:*** The Auction, if necessary, will be held at [●] on [●], 2021 at 10:00 a.m. (prevailing Eastern Time), or such other location as identified by the Debtor after notice to all Qualified Bidders.
- (d) ***Sale Objection Deadline:*** Objections to the Sale will be filed and served no later than [●], 2021.
- (e) ***Sale Hearing:*** Subject to the Court’s availability and schedule, the Sale Hearing will commence on or before [●], 2021.

24. The Debtor believes that this timeline maximizes the prospect of receiving a higher or otherwise better offer without unduly prejudicing its estate. Given the Debtor's extensive prepetition marketing efforts, the proposed timeline is more than sufficient to complete a fair and open sale process that will maximize the value received for the Assets. To further ensure that the Debtor's proposed Auction and Sale process maximizes value for the benefit of the Debtor's estate, the Debtor and its professionals will use the time following entry of the Bid Procedures Order to actively market the Assets in an attempt to solicit the highest or otherwise best bids available. The Debtor believes the relief requested by this Motion is in the best interests of its creditors, other stakeholders, and all other parties in interest, and should be approved.

The Bid Procedures Order

I. The Bid Procedures

25. To optimally and expeditiously solicit, receive, and evaluate bids in a fair and accessible manner, the Debtor has developed and proposed the Bid Procedures, attached as **Exhibit 1** to the Bid Procedures Order. The Bid Procedures were designed to permit an expedited sale process, to promote participation and active bidding, and to ensure that the Debtor receives the highest or otherwise best offer for the Assets. The Debtor believes that the timeline for consummating the sale process established pursuant to the Bid Procedures is in the best interest of its estate and all parties in interest.

26. The Bid Procedures describe, among other things, the requirements for prospective purchasers to participate in the bid process, the availability and conduct of due diligence, the deadline for submitting a competing bid, the method and factors for determining Qualified Bids, and the criteria for selecting a Successful Bidder.

27. The following summary describes the salient points of the Bid Procedures:³

- (a) **Qualification of Bidders.** To be eligible to participate in the Auction, each offer, solicitation or proposal (each, a “Bid”), and each party submitting such a Bid (each, a “Bidder”), must be determined by the Debtor to satisfy each of the following conditions:
- (i) Corporate Authority. Written evidence reasonably acceptable to the Debtor demonstrating appropriate corporate authorization to consummate the Sale; *provided, however,* that, if the Bidder is an entity specially formed for the purpose of effectuating the Sale, then the Bidder must furnish written evidence reasonably acceptable to the Debtor, in consultation with the Consultation Parties, of the approval of the Sale by the equity holder(s) of such Bidder.
 - (ii) Proof of Financial Ability to Perform. Written evidence that the Debtor reasonably concludes, in consultation with the Consultation Parties, demonstrates that the Bidder has the necessary financial ability to close the Sale and provide adequate assurance of future performance under all Assigned Contracts. Such information should include, *inter alia*, the following:
 - contact names, email addresses and telephone numbers for verification of financing sources;
 - evidence of the Bidder’s internal resources and proof of any debt or equity funding commitments that are needed to close the transaction;
 - the Bidder’s current financial statements; and
 - any such other form, financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor demonstrating that such Bidder has the ability to close the transaction; *provided, however,* that the Debtor shall determine, in its reasonable discretion, in consultation with the Debtor’s advisors and the Consultation Parties, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Bidder’s financial qualifications.
- (b) **Qualified Bids.** Each Bid must be determined by the Debtor, in consultation with the Consultation Parties, to satisfy each of the following conditions:
- (i) Good Faith Deposit. Each Bid must be accompanied by a deposit in the amount of One Million Dollars and NO/00 (\$1,000,000.00) to an interest

³ This summary of the Bid Procedures is qualified in its entirety by the Bid Procedures.

bearing escrow account to be identified and established by the Debtor (the “Good Faith Deposit”).

- (ii) Terms. A Bid must include executed transaction documents pursuant to which the Bidder proposes to effectuate the Sale, including an asset purchase agreement (the “Transaction Documents”). A Bid should propose a transaction involving substantially all, or a portion of, the Debtor’s Assets or operations. The Debtor shall evaluate all Bids to determine whether such Bid(s) maximizes the value of the Debtor’s estate as a whole. The Transaction Documents shall also identify any executory contracts and unexpired leases of the Debtor that the Bidder wishes to have assumed and assigned to it pursuant to the Sale (collectively, the “Assigned Contracts”). The Debtor will consider proposals for less than substantially all of the Debtor’s Assets or operations. A Bid to purchase only certain Assets of the Debtor shall propose a purchase price determined by such Bidder but shall be reviewed by the Debtor to determine if it is acceptable in consultation with the Consultation Parties.
- (iii) Contingencies. A Bid may not be conditioned on obtaining financing or any internal approval, or on the outcome or review of due diligence, but may be subject to the accuracy in all material respects at the closing of specified representations and warranties.
- (iv) Irrevocable. A Bid must be irrevocable through the Auction; *provided, however*, that if such Bid is accepted as the Successful Bid or the Backup Bid (as defined in the Bid Procedures), such Bid shall continue to remain irrevocable, subject to the terms and conditions of the Bid Procedures.
- (v) Disclaimer of Fees. Each Bid (other than the Stalking Horse Bid) must disclaim any right to receive any break-up fee, expense reimbursement, termination fee, or any other similar form of compensation.
- (vi) Bid Deadline. The Debtor must receive a Bid in writing, on or before [●], 2021 at 4:00 p.m. or such later date as may be agreed to by the Debtor (the “Bid Deadline”). Bids must be sent to the following by the Bid Deadline to be considered: counsel for the Debtor, (i) Polsinelli PC, 600 Third Avenue, 42nd Floor, New York, New York 10016, Attn: Jeremy R. Johnson (jeremy.johnson@polsinelli.com) and Attn: Stephen J. Astringer (sastringer@polsinelli.com), and (ii) Hinckley, Allen & Snyder LLP, 650 Elm Street, Manchester, New Hampshire 03101, Attn: Daniel M. Deschenes (ddeschenes@hinckleyallen.com) and 28 State Street, Boston, Massachusetts 02109, Attn: Jennifer V. Doran (jdoran@hinckleyallen.com); broker for the Debtor, Grandbridge Real Estate Capital LLC, 1408 North Westshore Boulevard, Suite 910, Tampa, Florida 33607, Attn: I; and counsel to the Bond Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: Daniel S. Bleck (dsbleck@mintz.com).

- (c) **Right to Credit Bid.** UMB Bank, N.A., as bond trustee with respect to the Series 2017 Bonds authorized and issued by the New Hampshire Health And Education Facilities Authority for the benefit of the Debtor (the “Bond Trustee”), shall be deemed to be a Qualified Bidder and is not required to make any Good Faith Deposit in submitting a Credit Bid (defined below). The Bond Trustee may participate in the Auction and, to extent set forth in the Cash Collateral Order, may Credit Bid at any time up to the conclusion of the Auction, in its sole and absolute discretion, any portion and up to the entire amount of its individual claims (a “Credit Bid”). Upon exercise of a Credit Bid, the Bond Trustee shall not be required to take title to or ownership of, or have any obligation in connection with, or be deemed to have taken title to or ownership of, or have any obligation in connection with, the Assets, and the Bond Trustee shall have the right to designate any person or entity in its sole and absolute discretion that shall take title to the Assets that are subject to the Credit Bid. The Bond Trustee will not be a Backup Bidder unless it consents in writing otherwise.

Subject to the prior paragraph, the Stalking Horse Bidder shall have the right (including as part of any Overbid) to credit bid all or a portion of its Bid Protections (if any) pursuant to Bankruptcy Code section 363(k). For avoidance of doubt, the Stalking Horse Bid is a Qualified Bid and the Stalking Horse Bidder is a Qualified Bidder.

- (d) **Cancellation of the Auction.** If the Debtor does not receive one or more Qualified Bids (other than the Stalking Horse Bid) or otherwise determines, after consultation with the Consultation Parties, not to proceed with the Sale, the Debtor may elect not to conduct the Auction and may cancel the Auction.
- (e) **Stalking Horse Rights.** The Stalking Horse Payment shall be taken into account with each round of bidding and in each phase of the Auction by adding \$910,000.00 (the amount of the Stalking Horse Payment) to the amount of each bid made by the Stalking Horse. Any credit bids submitted by a party other than the Stalking Horse shall include a cash component that is sufficient to (a) pay the amount of the Stalking Horse Payment and (b) pay for any Assets that are unencumbered by the first priority perfected liens in favor of the credit bidder. The Stalking Horse shall have the last opportunity to bid after the receipt of any Overbid and before the next round of bidding commences, provided, however, that no party shall be denied a subsequent round of bidding following any such bid by the Stalking Horse. Notwithstanding anything stated on the record at the Auction or otherwise, (x) all rights of the Debtor against the Stalking Horse in the event of a default by the Stalking Horse are stated in the Stalking Horse Agreement, as such agreement may be amended by the Debtor and the Stalking Horse, and (y) the Stalking Horse shall have all termination rights stated in the Stalking Horse Agreement as such agreement may be amended by the Debtor and the Stalking Horse.
- (f) **Bidding Increments and Overbid.** At the Auction, the Debtor will announce the leading Qualified Bid (the “Auction Baseline Bid”). Bidding on the Assets beyond

the Auction Baseline Bid will be done in increments that will be determined by the Debtors after consultation with the Consultation Parties. The initial minimum Overbid shall be \$100,000. In advance of the Auction and after a review of the Qualified Bids received, the Debtor, in consultation with its advisors and the Consultation Parties, shall determine the increments of any subsequent Overbid after the Auction Baseline Bid but such amount shall not be less than \$100,000 (the "Minimum Overbid Increment") for a bid for all of the Debtor's Assets, and in an amount to be determined by the Debtor, in consultation with the Consultation Parties at the Auction; provided, that the Debtor shall retain the right to modify the bid increment requirements at the Auction in consultation with the Consultation Parties. Additional consideration in excess of the amount set forth in the Auction Baseline Bid may include only cash, the assumption of debt or marketable securities, or a Credit Bid under Bankruptcy Code section 363(k) of an allowed secured claim of the Bond Trustee.

- (g) **Backup Bidder.** If an Auction is conducted, the party with the next highest or otherwise best Qualified Bid(s) at the Auction, as determined by the Debtor, in the exercise of its business judgment, shall be required to serve as a backup bidder (the "Backup Bidder"). The Backup Bidder shall be required to keep its final Bid at Auction (or if the Backup Bidder submitted one or more Overbids at the Auction, its final Overbid) (the "Backup Bid") open and irrevocable until sixty (60) days after entry of the Sale Order (the "Outside Backup Date") or the closing of the transaction with the Successful Bidder. Following entry of the Sale Order, if the Successful Bidder fails to consummate an approved transaction because of a breach or failure to perform on the part of such Successful Bidder, the Debtor may designate the Backup Bidder to be the new Successful Bidder, and the Debtor will be authorized, but not required, to consummate the transaction with the Backup Bidder without further order of the Bankruptcy Court. In such case, the defaulting Successful Bidder's deposit, if any, shall be forfeited to the Debtor's estate, and the Debtor specifically reserves the right to seek all available damages from the defaulting Successful Bidder. The closing date to consummate the transaction with the Backup Bidder shall be the later of (a) sixty (60) days after the date that the Debtor provides notice to the Backup Bidder that the Successful Bidder failed to consummate a Sale and that the Debtor desires to consummate the transaction with the Backup Bidder, or (b) March 31, 2022 (the "Outside Closing Date"). The deposit, if any, of the Backup Bidder shall be held by the Debtor until the earlier of two (2) business days after (a) the closing of the Sale with the Successful Bidder and (b) the Outside Backup Date; *provided, however*, that in the event the Successful Bidder does not consummate the transaction as described above and the Debtor provides notice to the Backup Bidder, the Backup Bidder's deposit shall be held until the closing of the transaction with the Backup Bidder. In the event that the Debtor fails to consummate a transaction with the Backup Bidder as described above, the Backup Bidder's deposit shall be forfeited to the Debtor's estate, and the Debtor specifically reserves the right to seek all available damages from the defaulting Backup Bidder.

- (h) **Diligence Materials.** To participate in the Bidding Process and to receive access to any materials relating to the Assets (the “Diligence Materials”), a party must submit to the Debtor an executed Confidentiality Agreement, signed and transmitted by the person or entity wishing to have access to the Diligence Materials.
- (i) **Reservation of Rights.** The Debtor reserves the right to modify the Bid Procedures in its reasonable business judgment in any manner, after consultation with the Consultation Parties, that will best promote the goals of the Bidding Process or impose, at or prior to the Auction, additional customary terms and conditions on the Sale of the Assets.

28. Importantly, the Bid Procedures recognize the Debtor’s fiduciary obligations to maximize sale value and, as such, do not impair the Debtor’s ability to consider all Qualified Bid proposals. Additionally, as noted above, the Bid Procedures preserve the Debtor’s right to modify the Bid Procedures as necessary or appropriate to maximize value of the Debtor’s estate.

II. Stalking Horse Protections.

29. If the Stalking Horse Agreement has not been terminated by the Debtor based on a material breach by the Stalking Horse and the Debtor sells all or any substantial portion of the Assets in a transaction or series of transactions with one or more persons other than the Stalking Horse, upon consummation of such transaction or transactions, from the proceeds of such a sale or sales, the Debtor shall pay the Stalking Horse the sum of \$910,000.00 (the “Stalking Horse Payment”).

30. Except for the Stalking Horse, no other party submitting an offer or Bid for all or any of the Assets or a Qualifying Bid shall be entitled to any expense reimbursement, breakup fee, termination, or similar fee or payment or any other protection against the Debtor designating another party as the Successful Bidder or Backup Bidder (collectively, with the Stalking Horse Payment, the “Stalking Horse Protections”).

III. The Auction and Sale.

31. If one or more Qualified Bids are received by the Bid Deadline (other than the Stalking Horse Agreement), the Debtor will conduct an Auction to determine the highest and otherwise best Qualified Bid. This determination shall take into account any factors the Debtor reasonably deems relevant to the value of the Qualified Bid to the Debtor's estate, after consultation with the Consultation Parties, including, without limitation, the following: (a) the amount and nature of the consideration; (b) the proposed assumption of any liabilities and/or executory contracts or unexpired leases; (c) the ability of the Qualified Bidder to close the proposed transaction; (d) the proposed closing date and the likelihood, extent and impact of any potential delays in closing, including delays owing to regulatory uncertainty; (e) any purchase price adjustments; (f) the impact of the transaction on any actual or potential litigation; and (g) the net after-tax consideration to be received by the Debtor's estate (the "Bid Assessment Criteria"). If no Qualified Bid (other than the Stalking Horse Agreement) is received by the Bid Deadline, the Debtor may determine not to conduct the Auction and deem the Stalking Horse Agreement to be the Successful Bid without conducting the Auction. The Debtor seeks authority from the Court to schedule the Auction on a date as further described in the Bid Procedures.

IV. Form and Manner of Sale Notice

32. On or within five (5) business days after entry of the Bid Procedures Order, the Debtor will cause the Sale Notice to be served on the following parties or their respective counsel, if known: (a) the Office of the United States Trustee for Region 1, James C. Cleveland Building, 53 Pleasant Street, Suite 2300, Concord, NH 03301 (the "U.S. Trustee"); (b) counsel to the Bond Trustee; (c) counterparties to the Contracts (the "Contract Counterparties"); (d) all parties who have expressed a written interest in the Assets; (e) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim, or interest in the

Assets; (f) the Internal Revenue Service; (g) all other applicable state and local taxing authorities; (h) all the Debtor's other creditors; (i) each governmental agency that is an interested party with respect to the Sale and transactions proposed thereunder; and (j) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002.

V. Summary of the Assumption Procedures.

33. The Debtor is also seeking approval of the Assumption Procedures to facilitate the fair and orderly assumption and assignment of the Contracts in connection with the Sale. Pursuant to the Bid Procedures Order, notice of the proposed assumption and assignment of the Contracts to the Successful Bidder, the proposed cure amounts, and the right, procedures, and deadlines for objecting, will be provided in separate notices, attached to the Bid Procedures Order as **Exhibit 3** (the "Cure and Possible Assumption and Assignment Notice") and **Exhibit 4** (the "Assumption Notice") to be sent to the Contract Counterparties. Because the Bid Procedures Order sets forth the Assumption Procedures in detail, they are not restated here. Generally, however, the Assumption Procedures: (a) outline the process by which the Debtor will serve notice to all Contract Counterparties regarding the proposed assumption and assignment and related cure amounts, if any, informing such parties of their right, and the procedures, to object; and (b) establish objection and other relevant deadlines and the manner for resolving disputes relating to the assumption and assignment of the Contracts to the extent necessary.

Basis for Relief

I. The Relief Sought in the Bid Procedures Order Is in the Best Interests of the Debtor's Estate and Should Be Approved.

A. *The Proposed Notice of the Bid Procedures and the Sale Process Is Appropriate.*

34. The Debtor seeks to sell the Assets through an Auction and related sale process, subject to the Debtor's right to seek an alternative course of action to maximize the value of its

estate. The Debtor and its advisors have conducted and will conduct an extensive marketing process. The Debtor has developed a list of “Contact Parties” who will receive a copy of the “Information Package” (both as defined in the Bid Procedures). The list of Contact Parties will encompass those parties whom the Debtor believes may potentially be interested in pursuing a Sale and whom the Debtor reasonably believes may have the financial resources to consummate such a transaction. The Bid Procedures are designed to elicit bids from one or more parties and to encourage a robust auction of the Assets, thus maximizing the value of the Debtor’s estate for the benefit of its creditors and other stakeholders.

35. Under Bankruptcy Rule 2002(a) and (c), the Debtor is required to notify creditors of the proposed sale of the Assets, including a disclosure of the time and place of any auction, the terms and conditions of a sale, and the deadline for filing any objections. The Debtor respectfully submits that the Sale Notice is reasonably calculated to provide all interested parties with timely and proper notice of the proposed Sale, including: (a) the date, time, and place of the Auction (if one will be held); (b) the Bid Procedures; (c) the deadline for filing objections to the Sale and entry of the Sale Order, and the date, time, and place of the Sale Hearing; (d) a reasonably specific identification of the Assets; (e) a description of the Sale as being free and clear of liens, claims, interests, and other encumbrances, with all such liens, claims, interests, and other encumbrances attaching with the same validity and priority to the Sale proceeds; and (f) notice of the proposed assumption and assignment of the Contracts to the Successful Bidder.

36. The Debtor further submits that notice of this Motion and the related hearing to consider entry of the Bid Procedures Order, coupled with service of the Sale Notice, the Cure and Possible Assumption and Assignment Notice, and the Assumption Notice, as provided for herein, constitutes good, adequate, and constitutionally sufficient notice of the Sale and the proceedings

with respect thereto in compliance with, and satisfaction of, the applicable requirements of Bankruptcy Rule 2002. The Debtor further submits that the proposed notice procedures are designed to maximize the chance of obtaining the broadest possible participation in the Debtor's marketing process, while minimizing costs to the estate as much as possible. Accordingly, the Debtor respectfully requests that the Court find that the proposed notice procedures set forth in this Motion are sufficient, and that no other or further notice of the Bid Procedures, Auction, Sale, or Sale Hearing is required.

B. *The Bid Procedures Are Appropriate and Will Maximize Value.*

37. Bidding procedures should be approved when they provide a benefit to the debtor's estate by maximizing the value of the debtor's assets. *See In re Edwards*, 228 B.R. 552, 361 (Bankr. E.D. Pa. 1998) ("The purpose of procedural bidding orders is to facilitate an open and fair public sale designed to maximize value for the estate."). Courts have made clear that a debtor's business judgment is entitled to substantial deference with respect to the procedures to be used in selling an estate's assets. *See In re Schipper*, 933 F.2d 513, 515 (7th Cir. 1991) ("Under Section 363, the debtor in possession can sell property of the estate . . . if he has an 'articulated business justification'"); *In re Martin*, 91 F.3d 389, 395 (3d Cir. 1996) (same); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (same); *see also In re Integrated Resources, Inc.*, 147 B.R. 650, 656-57 (S.D.N.Y. 1992) (noting that bidding procedures that have been negotiated by a trustee are to be reviewed in accordance with the deferential "business judgment" standard, under which such procedures and arrangements are "presumptively valid").

38. The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. *See Mushroom Transp. Co., Inc.*, 382 F.3d 325, 339 (3d Cir. 2004); *Official Comm. of Unsecured Creditors of Cybergenics, Corp. v. Chinery*, 330 F.3d 548, 573 (3d Cir. 2003); *see also In re Food Barn Stores, Inc.*, 101 F.3d 558, 564-65 (8th Cir. 1997) (in

bankruptcy sales, “a primary objective of the Code [is] to enhance the value of the estate at hand”); *Integrated Resources*, 147 B.R. at 659 (“[I]t is a well-established principle of bankruptcy law that the objective of the bankruptcy rules and the trustee’s duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate.”); *Edwards*, 228 B.R. at 561.

39. To that end, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value received by the estate and therefore appropriate in the context of bankruptcy transactions. *See In re O’Brien Envtl. Energy, Inc.*, 181 F.3d 527, 537 (3d Cir. 1999); *Integrated Resources*, 147 B.R. at 659 (bidding procedures “are important tools to encourage bidding and to maximize the value of the Debtors’ assets”); *In re Fin. News Network, Inc.*, 126 B.R. 152, 156 (Bankr. S.D.N.Y.1991) (“court-imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and [should] provide for a fair and efficient resolution of bankrupt estates”).

40. The Debtor believes that the Bid Procedures will establish the parameters under which the value of the Sale may be tested at the Auction. The Bid Procedures will increase the likelihood that the Debtor will receive the greatest possible consideration because they will ensure a competitive and fair bidding process.

41. The Debtor believes that the proposed Bid Procedures will promote active bidding from seriously interested parties and will elicit the highest or otherwise best offers available for the Assets. The proposed Bid Procedures will enable the Debtor to conduct the Sale in a controlled, fair, and open fashion that will encourage participation by financially capable bidders who will offer the best package for the Assets and who can demonstrate the ability to close the transaction.

42. Specifically, the Bid Procedures contemplate an open auction process with reasonable barriers to entry and provide potential bidding parties with sufficient time to perform

due diligence and acquire the information necessary to submit a timely and well-informed Bid. At the same time, the Bid Procedures provide the Debtor with a robust opportunity to consider competing Bids and select the highest or otherwise best offer for the completion of the Sale. Additionally, the Debtor's entry into the Stalking Horse Agreement with the Stalking Horse will ensure that the Debtor obtains fair market value for the Assets by setting a minimum purchase price that will be tested in the marketplace. As such, creditors of the Debtor's estate can be assured that the consideration obtained will be fair and reasonable and at or above the market value.

43. In sum, the Debtor believes the Bid Procedures will encourage bidding for the Assets and are consistent with the relevant standards governing auction proceedings and bidding incentives in bankruptcy proceedings. Accordingly, the proposed Bid Procedures are reasonable, appropriate, and within the Debtor's sound business judgment.

C. Entering into the Stalking Horse Agreement with Stalking Horse Protections Has a Sound Business Purpose and Should be Approved.

44. Pursuant to this Motion, the Debtor is seeking approval of this Court of the Stalking Horse Agreement and approval of the Stalking Horse Protections. The Debtor believes that, in this case, such relief is warranted to ensure the Debtor's ability to take advantage of a potentially value-maximizing bid. The ability of the Debtors to offer the Stalking Horse Purchaser the Stalking Horse Protections is beneficial to the Debtors' estates and creditors in that, by providing these incentives, the Debtors will have an opportunity to induce a Potential Bidder to submit or increase its bid prior to the Auction.

45. As noted above, the Stalking Horse was induced to submit its stalking horse bid in reliance on the promise by the Debtor to seek the Stalking Horse Protections and in reasonable expectation that this Court would enter an order providing such relief. The Debtor submits that the Stalking Horse Protections are a normal, and oftentimes necessary, component of sales outside of

the ordinary course of business under section 363 of the Bankruptcy Code. In particular, such protections encourage a potential purchaser to invest the requisite time, money, and effort to conduct due diligence and sale negotiations with a debtor despite the inherent risks and uncertainties of the chapter 11 process. *Integrated Resources*, 147 B.R. at 660 (noting that fees may be legitimately necessary to convince a “white knight” to offer an initial bid by providing some form of compensation for the expenses such bidder incurs and the risks such bidder faces by having its offer held open, subject to higher and better offers); *In re Hupp Indus.*, 140 B.R. 191, 194 (Bankr. N.D. Ohio 1997) (without any reimbursement, “bidders would be reluctant to make an initial bid for fear that their first bid will be shopped around for a higher bid from another bidder who would capitalize on the initial bidder’s... due diligence”); *In re Marrose Corp.*, Case No. 89 B 12171 (CB), 1992 WL 33848, at *5 (Bankr. S.D.N.Y. Feb. 15, 1992) (stating that “agreements to provide reimbursement of fees and expenses are meant to compensate the potential acquirer who serves as a catalyst or ‘stalking horse[,]’ which attracts more favorable offers”); *In re 995 Fifth Ave. Assocs.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (finding that bidding incentives may be “legitimately necessary to convince a white knight to enter the bidding process by providing some form of compensation for the risks it is undertaking”) (citations omitted).

46. In this case, the Stalking Horse Protections consist of a Stalking Horse Payment of \$910,000. A proposed bidding incentive, such as the Stalking Horse Payment, should be approved when it is in the best interests of the estate. *See In re S.N.A. Nut Co.*, 186 B.R. 98, 104 (Bankr. N.D. Ill. 1995); *see also In re America West Airlines, Inc.*, 166 B.R. 908 (Bankr. D. Ariz. 1994); *In re Hupp Indus., Inc.*, 140 B.R. 191 (Bankr. N.D. Ohio 1992). Typically, this requires that the bidding incentive provide some benefit to the debtor’s estate. *Calpine Corp. v. O’Brien Envtl. Energy, Inc. (In re O’Brien Envtl. Energy, Inc.)*, 181 F.3d 527, 533 (3d Cir. 1999) (holding that

even though bidding incentives are measured against a business judgment standard in non-bankruptcy transactions, the administrative expense provisions of Bankruptcy Code section 503(b) govern in the bankruptcy context).

47. In *O'Brien*, the Third Circuit found that whether breakup fees and expenses could be paid to Calpine Corp. as a “stalking horse” depended on whether such fees were necessary to preserve the value of the estate. *O'Brien*, 181 F.3d at 536. The court determined that Calpine Corp.’s right to breakup fees and expenses depended on whether it provided a benefit to the debtor’s estate by promoting competitive bidding or researching the value of the assets at issue to increase the likelihood that the selling price reflected the true value of the company. *Id.* at 537. The Debtor believes that approval of the Stalking Horse Protections will create such a competitive bidding process.

48. The Debtor believes that the proposed Stalking Horse Payment is fair and reasonably compensates the Stalking Horse for taking actions that will benefit the Debtor’s estate. The payment compensates the Stalking Horse for diligence and professional fees incurred in negotiating the terms of the Stalking Horse Agreement on an expedited timeline.

49. Moreover, the proposed Stalking Horse Protections are the result of an arm’s-length negotiated agreement between the Debtor and the Stalking Horse. There is no evidence or reason to believe that the relationship between the Debtor and the Stalking Horse has been tainted by self-dealing or manipulation.

50. The Debtor does not believe the Stalking Horse Protections will have a chilling effect on the sale process. Rather, the Stalking Horse has increased the likelihood that the best possible price for the Assets will be received by permitting other qualified bidders to rely on the diligence performed by the Stalking Horse, and moreover, by allowing qualified bidders to use the

Stalking Horse Agreement as a platform for negotiations and modifications in the context of a competitive bidding process.

51. In sum, the Stalking Horse Protections are reasonable under the circumstances and will enable the Debtor to maximize the value for the Assets while limiting any chilling effect on the sale process. The Stalking Horse Protections are not only necessary given the risk the Debtor assumes in forgoing a known, willing, and able purchaser for a new potential acquirer, but also to ensure that there is an increase in the net proceeds received by its estate, after deducting the Stalking Horse Protections to be paid to the Stalking Horse in the event of a prevailing overbid.

52. Courts in the First Circuit have repeatedly recognized the importance of bid protections for stalking horse bidders. *See, e.g., In re Wintex, Inc.*, 158 B.R. 540, 543 (D. Mass. 1992) (stating that a “debtor may avoid the increased costs and complexity associated with considering additional bids unless the additional bids are high enough to justify their pursuit” and a “10% increase requirement is one example of a reasonable litmus test”); *In re Lexington Jewelers Exchange, Inc., d/b/a Alpha Omega Jewelers*, Case No. 08-10042 (WCH) [Docket No. 42] (Bankr. D. Mass. Jan. 4, 2009) (approving breakup fee in order approving bid procedures); *In re Syratech Corporation*, Case No. 05-11062 (RS) (Bankr. D. Mass. 2005) (authorizing breakup fee and expense reimbursement in order approving bid procedures) [Docket No. 290]; *In re Dehon, Inc. (f/k/a In re Arthur D. Little, Inc.)*, Case No. 02-41045 (HJB) (Bankr. D. Mass. 2002) [Docket No. 86] (approving bid procedures which provide for a \$1,000,000 reimbursement expense to the stalking horse bidder in the event another bidder was deemed the highest or best offer).

D. *The Proposed Notice Procedures for the Assigned Contracts and the Identification of Related Cure Amounts Are Appropriate.*

53. As set forth above, the Sale contemplates the potential assumption and assignment of the Contracts to the Successful Bidder arising from the Auction, if any. In connection with this

process, the Debtor believes it is necessary to establish a process by which: (a) the Debtor and the Contract Counterparties can reconcile cure obligations, if any, in accordance with Bankruptcy Code sections 105(a) and 365; and (b) such counterparties can object to the potential Assumption Procedures.

54. The Bid Procedures specify the process by which the Debtor will serve Cure and Possible Assumption and Assignment Notices and the procedures and deadline for Contract Counterparties to Assigned Contracts to file and serve Cure or Assignment Objections.

55. Except as may otherwise be agreed to in the Successful Bid or by the parties to an Assigned Contract, at the closing of the Sale, the Successful Bidder shall cure those defaults under the Assigned Contracts that need to be cured in accordance with Bankruptcy Code section 365(b) by (a) payment of the undisputed cure amount (the “Cure Amount”) and/or (b) reserving amounts with respect to any disputed cure amounts. Should the Stalking Horse be the Successful Bidder, the Debtor shall cure those defaults under the Assigned Contracts that need to be cured in accordance with Bankruptcy Code section 365(d), by (a) payment of the Cure Amount and/or (b) reserving the full disputed amount with respect to any disputed cure amounts.

56. As set forth in the Bid Procedures Order, the Debtor also requests that any party that fails to object to the proposed assumption and assignment of any Contract be deemed to consent to the assumption and assignment of the applicable Contract pursuant to Bankruptcy Code section 365 on the terms set forth in the Sale Order, along with the Cure Amounts identified in the Cure and Possible Assumption and Assignment Notice. *See, e.g., In re Tabone, Inc.*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (by not objecting to the Motion, a creditor is deemed to consent); *Pelican Homestead v. Wooten (In re Gabel)*, 61 B.R. 661, 667 (Bankr. W.D. La. 1985) (same).

57. The Debtor believes that the Assumption Procedures are fair and reasonable, provide sufficient notice to the Contract Counterparties of the potential assumption and assignment of their Contracts, and provide certainty to all parties in interest regarding their obligations and rights with respect thereof. Accordingly, the Debtor requests that the Court approve the Assumption Procedures set forth in the Bid Procedures Order.

II. Approval of the Proposed Sale Is Appropriate and in the Best Interests of the Estate.

A. *The Asset Sale Should Be Authorized Pursuant to Bankruptcy Code Section 363 as a Sound Exercise of the Debtor's Business Judgment.*

58. Bankruptcy Code section 363(b)(1) provides that a debtor, “after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). A sale of the debtor’s assets should be authorized pursuant to Bankruptcy Code section 363 if a sound business purpose exists for the proposed transaction. *See, e.g., Meyers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (“Under Section 363, the debtor-in-possession can sell property of the estate . . . if he has an ‘articulated business justification’ . . .”); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (Bankr. D. Del. 1999); *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 174 (Bankr. D. Del. 1991); *see also In re Schipper*, 933 F.2d 513, 515 (7th Cir. 1991) (same); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *In re Telesphere Commc’ns, Inc.*, 179 B.R. 544, 552 (Bankr. N.D. Ill. 1999). A sound business purpose for the sale of a debtor’s assets outside the ordinary course of business may be found where such a sale is necessary to preserve the value of assets for the estate, its creditors or interest holders. *See, e.g., In re Abbotts Dairies of Pa, Inc.*, 788 F.2d 143 (3d Cir. 1986); *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983).

59. Courts typically consider the following factors in determining whether a proposed sale satisfies this standard: (a) whether a sound business justification exists for the sale; (b) whether

adequate and reasonable notice of the sale was given to interested parties; (c) whether the sale will produce a fair and reasonable price for the property; and (d) whether the parties have acted in good faith. *See Del. & Hudson*, 124 B.R. at 176; *In re Phoenix Steel Corp.*, 82 B.R. 334, 335-36 (Bankr. D. Del. 1987).

60. “Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). There is a presumption that “in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company.” *In re Integrated Res.*, 147 B.R. at 656 (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)); *see also In re S.N.A. Nut Co.*, 186 B.R. 98, 102 (Bankr. N.D. Ill. 1995) (“The business judgment rule ‘is a presumption that in making the business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action was in the best interests of the company.’”); *In re Filene’s Basement, LLC*, No. 11-13511 (KJC), 2014 WL 1713416, at *12 (Bankr. D. Del. Apr. 29, 2014) (“If a valid business justification exists, then a strong presumption follows that the agreement at issue was negotiated in good faith and is in the best interests of the estate.”). Thus, if a debtor’s actions satisfy the business judgment rule, then the transaction in question should be approved under Bankruptcy Code section 363(b)(1). Indeed, when applying the business judgment standard, courts show great deference to a debtor’s business decisions. *See Pitt v. First Wellington Canyon Assocs. (In re First Wellington Canyon Assocs.)*, 1989 WL 106838, at *3 (N.D. Ill. 1989) (“Under this test, the debtor’s business judgment

. . . must be accorded deference unless shown that the bankrupt’s decision was taken in bad faith or in gross abuse of the bankrupt’s retained discretion.”).

61. As set forth above, and in the First Day Declaration, the Debtor has a sound business justification for selling the Assets. First, the Debtor believes that the Sale will maximize the Assets’ going-concern value by allowing a party to bid on business assets that would have substantially less value on a stand-alone basis. Moreover, to the extent that the Successful Bidder assumes certain of the Contracts, it will result in payment in full for a number of the Debtor’s creditors.

62. Second, the sale of the Assets will be subject to competing bids, enhancing the Debtor’s ability to receive the highest or otherwise best value for the Assets. The value of the Assets will be tested through the Auction conducted pursuant to and according to the Bid Procedures. Ultimately, the Successful Bid, after being subject to a “market check” in the form of the Auction and accepted by the Debtor in the exercise of its reasonable business judgment, will constitute the highest or otherwise best offer for the Assets and will provide a greater recovery for its estate than any known or practically available alternative. *See, e.g., In re Trans World Airlines, Inc.*, No. 01-00056, 2001 WL 1820326, at *4 (Bankr. D. Del. 2001) (while a “section 363(b) sale transaction does not require an auction procedure . . . the auction procedure has developed over the years as an effective means for producing an arm’s-length fair value transaction”). Consequently, the fairness and reasonableness of the consideration to be paid by the Successful Bidder ultimately will be demonstrated by adequate “market exposure” and an open and fair auction process — the best means for establishing whether a fair and reasonable price is being paid.

63. Thus, absent a change in circumstances that causes the Debtor to abandon the sale process, the Debtor submits that the Successful Bidder's purchase agreement will constitute the highest or otherwise best offer for the Assets and will provide a greater recovery for the Debtor's estate than would be provided by any other available alternative. As such, the Debtor's determination to sell the Assets through an Auction process and subsequently to enter into the purchase agreement with the Successful Bidder will be a valid and sound exercise of the Debtor's business judgment. The Debtor will submit evidence at the Sale Hearing to support these conclusions. Therefore, the Debtor requests that the Court make a finding that the proposed sale of the Assets is a proper exercise of the Debtor's business judgment and is rightly authorized.

B. *Adequate and Reasonable Notice of the Sale Will Be Provided.*

64. As described above, the Sale Notice: (a) will be served in a manner that provides at least 21-days' notice of the date, time, and location of the Sale Hearing; (b) informs parties in interest of the deadlines for objecting to the Sale or the assumption and assignment of the Contract; and (c) otherwise includes all information relevant to parties interested in or affected by the Sale. Significantly, the form and manner of the Sale Notice will have been approved by this Court pursuant to the Bid Procedures Order, after notice and a hearing, before it is served on parties in interest.

C. *The Sale and Purchase Price Will Reflect a Fair-Value Transaction.*

65. Where there is a court-approved auction process, a full and fair price is presumed to have been obtained for the assets sold, as the best way to determine value is exposure to the market. *See Bank of Am. Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 457 (1999). The Debtor will continue to market the Assets and solicit offers consistent with the Bid Procedures, including, without limitation, by providing acceptable Bidders with access to Due Diligence and requested information. In this way, the number of Bidders that are eligible to

participate in the competitive Auction process will be maximized. On the other hand, if the Debtor enters into a Stalking Horse Agreement and no auction is held because no auction is necessary, the Stalking Horse Agreement's purchase price conclusively will have been demonstrated to be fair value.

D. *The Sale of the Assets Should Be Free and Clear of Interests Pursuant to Bankruptcy Code Section 363(f).*

66. The Debtor further submits that it is appropriate to sell the Assets free and clear of all liens, claims, encumbrances, and interests (collectively, the “**Interests**”) pursuant to Bankruptcy Code section 363(f), with any such Claims and Interests attaching to the net sale proceeds of the Assets, as and to the extent applicable.

67. Section 363(f) permits a debtor to sell property free and clear of another party's interest in the property if (a) applicable nonbankruptcy law permits such a free and clear sale; (b) the holder of the interest consents; (c) the interest is a lien and the sale price of the property exceeds the value of all liens on the property; (d) the interest is the subject of a *bona fide* dispute; or (e) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest. *See* 11 U.S.C. § 363(f).

68. Section 363(f) is drafted in the disjunctive. Thus, satisfaction of any of the requirements enumerated therein will suffice to permit the Debtor's sale of the Assets free and clear of all interests (*i.e.*, all liens, claims, rights, interests, charges, or encumbrances), except with respect to any interests that may be assumed liabilities under the applicable purchase agreement. *See In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) (“[I]f any of five conditions are met, the Debtors have the authority to conduct the sale free and clear of all liens.”); *see also In re Dundee Equity Corp.*, 1992 Bankr. LEXIS 436, at *12 (Bankr. S.D.N.Y. March 6, 1992) (“[s]ection 363(f) is in the disjunctive, such that the sale free of the interest concerned may

occur if any one of the conditions of § 363(f) have been met.”); *Citcorp Homeowners Servs., Inc. v. Eliot (In re Eliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (same); *Michigan Employment Sec. Comm’n v. Wolverine Radio Co. (In re Wolverine Radio Co.)*, 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (stating that section 363(f) of the Bankruptcy Code is written in the disjunctive; holding that the court may approve the sale “free and clear” provided that at least one of the subsections of section 363(f) has been satisfied).

69. The Debtor submits that, excluding assumed agreements, the Assets may be sold free and clear of liens, claims, encumbrances, and other interests—all in accordance with at least one of the five conditions of section 363(f). Consistent with section 363(f)(2), each of the parties holding liens on the Assets, if any, will consent, or absent any objection to this Motion, will be deemed to have consented to, the Sale and transfer of the Assets. Furthermore, any party holding a valid lien against the Assets will be adequately protected by having its liens, if any, attach to the sale proceeds received by the Debtor from the Sale of the Assets to the Successful Bidder, in the same order of priority, with the same validity, force and effect that such creditor had prior to such sale, subject to any claims and defenses the Debtor and its estate may possess. Accordingly, section 363(f) authorizes the sale and transfer of the Assets free and clear of any such Interests.

E. *The Assets and the Assigned Contracts Should Be Sold Free and Clear of Successor Liability.*

70. The Sale Order will provide that the Successful Bidder shall not have any successor liability related to Seller or the Assets to the maximum extent permitted by law. Extensive case law establishes that claims against a winning bidder may be directed to the proceeds of a free and clear sale of property, and may not subsequently be asserted against that buyer.

71. Although Bankruptcy Code section 363(f) provides for the sale of assets “free and clear of any interests,” the term “any interest” is not defined anywhere in the Bankruptcy Code.

Folger Adam Security v. DeMatteis/MacGregor JV, 209 F.3d 252, 257 (3d Cir. 2000). In the case of *In re Trans World Airlines. Inc.*, 322 F.3d 283, 288-89 (3d Cir. 2003), the Third Circuit specifically addressed the scope of the term “any interest.” The Third Circuit observed that while some courts have “narrowly interpreted that phrase to mean only in rem interests in property,” the trend in modern cases is towards “a more expansive reading of ‘interests in property’ which ‘encompasses other obligations that may flow from ownership of the property.’” *Id.* at 289 (citing 3 Collier on Bankruptcy 363.06[1]). As determined by the Fourth Circuit in *In re Leckie Smokeless Coal Co.*, 99 F.3d 573, 581-82 (4th Cir. 1996), a case cited approvingly and extensively by the Third Circuit in *Folger*, the scope of section 363(f) is not limited to in rem interests. Thus, the Third Circuit in *Folger* cited *Leckie* for the proposition that the debtors “could sell their assets under § 363(f) free and clear of successor liability that otherwise would have arisen under federal statute.” *Folger*, 209 F.3d at 258.

72. Courts have consistently held that a buyer of a debtor’s assets pursuant to a section 363 sale takes free from successor liability resulting from pre-existing claims. *See In re Ormet*, 2014 WL 3542133 at *4 (Bankr. D. Del. July 17, 2014); *The Ninth Avenue Remedial Group v. Allis-Chalmers Corp.*, 195 B.R. 716, 732 (Bankr. N.D. Ind. 1996) (stating that a bankruptcy court has the power to sell assets free and clear of any interest that could be brought against the bankruptcy estate during the bankruptcy); *MacArthur Co. v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 837 F.2d 89, 93-94 (2d Cir. 1988) (channeling of claims to proceeds consistent with intent of sale free and clear under section 363(f) of the Bankruptcy Code); *In re New England Fish Co.*, 19 B.R. 323, 329 (Bankr. W.D. Wash. 1982) (transfer of property in free and clear sale was free and clear of Title VII employment discrimination and civil rights claims of Debtors’ employees); *In re Hoffman*, 53 B.R. 874, 876 (Bankr. D.R.I. 1985) (transfer of liquor license free

and clear of any interest permissible even though the estate had unpaid taxes); *American Living Systems v. Bonapfel (In re All Am. of Ashburn, Inc.)*, 56 B.R. 186, 190 (Bankr. N.D. Ga. 1986) (product liability claims precluded from being asserted against his successor in a sale of assets free and clear); *WBQ P'ship v. Virginia Dept. of Medical Assistance Services (In re WBQ P'ship)*, 189 B.R. 97, 104-05 (Bankr E D. Va. 1995) (Commonwealth of Virginia's right to recapture depreciation is an "interest" as used in section 363(f)).

73. The purpose and value of an order authorizing the transfer of the Assets would be frustrated if claimants thereafter could use the transfer as a basis to assert claims against the Successful Bidder. Under Bankruptcy Code section 363(f), the Successful Bidder is entitled to know that the Assets are not tainted by latent claims that could be asserted against the Successful Bidder after the proposed transaction is completed. Absent that ruling, the value of the Assets could be severely compromised.

74. Accordingly, there is substantial authority for any order approving the Sale of the Assets to include a finding that the Successful Bidder is not liable as a successor under any theory of successor liability, for Interests that encumber or relate to the Assets.

F. *The Sale Has Been Proposed in Good Faith and Without Collusion, and the Successful Bidder Will Be a "Good-Faith Purchaser" Entitled to the Full Protection of Bankruptcy Code Section 363(m); and the Sale of the Assets Does Not Violate Bankruptcy Code Section 363(n).*

75. The Debtor requests that the Court find that the Successful Bidder is entitled to the benefits and protections provided by Bankruptcy Code section 363(m) in connection with the sale of the Assets.

76. Section 363(m) provides, in pertinent part:

[t]he reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity

knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m).

77. Section 363(m) thus protects the purchaser of assets sold pursuant to section 363 from the risk that it will lose its interest in the purchased assets if the order allowing the sale is reversed on appeal, as long as such purchaser purchased the assets in “good faith.” While the Bankruptcy Code does not define “good faith,” courts have held that a purchaser shows its good faith through the integrity of its conduct during the course of the sale proceedings, finding that, where there is a lack of such integrity, a good-faith finding may not be made. *See, e.g., Abbotts Dairies of Pa.*, 788 F.2d at 147 (“Typically, the misconduct that would destroy a [buyer’s] good faith status at a judicial sale involves fraud, collusion between the [proposed buyer] and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.”); *In the Matter of Andy Frain Servs., Inc.*, 798 F.2d 1113 (7th Cir. 1986) (same); *In re Sasson Jeans, Inc.*, 90 B.R. 608, 610 (S.D.N.Y. 1988) (same).

78. The Debtor submits that the Stalking Horse Bidder, or any other Successful Bidder arising from the Auction would be a “good faith purchaser” within the meaning of section 363(m), and the resulting purchase agreement would be a good-faith agreement on arm’s-length terms entitled to the protections of section 363(m).⁴ First, as set forth in more detail above, the consideration to be received by the Debtor pursuant to the Sale will be subject to a market process by virtue of the Debtor’s marketing efforts and the Auction will be substantial, fair, and reasonable.

⁴ The Debtor believes that a finding of good faith within the meaning of section 363(m) of the Bankruptcy Code will be appropriate for any Successful Bidder arising from the Auction, if any, and the Bid Procedures. Pursuant to the Bid Procedures, any Successful Bidder will have had to present a proposal in accordance with the Bid Procedures. In addition, the Debtor will not choose as the Successful Bidder or the Backup Bidder (as defined in the Bid Procedures) any entity whose good faith under section 363(m) can reasonably be doubted, and will be prepared to present the Court with sufficient evidence to allow the Court to find that the “good faith” standard of section 363(m) has been satisfied.

Second, the asset purchase agreement entered into by the Debtor and the Successful Bidder (to the extent the Successful Bidder is someone other than the Stalking Horse) will be the result of extensive arm's-length negotiations, during which all parties will have the opportunity to be, and the Debtor will be, represented by competent counsel, and any purchase agreement with a Successful Bidder will be the culmination of the Debtor's competitive market process and, if necessary, the Auction, in which all negotiations will be conducted on an arm's-length, good-faith basis. Third, where—as the Debtor anticipates will be the case here—there is no indication of any “fraud or collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders” or similar conduct, there is no cause that would permit the Sale to be avoided pursuant to Bankruptcy Code section 363(n). Moreover, with respect to potential Bidders, the Bid Procedures are designed to ensure that no party is able to exert undue influence over the process. Finally, the Successful Bidder's offer will be evaluated and approved by the Debtor in consultation with its advisors and the Consultation Parties. Accordingly, the Debtor believes that the Successful Bidder and the resulting purchase agreement should be entitled to the full protections of Bankruptcy Code section 363(m).

79. Moreover, because there will be absolutely no fraud or improper insider dealing of any kind, the Sale will not constitute an avoidable transaction pursuant to Bankruptcy Code section 363(n), and, as a result, the Successful Bidder should receive the protections afforded good faith purchasers by Bankruptcy Code section 363(m). Accordingly, the Debtor requests that the Court make a finding at the Sale Hearing that the agreement reached with the Successful Bidder was at arm's length and is entitled to the full protections of Bankruptcy Code section 363(m). The Debtor will submit evidence at the Sale Hearing to support these conclusions.

G. Credit Bidding Should Be Authorized Pursuant to Bankruptcy Code Section 363(k).

80. A secured creditor is allowed to “credit bid” the amount of its claims in a sale of assets in which it has a security interest. Bankruptcy Code section 363(k) provides, in relevant part, that unless the court for cause orders otherwise, the holder of a claim secured by property that is the subject of the sale “may bid at such sale, and, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property.” 11 U.S.C. § 363(k). Even if a secured creditor is undersecured as determined in accordance with Bankruptcy Code section 506(a), section 363(k) allows such secured creditor to bid the total face value of its claim and does not limit the credit bid to the creditor’s economic value. *See In re Submicron Sys. Corp.*, 432 F.3d 448, 459-60 (3d Cir. 2006) (explaining that “[i]t is well settled . . . that creditors can bid the full face value of their secured claims under section 363(k)”).

81. Absent cause for restriction on credit bidding, courts have consistently ruled in favor of reserving a secured creditor’s right to credit bid its claim. *See In re Source Home Entm’t, LLC*, No. 14-115533 (KG) (Bankr. D. Del. July 21, 2014) (order approving Bid Procedures which authorized parties with secured claims to credit bid); *In re Fisker Auto. Hldgs, Inc.*, No. 13-13087 (KG) (Bankr. D. Del. Jan. 23, 2014) (order authorizing secured creditors to exercise right under section 363(k) to make a credit bid); *In re PTC Alliance Corp.*, No. 09-13395 (Bankr. D. Del. Nov. 6, 2009) (order authorizing, but not directing, the administrative agent to credit bid); *In re Hayes Lemmerz Int’l, Inc.*, No. 09-11655 (Bankr. D. Del. Sept. 22, 2009) (order authorizing interested party to exercise its right under Bankruptcy Code section 363(k) to make a credit bid); *In re Foamex Int’l Inc.*, 09-10560, (Bankr. D. Del. May 27, 2009) (order authorizing the sale of substantially all of the Debtors’ assets in a \$155 million credit bid over a \$151.5 million all-cash

bid); *see also Cohen v. KB Mezzanine Fund II, LP (In re SubMicron Sys. Corp.)*, 432 F.3d 448, 459-60 (3d Cir. 2006) (citations omitted).

III. The Assumption and Assignment of the Contracts Should Be Approved.

A. *The Assumption and Assignment of the Contracts Reflects the Debtor's Reasonable Business Judgment.*

82. To facilitate and effectuate the sale of the Assets, the Debtor is seeking authority to assign the Assigned Contracts to the Successful Bidder to the extent required by such Successful Bidder.

83. Bankruptcy Code section 365 authorizes a debtor to assume and/or assign its executory contracts and unexpired leases, subject to the approval of the court, provided that the defaults under such contracts and leases are cured and adequate assurance of future performance is provided. *See* 11 U.S.C. § 365(b)(1).

84. The standard applied in determining whether an executory contract or unexpired lease should be assumed is the “business judgment” test, which requires a debtor to determine that the requested assumption or rejection would be beneficial to its estate. *See Sharon Steel Corp. v. Nat'l Fuel Gas Distrib. Corp.*, 872 F.2d 36, 40 (3d Cir. 1989); *see also NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 523 (1984) (describing business judgment test as “traditional”) (superseded in part by 11 U.S.C. § 1113).

85. Courts generally will not second-guess a debtor's business judgment concerning the assumption of an executory contract. *See In re Decora Indus., Inc.*, 2002 WL 32332749, at *8 (D. Del. 2002); *Official Comm. for Unsecured Creditors v. Aust (In re Network Access Solutions, Corp)*, 330 B.R. 67, 75 (Bankr. D. Del. 2005) (“The standard for approving the assumption of an executory contract is the business judgment rule”); *In re Exide Techs.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006) (“The propriety of a decision to reject an executory contract is governed by the

business judgment standard”); *see also Phar Mor, Inc. v. Strouss Bldg. Assocs.*, 204 B.R. 948, 952 (N.D. Ohio 1997) (“Courts should generally defer to a Debtors’ decision whether to reject an executory contract.”). A debtor’s decision to assume or reject an executory contract or unexpired lease will not be subject to review unless such decision is clearly an unreasonable exercise of such judgment. *See, e.g., Group of Institutional Investors v. Chicago, Milwaukee, St. Paul & Pac. Ry. Co.*, 318 U.S. 523 (1943) (applying Bankruptcy Act section 77(b), predecessor to section 365, and rejecting a test of whether an executory contract was burdensome in favor of determining whether rejection is within the debtor’s business judgment); *see also Sharon Steel*, 872 F.2d at 40 (describing deference to a debtor’s business judgment as “breathing space afforded [to] the debtor to consider whether to reject or assume executory contracts under the Code”); *Network Access Solutions*, 330 B.R. at 75; *Exide Techs.*, 340 B.R. at 239.

86. The Court here should approve the decision to assume and assign the Assigned Contracts in connection with the Sale as a sound exercise of the Debtor’s business judgment. First, the Assigned Contracts are necessary to operate the Assets and, as such, they are essential to inducing the best offer for the Assets. Second, it is unlikely that any purchaser would want to acquire the Assets unless a significant number of the Contracts needed to manage the day-to-day operations were included in the transaction. Third, the Assigned Contracts will be assumed and assigned as part of a process approved by the Court pursuant to the Bid Procedures Order and, thus, will be reviewed by key constituents in the Chapter 11 Case. Accordingly, the Debtor submits that the assumption and assignment of the Assigned Contracts, if required by the Successful Bidder, should be approved as a sound exercise of the Debtor’s business judgment.

87. A debtor-in-possession may assign an executory contract or an unexpired lease of the debtor if it assumes the agreement in accordance with Bankruptcy Code section 365(a), and

provides adequate assurance of future performance by the assignee, whether or not there has been a default under the agreement. *See* 11 U.S.C. § 365(f)(2). Significantly, among other things, adequate assurance may be provided by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *See, e.g., In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (stating that adequate assurance of future performance is present when the prospective assignee of a lease from the debtors has financial resources and has expressed willingness to devote sufficient funding to the business in order to give it a strong likelihood of succeeding).

88. The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given "practical, pragmatic construction." *EBG Midtown South Corp. v. McLaren/Hart Envtl. Eng'g Corp. (In re Sanshoe Worldwide Corp.)*, 139 B.R. 585, 592 (S.D.N.Y. 1992), *aff'd*, 993 F.2d 300 (2d Cir. 1993); *Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1988).

89. Contract Counterparties will have the opportunity to request additional adequate assurance information by responding to the Cure and Possible Assumption and Assignment Notice. Accordingly, the Debtor submits that the assumption and assignment of the Assigned Contracts as set forth herein should be approved.

90. To assist in the assumption, assignment and sale of the Assigned Contracts, the Debtor also requests that the Sale Order approving the Sale of the Assets provide that anti-assignment provisions in the Assigned Contracts shall not restrict, limit or prohibit the assumption, assignment and sale of the Assigned Contracts and are deemed and found to be unenforceable anti-assignment provisions within the meaning of Bankruptcy Code section 365(f).

91. Section 365(f)(1) permits a debtor to assign unexpired leases and executory contracts free from such anti-assignment restrictions, providing, in pertinent part, that:

[N]otwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this subsection

11 U.S.C. § 365(f)(1).

92. Section 365(f)(1), by operation of law, invalidates provisions that prohibit, restrict, or condition assignment of an executory contract or unexpired lease. *See, e.g., Coleman Oil Co., Inc. v. The Circle K Corp. (In re The Circle K Corp.)*, 127 F. 3d 904, 910-11 (9th Cir. 1997) (“no principle of bankruptcy or contract law precludes us from permitting the Debtors here to extend their leases in a manner contrary to the leases’ terms, when to do so will effectuate the purposes of section 365”), *cert. denied*, 522 U.S. 1148 (1998). Section 365(f)(3) goes beyond the scope of section 365(f)(1) by prohibiting enforcement of any clause creating a right to modify or terminate the contract or lease upon a proposed assumption or assignment thereof. *See, e.g., In re Jamesway Corp.*, 201 B.R. 73 (Bankr. S.D.N.Y. 1996) (section 365(f)(3) prohibits enforcement of any lease clause creating right to terminate lease because it is being assumed or assigned, thereby indirectly barring assignment by debtor; all lease provisions, not merely those entitled anti-assignment clauses, are subject to court’s scrutiny regarding anti-assignment effect).

93. Other courts have recognized that provisions that have the effect of restricting assignments cannot be enforced. *See In re Rickel Home Ctrs., Inc.*, 240 B.R. 826, 831 (D. Del. 1998) (“In interpreting Section 365(f) [*sic*], courts and commentators alike have construed the terms to not only render unenforceable lease provisions which prohibit assignment outright, but also lease provisions that are so restrictive that they constitute de facto anti-assignment provisions.”). Similarly, in *In re Mr. Grocer., Inc.*, the court noted that:

[the] case law interpreting § 365(f)(1) of the Bankruptcy Code establishes that the court does retain some discretion in determining that lease provisions, which are not themselves ipso facto anti-assignment clauses, may still be refused enforcement in a bankruptcy context in which there is no substantial economic detriment to the landlord shown, and in which enforcement would preclude the bankruptcy estate from realizing the intrinsic value of its assets.

77 B.R. 349, 354 (Bankr. D.N.H. 1987). Thus, the Debtor requests that any anti-assignment provisions be deemed not to restrict, limit or prohibit the assumption, assignment and sale of the Assigned Contracts, and be deemed and found to be unenforceable anti-assignment provisions within the meaning of Bankruptcy Code section 365(f).

IV. Relief Pursuant to Bankruptcy Rules 6004(h) and 6006(d) Is Appropriate.

94. Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.” Additionally, Bankruptcy Rule 6006(d) provides that an “order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.” The Debtor requests that the Sale Order be effective immediately upon its entry by providing that the 14-day stays under Bankruptcy Rules 6004(h) and 6006(d) be waived.

95. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to appeal before an order can be implemented. *See* Advisory Committee Notes to Fed. R. Bankr. P. 6004(h) and 6006(d). Although Bankruptcy Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should “order otherwise” and eliminate or reduce the 14-day stay periods, the leading treatise on bankruptcy suggests that the 14-day stay periods should be eliminated to allow a sale or other transaction to close immediately “where there has been no objection to procedure.” 10 *Collier on Bankruptcy* ¶ 6004.10 (15th rev. ed. 2006). Furthermore, if an objection is filed and overruled, and the objecting party informs the

court of its intent to appeal, the stay may be reduced to the amount of time actually necessary to file such appeal. *Id.*

96. To maximize the value received from the Assets, and to ensure compliance with the requirements of the Cash Collateral Order, the Debtor seeks to close the Sale as soon as possible after the Sale Hearing. Accordingly, the Debtor requests that the Court waive the 14-day stay periods under Bankruptcy Rules 6004(h) and 6006(d).

NOTICE

97. Notice of this Motion has been given to (a) the Office of the United States Trustee for the District of New Hampshire; (b) the parties included on the Debtor's list of twenty (20) largest unsecured creditors; (c) counsel to UMB Bank, as indenture trustee, (d) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002, and (e) each governmental agency that is an interested party with respect to the Sale and transactions proposed thereunder. In light of the nature of the relief requested herein, the Debtor respectfully submits that no further notice of this Motion is required. The Debtor submits that, under the circumstances, no other or further notice need be given.

NO PRIOR REQUEST

98. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests that this Court: (a) enter the Bid Procedures Order, in substantially the form attached hereto as **Exhibit B**; (b) enter the Sale Order, which shall be filed prior to the Sale Hearing; and (c) grant such other and further relief as is just and proper.

Dated: [●], 2021

/s/ *Draft*

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*Proposed Counsel to the Debtor and Debtor
in Possession*

APPENDIX K
Bid Solicitation Materials

HILLSIDE VILLAGE

STALKING HORSE ANNOUNCEMENT

As an update to your previous interest in **Hillside Village** located in Keene, New Hampshire, Hillside Village has signed a purchase agreement with a Stalking Horse bidder whose due diligence is now complete, and Hillside has initiated Chapter 11 proceedings in the U.S. Bankruptcy Court for the District of New Hampshire. Bid Procedures have been proposed to the U.S. Bankruptcy Court. The terms of the Stalking Horse bid, along with key information for the next steps in the sale process, are summarized below. Interested parties are invited to submit a Qualified Bid in order to participate in the auction. *Note: this notice is not intended to be an all-inclusive summary of the bid process; prospective bidders should refer to the full Bid Procedures for all requirements, with the understanding that the Bid Procedures and Bid Dates are subject to Court approval. We encourage you to complete any diligence now, and diligence materials are available in the data room.*

THE STALKING HORSE BID

Please use the link below to access the virtual data room, which now includes a copy of the Stalking Horse Asset Purchase Agreement. Summary terms include:

- Stalking Horse Bidder: Covenant Living Services
- Purchase Price: \$33.0 million
- Earnest Money Deposit: \$1.0 million
- Purchaser shall assume all Entrance Fee liabilities and residency agreement obligations, will pay the accrued PTO up to \$200,000 owed as of closing, and will pay any contract cure costs designated for assumption by Purchaser

BID PROCEDURES

Bid Procedures proposed to the U.S. Bankruptcy Court are posted in the data room. To be eligible to participate in the Auction, we anticipate each bidder/bid will have to satisfy all conditions as set forth in the bid procedures. These conditions include:

- Minimum Opening Cash Bid: \$34,010,000, which is calculated by the sum of:
 - \$33,000,000 Stalking Horse Bid
 - \$910,000 Stalking Horse Payment (breakup fee plus expense reimbursement)
 - \$100,000 Initial Minimum Overbid
 - Plus assumed liabilities consistent with the Stalking Horse APA
- Earnest Money Deposit: \$1.0 million
- Executed Transaction Documents (see data room for Stalking Horse APA)
- No financing contingency or due diligence review (therefore you should finalize any diligence now)
- Bid Deadline: [TBD]

THE AUCTION

If one or more Qualified Bids are received by the Bid Deadline (other than the Stalking Horse Agreement), the Debtor will conduct an Auction to determine the highest and otherwise best Qualified Bid.

- Auction Date: [TBD]
- Minimum Bid Increment: TBD, but anticipated to be no less than \$100,0000
- Sale Hearing: [TBD]
- Outside Closing Date: March 31, 2022

Please use the link below to access the virtual data room, which includes the items referenced above, in addition to due diligence materials. If you have any questions, please contact David Kliever at the contact information noted below. Thank you.



VIRTUAL DATA ROOM

INVESTMENT CONTACTS

DAVID KIEWER
727 641 6655
david.kliever@grandbridge.com

JAY JORDAN
727 515 5719
jay.jordan@grandbridge.com

ALLEN MCMURTRY
813 220 0375
allen.mcmurtry@grandbridge.com



HILLSIDE VILLAGE

KEENE, NEW HAMPSHIRE



Grandbridge Real Estate Capital has been exclusively retained to market for sale **Hillside Village**, a premier Life Plan Community / CCRC located in Keene, New Hampshire. Opened in 2019, Hillside Village is set on 66 acres and includes 222 total units, including 141 Independent Living apartments and an 81-unit health center with Assisted Living, Memory Care and future Long-Term Care.

Hillside Village has signed a purchase agreement with a Stalking Horse bidder whose due diligence is now complete, and **Hillside** has initiated Chapter 11 proceedings in the U.S. Bankruptcy Court for the District of New Hampshire. Bid Procedures have been proposed to the U.S. Bankruptcy Court. A virtual data room containing more information on the bidding process, along with detailed due diligence information, is available to all potential bidders who execute a Confidentiality Agreement (see link at the bottom of this email).

● TYPE A LIFECARE CONTRACT WITH ENTRANCE FEE PRICING RANGING FROM \$217,000-\$664,000

● ABUNDANT COMMON AREAS INCLUDING AN INDOOR POOL AND PERFORMING ARTS CENTER

● INDEPENDENT LIVING APARTMENTS AVERAGE OVER 1,000 SQUARE FEET

● INDEPENDENT LIVING OCCUPANCY IS APPROXIMATELY 75%

● AVERAGE IL MONTHLY SERVICE FEES EXCEED \$5,000 PER MONTH

● FOUR-STORY HEALTH CENTER CONNECTED TO THE MAIN BUILDING BY AN UNDERGROUND WALKWAY

● TWO OF THE FOUR FLOORS OF THE HEALTH CENTER ARE CURRENTLY OPEN



For additional information, please execute the Confidentiality Agreement (CA).



EXECUTE CONFIDENTIALITY AGREEMENT

INVESTMENT CONTACTS

DAVID KIEWER
727 641 6655
david.kiewer@grandbridge.com

JAY JORDAN
727 515 5719
jay.jordan@grandbridge.com

ALLEN MCMURTRY
813 220 0375
allen.mcmurtry@grandbridge.com



APPENDIX L
Bankruptcy Court Sale Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home dba Hillside Village,	)	Case No. 21-10523-BAH
)	
Debtor. ¹	)	Re: Docket No. 10
)	

**ORDER (A) APPROVING ASSET PURCHASE AGREEMENT BETWEEN
THE DEBTOR AND THE SUCCESSFUL BIDDER; (B) AUTHORIZING THE
SALE OF SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS FREE AND
CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS;
(C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT
OF CONTRACTS, AND (D) GRANTING RELATED RELIEF**

Upon consideration of the *Motion of the Debtor for Entry of (I) an Order (A) Approving Bidding Procedures in Connection with the Sale of Substantially All of the Debtor’s Assets, (B) Approving the Form and Manner of Notice Thereof, (C) Authorizing the Debtor to Enter Into the Stalking Horse Agreement, (D) Authorizing Payment of the Stalking Horse Payment as an Administrative Expense, (E) Scheduling an Auction and Sale Hearing, (F) Approving Procedures for the Assumption and Assignment of Contracts, and (G) Granting Related Relief; and (II) an Order (A) Approving the Asset Purchase Agreement Between the Debtor and the Successful Bidder, (B) Authorizing the Sale of Substantially All of the Debtor’s Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (C) Authorizing the Assumption and Assignment of Contracts, and (D) Granting Related Relief* (the “Sale Motion”) [Docket No. 10] of the above-captioned debtor and debtor-in-possession (the “Debtor”), which requests an order (this “Sale Order”) that, among other things: (a) authorizes and approves that certain Asset Purchase

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431.

Agreement (including all related exhibits and schedules) (the “Agreement”)² (a complete copy of the Agreement was attached as Exhibit B to the Sale Motion) among the Debtor and Covenant Living Services or its nominee (“Purchaser”), which provides for, effective as of the Closing Date of the Sale, Debtor’s sale, grant, assignment, transfer, conveyance and delivery of substantially all of the Debtor’s assets identified therein (collectively, the “Assets”) to Purchaser free and clear of all Interests (defined below) except the Permitted Liens³ (the “Sale”); and (b) authorizes and approves the assumption and assignment by the Debtor of certain unexpired leases and executory contracts to the Purchaser as referenced in the Agreement (the “Assigned Contracts”), or in one or more subsequent filings authorized by an order of this Court as contemplated by the Agreement; it appearing that the relief requested in the Sale Motion is in the best interests of the Debtor’s estate, its creditors, and other parties in interest; it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and it appearing that the Sale Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); this Court having found that it may enter a final order consistent with Article III of the United States Constitution; this Court having found that venue of this proceeding and the Sale Motion in this District is proper pursuant to 28 U.S.C. § 1408; adequate notice of the Sale Motion and opportunity for objection having been given; adequate notice with respect to the assumption and assignment of the Assigned Contracts having been given; this Court having reviewed and considered the Sale Motion and any written and oral objections thereto; this Court having heard statements of counsel and the evidence presented in support of the relief requested by the Debtor in the Sale Motion at a hearing before this Court (the “Sale Hearing”); upon the full record of the Chapter 11 Case; it appearing that no other notice need be given; it

² Except as otherwise defined herein, or where reference is made to a definition in the Sale Motion, all capitalized terms shall have the meanings ascribed to them in the Agreement.

³ As defined in the Agreement.

further appearing that the legal and factual bases set forth in the Sale Motion and the record made at the Sale Hearing establish good, just and sufficient cause for the relief granted herein; and after due deliberation and sufficient cause therefor:

THE COURT FINDS AND DETERMINES THAT:

Jurisdiction, Final Order, and Statutory Predicates

A. The findings and conclusions set forth in here constitute the Court’s findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334.

C. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

D. Venue is proper in this District pursuant to 28 U.S.C. § 1408.

E. The bases for the relief requested in the Sale Motion are sections 105(a), 363, 365, 503(b), and 507(a)(2) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), Bankruptcy Rules 2002, 6004, and 6006(a), and Local Rules 2002-1, and 6004-1.

F. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court expressly finds for good cause shown that there is no cause or legitimate reason for delay in the implementation of this Sale Order, particularly given the

lengthy and diligent efforts made by the Debtor to find another buyer for the Assets, and waives any stay or delay as set forth herein, including the stay provided for in Bankruptcy Rule 6004(h).

Retention of Jurisdiction

G. It is necessary and appropriate for the Court to retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order and the Agreement, including its related documents, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtor is a party or which has been assigned by the Debtor to Purchaser, and to adjudicate, if necessary, any and all disputes involving the Debtor concerning or relating in any way to, or affecting, the Sale or the transactions contemplated in the Agreement, and related documents.

Corporate Authority; Consents and Approvals

H. The Debtor has, to the extent necessary or applicable, (a) the full corporate power and authority to execute and deliver the Agreement and all other documents contemplated thereby, (b) all corporate authority necessary to consummate the transactions contemplated by the Agreement, and (c) taken all corporate action necessary to authorize and approve the Agreement and the consummation of the transactions contemplated thereby. The Sale has been duly and validly authorized by all necessary corporate action. No internal consents or approvals, other than those expressly provided for in the Agreement, are required for the Debtor to consummate the Sale, the Agreement, or the transactions contemplated thereby, other than regulatory approvals required under applicable New Hampshire law.

Notice of Sale, Auction, Agreement, and Assumption and Assignment

I. Actual written notice of the Sale Motion, the Sale, the Auction, the Sale Hearing, and the transactions contemplated thereby, and a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein, has been afforded to all known

interested entities and parties, including, without limitation, the following entities and parties: (a) the Office of the United States Trustee for Region 1, James C. Cleveland Building, 53 Pleasant Street, Suite 2300, Concord, NH 03301 (the “U.S. Trustee”); (b) counsel to the Bond Trustee; (c) the counterparties to the Contracts (the “Contract Counterparties”); (d) all parties who have expressed a written interest in the Assets; (e) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim, or interest in the Assets; (f) the Internal Revenue Service; (g) all other applicable state and local taxing authorities; (h) all current residents and former residents with known claims against the Debtor; (i) the Debtor’s other creditors; (j) each governmental agency that is an interested party with respect to the Sale and transactions proposed thereunder; and (k) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002.

J. In accordance with the provisions of the *Order (A) Approving Bidding Procedures in Connection with the Sale of Substantially All of the Debtor’s Assets, (B) Approving the Form and Manner of Notice Thereof, (C) Authorizing the Debtor to Enter Into the Stalking Horse Agreement, (D) Authorizing Payment of the Stalking Horse Payment as an Administrative Expense, (E) Scheduling an Auction and a Sale Hearing, (F) Approving Procedures for the Assumption and Assignment of Contracts, and (G) Granting Related Relief* [Docket No. 206] (the “Bidding Procedures Order”), the Debtor served the notice referred to in Paragraph I above upon the Contract Counterparties: (a) that the Debtor seeks to assume and assign to Purchaser the Assigned Contracts on the Closing Date (as defined in the Agreement); and (b) of the relevant Cure Amounts (as defined below). Service of such notice was good, sufficient, and appropriate under the circumstances, and no further notice need be given in respect of establishing a Cure Amount for the Contracts. Each of the Contract Counterparties has had an opportunity to object to

the Cure Amounts set forth in the notice and to the assumption and assignment to Purchaser of the applicable Assigned Contracts.

K. The notice of the Auction and the Sale Hearing provided all creditors and other interested parties with timely and proper notice of the Sale, the Auction, and the Sale Hearing.

L. The Debtor has articulated and established good and sufficient cause and reasons for this Court to grant the relief requested in the Sale Motion regarding the sales process, including, without limitation: (i) determination of final Cure Amounts; and (ii) approval and authorization to serve notice of the Auction and Sale Hearing.

M. As evidenced by the affidavits of service and affidavits of publication previously filed with the Court, proper, timely, adequate, and sufficient notice of the Sale Motion, the Sale, the Auction, the Sale Hearing, and the transactions contemplated thereby, including, without limitation, the assumption and assignment of the Assigned Contracts to Purchaser, has been provided in accordance with the Bidding Procedures Order; Bankruptcy Code sections 105(a), 363, and 365; and Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014. The notices described herein were good, sufficient, and appropriate under the circumstances, and no other or further notice of the Sale Motion, the Sale, the Auction, the Sale Hearing, or the assumption and assignment of the Assigned Contracts to Purchaser is or shall be required.

N. The disclosures made by the Debtor concerning the Sale Motion, the Agreement, the Auction, the Sale Hearing, the Sale, and the assumption and assignment of the Assigned Contracts to Purchaser were good, complete, and adequate. To the extent necessary, the Sale Motion and the *Declaration of Toby Shea, Chief Restructuring Officer, in Support of the Debtor's First Day Pleadings* [Docket No. 24] together contain sufficient notices of the type of disclosure

that would be required if the proposed sale were embodied in a plan of reorganization under Bankruptcy Code section 1125.

O. A reasonable opportunity to object and be heard with respect to the Sale and the Sale Motion, and the relief requested therein (including, without limitation, the assumption and assignment of the Assigned Contracts to Purchaser and any Cure Amounts relating thereto), has been afforded to all interested persons and entities, including the Notice Parties.

Auction

P. The Auction process set forth in the Bidding Procedures Order afforded a full, fair, and reasonable opportunity for any entity to make a higher or otherwise better offer to purchase the Assets. The Auction was duly noticed and a reasonable opportunity has been given to any interested party to make a higher and better offer for the Assets. The Debtor did not receive any Qualified Bids prior to the Bid Deadline. Accordingly, pursuant to the Bidding Procedures Order, the Auction was canceled and the Purchaser was properly determined to be the Successful Bidder.

Good Faith of Purchaser

Q. As demonstrated by the representations of counsel and other evidence proffered or adduced at the Sale Hearing, the Debtor and its advisors marketed the Assets to secure the highest and best offer. The terms and conditions set forth in the Agreement are fair, adequate, and reasonable, including the amount of the Purchase Price, which is found to constitute reasonably equivalent and fair value.

R. Purchaser is not an “insider” of the Debtor, as that term is defined in Bankruptcy Code section 101(31). No officer, director, manager, or other insider of the Debtor holds any interest in or is otherwise related to Purchaser.

S. The Debtor and Purchaser extensively negotiated the terms and conditions of the Agreement in good faith and at arm’s length. Purchaser is purchasing the Assets and has entered

into the Agreement in good faith and is a good faith buyer within the meaning of Bankruptcy Code section 363(m), and is therefore entitled to the full protection of that provision, and otherwise has proceeded in good faith in all respects in connection with this proceeding in that, *inter alia*: (i) Purchaser recognized that the Debtor was free to deal with any other party interested in purchasing the Assets; (ii) Purchaser agreed to subject its bid to competitive bidding; (iii) all payments to be made by Purchaser and other agreements or arrangements entered into by Purchaser in connection with the Sale have been disclosed; (iv) Purchaser has not violated Bankruptcy Code section 363(n) by any action or inaction; (v) no common identity of directors or controlling stockholders exists between Purchaser and the Debtor; and (vi) the negotiation and execution of the Agreement was at arm's length and in good faith.

T. Neither the Debtor nor Purchaser have engaged in any conduct that would cause or permit the Agreement to be avoided under Bankruptcy Code section 363(n). The Debtor and Purchaser were represented by their own respective counsel and other advisors during such arm's length negotiations in connection with the Agreement and the Sale.

U. No party has objected to the Sale, the Agreement, or the Auction on the grounds of fraud or collusion.

V. Accordingly, Purchaser is purchasing the Assets in good faith and is a good-faith buyer within the meaning of Bankruptcy Code section 363(m). Purchaser is therefore entitled to all of the protections afforded under Bankruptcy Code section 363(m).

Highest and Best Offer

W. The Debtor conducted a sale process in accordance with, and has otherwise complied fully in all respects with, the Bidding Procedures Order. The sale process set forth in the Bidding Procedures Order afforded a full, fair, and reasonable opportunity for any person or entity

to make a higher or otherwise better offer to purchase the Assets. The Auction was duly noticed in a non-collusive, fair, and good-faith manner, and a reasonable opportunity has been given to any interested party to make a higher and better offer for the Assets.

X. The Agreement constitutes the highest and best offer for the Assets and will provide a greater recovery for the Debtor's estate than would be provided by any other available alternative. The Debtor's determination that the Agreement constitutes the highest and best offer for the Assets constitutes a valid and sound exercise of the Debtor's business judgment.

Y. The Agreement represents a fair and reasonable offer to purchase the Assets under the circumstances of the Chapter 11 Case. No other entity or group of entities has offered to purchase the Assets and assume liabilities for greater overall value to the Debtor's estate than Purchaser.

Z. Approval of the Sale Motion and the Agreement and the consummation of the transactions contemplated thereby are in the best interests of the Debtor's chapter 11 estate, its creditors, and other parties in interest.

AA. The Debtor has demonstrated compelling circumstances and a good, sufficient, prudent and sound business purpose and justification for the Sale prior to a plan of reorganization.

No Fraudulent Transfer or Merger

BB. The consideration provided by Purchaser pursuant to the Agreement (a) is fair and reasonable, (b) is the highest or best offer for the Assets, and (c) constitutes reasonably equivalent value (as defined in each of the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, and Bankruptcy Code section 548).

CC. Purchaser is an independent legal entity separate and distinct from the Debtor. There are no common equity holders, directors, managers or officers. Both Debtor and Purchaser

will continue to exist following the Closing. Purchaser is not a mere continuation of the Debtor or its estate, and there is no continuity of enterprise between Purchaser and the Debtor. Purchaser is not holding itself out to the public as a continuation of the Debtor. Purchaser is not a successor to the Debtor or its estate, and the Sale is not a consolidation, merger, or *de facto* merger of Purchaser and the Debtor under applicable non-bankruptcy law.

Validity of Transfer

DD. The consummation of the Sale and other transactions contemplated by the Agreement do not constitute a fraudulent or avoidable transfer of the Assets under the Bankruptcy Code or under the laws of the United States, any of its states, territories, or possessions, or the District of Columbia. Among other things, the Agreement was entered into openly and in accordance with the Bankruptcy Code and was not entered into for the purpose of hindering, delaying, or defrauding creditors. Neither the Debtor nor Purchaser are entering into the transactions contemplated by the Agreement fraudulently or for the purposes of statutory and common law fraudulent conveyance and fraudulent transfer claims.

EE. The Debtor is the sole and lawful owner of the Assets. Subject to Bankruptcy Code section 363(f) (addressed below), the transfer of the Assets to Purchaser will be, as of the Closing Date, a legal, valid, and effective transfer of the Assets, which transfer vests or will vest Purchaser with all right, title, and interest of the Debtor to the Assets free and clear of any interest in such property of any entity (collectively, “Interests”) with such Interests attaching to the proceeds of the sale to the same validity, priority and extent as existed prior to such sale, including, without limitation: (a) all liens and encumbrances relating to, accruing, or arising at any time prior to the Closing Date, including but not limited to mechanics and other statutory liens (collectively, the “Liens”); and (b) all debts arising under, relating to, or in connection with any act of the Debtor or

any claims (as defined in Bankruptcy Code section 101(5)), liabilities, obligations, demands, guarantees, options in favor of third parties, rights, contractual commitments, restrictions, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of the Chapter 11 Case, and whether imposed by agreement, understanding, law, equity, or otherwise (collectively, the “Claims”).

FF. For the avoidance of doubt, the terms “Liens” and “Claims,” as used in this Sale Order, include, without limitation, rights with respect to any Liens and Claims:

- (1) that purport to give any party a right of setoff or recoupment against, or a right or option to affect any forfeiture, modification, profit-sharing interest, right of first refusal, purchase or repurchase writer option, or termination of, any of the Debtor’s or Purchaser’s interest in the Assets, or any similar rights; or
- (2) in respect of taxes, restrictions, rights of first refusal, charges of interest of any kind and nature, if any, and including, without limitation, any restriction of use, voting, transfer, receipt of income, or other exercise of any of the attributes of ownership relating to, accruing, or arising at any time prior to the Closing Date, with the exception of Permitted Liens and Assumed Liabilities (as those terms are defined in the Agreement) that are expressly assumed by Purchaser pursuant to the Agreement.

GG. For the further avoidance of doubt, Purchaser is expressly assuming responsibility for, and the Assets will be transferred subject to, the Cure Amounts due under executory contracts expressly assumed by Purchaser and any obligations thereunder arising at or after the Closing Date

under the Assigned Contracts, as set forth in the Agreement, but no other executory contracts or other documents.

Section 363(f) Is Satisfied

HH. The conditions of Bankruptcy Code section 363(f) have been satisfied in full; therefore, the Debtor may sell the Assets free and clear of any Interests in the property other than any Permitted Liens and Assumed Liabilities, subject to the terms contained herein.

II. Purchaser would not have entered into the Agreement, and would not consummate the transactions contemplated thereby, if the Sale of the Assets to Purchaser and the assumption of any Assumed Liabilities by Purchaser if the Assets were not free and clear of all Interests, other than Permitted Liens and the Assumed Liabilities, or if Purchaser would, or in the future could, be liable for any of such Interests (other than the Permitted Liens and the Assumed Liabilities). Unless otherwise expressly included in the Permitted Liens, Assumed Contracts, or the Assumed Liabilities, or herein, Purchaser shall not be responsible for any Interests against the Debtor, its estate, or any of the Assets, including in respect of the following: (a) any labor or employment agreement; (b) any and all mortgages, deeds of trust, and other security interests, liens, attachments and other encumbrances, including but not limited to mechanics and other statutory liens; (c) intercompany loans and receivables among the Debtor and any of its affiliates (as defined in Bankruptcy Code section 101(2)); (d) any other environmental, employee, workers' compensation, occupational disease, or unemployment- or temporary disability-related claim, including, without limitation, claims that might otherwise arise under or pursuant to: (i) the Employee Retirement Income Security Act of 1974, as amended; (ii) the Fair Labor Standards Act; (iii) Title VII of the Civil Rights Act of 1964; (iv) the Federal Rehabilitation Act of 1973; (v) the National Labor Relations Act ("NLRA"); (vi) the Worker Adjustment and Retraining Notification Act of 1988;

(vii) the Age Discrimination and Employee Act of 1967 and the Age Discrimination in Employment Act, as amended; (viii) the Americans with Disabilities Act of 1990; (ix) the Consolidated Omnibus Budget Reconciliation Act of 1985; (x) state discrimination laws; (xi) the unemployment compensation laws or any other similar state laws; or (xii) any other state or federal benefits or claims relating to any employment with the Debtor or its predecessor, if any; (xiii) Claims or Liens arising under any Environmental Law (as defined in the Agreement) with respect to the Debtor's business, Excluded Liabilities (as defined in the Agreement), the Assets, the Excluded Assets (as defined in the Agreement), or any assets owned or operated by the Debtor or any corporate predecessor of the Debtor, at any time prior to the Closing Date; (xiv) any bulk sales or similar law; (xv) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; and (xvi) any statutory or common-law bases for successor liability.

JJ. The Debtor may sell the Assets free and clear of all Interests in such property of any entity subject to the terms of this Order, including, without limitation, any Liens and Claims against the Debtor, its estates, or any of the Assets (other than the Permitted Liens and Assumed Liabilities) because, in each case, one or more of the standards set forth in Bankruptcy Code section 363(f)(1)-(5) has been satisfied. Those holders of Interests in the Assets, including, without limitation, holders of Liens and Claims against the Debtor, its estate, or any of the Assets, who did not object, or who withdrew their objections, to the Sale or the Sale Motion are deemed to have consented pursuant to Bankruptcy Code section 363(f)(2). All other holders of Interests (except to the extent that such Interests are Permitted Liens or Assumed Liabilities) are adequately protected by having their Interests, if any, in each instance against the Debtor, its estates, or any of the Assets, attached to the net proceeds of the Sale received by the Debtor ultimately attributable to the Assets

in which such party alleges an Interest, in the same order of priority, with the same validity, force, and effect that such Interests had prior to the Sale, subject to any claims and defenses the Debtor and its estate may possess with respect thereto.

Assumption and Assignment of the Assigned Contracts

KK. The assumption and assignment of the Assigned Contracts pursuant to the terms of this Sale Order and the Agreement is integral to the Sale and is in the best interest of the Debtor and its estate, its creditors, and all of the parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtor.

LL. Unless otherwise agreed and stated on the record at the Sale Hearing, the respective amounts set forth in the *Notice to Counterparties to Potentially Assumed Executory Contracts and Unexpired Leases Regarding Cure Amounts and Possible Assignment to Successful Bidder at Auction* (the “Cure Notice”) hereto reflects the sole amounts necessary under Bankruptcy Code section 365(b) to cure all monetary defaults and pay all pecuniary losses under the Assigned Contracts (collectively, the “Cure Amounts”), and no other amounts are or shall be due or may be charged by a Contract Counterparty in connection with the assumption by the Debtor in the assignment to Purchaser of the Assigned Contracts.

MM. Pursuant to the terms of the Agreement, Purchaser shall: (a) to the extent necessary, cure or provide adequate assurance of cure, of any default existing prior to the date hereof with respect to the Assigned Contracts, within the meaning of Bankruptcy Code sections 365(b)(1)(A) and 365(f)(2)(A); and (b) to the extent necessary, provide adequate assurance of compensation to any Contract Counterparty for any actual pecuniary loss to such party resulting from a default prior to the date hereof with respect to the Assigned Contracts, within the meaning of Bankruptcy Code sections 365(b)(1)(B) and 365(f)(2)(A).

NN. As of the Closing Date, subject only to the payment of the Cure Amounts, as determined in accordance with the procedures identified in the Bidding Procedures Order and the Agreement, each of the Assigned Contracts will be in full force and effect and enforceable by Purchaser against any Contract Counterparty thereto in accordance with its terms and by the Contract Counterparty against the Purchaser.

OO. The Debtor has, to the extent necessary, satisfied the requirements of Bankruptcy Code sections 365(b)(1) and 365(f) in connection with the Sale, the assumption and assignment of the Assigned Contracts, and shall upon assignment thereto on the Closing Date, be relieved from any liability for any breach thereof.

PP. Purchaser has demonstrated that it has the financial wherewithal to fully perform and satisfy the obligations under the Assigned Contracts as required by Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B). Pursuant to Bankruptcy Code section 365(f)(2)(B), Purchaser has provided adequate assurance of future performance of the obligations under the Assigned Contracts.

QQ. Purchaser's promise to pay the Cure Amounts and to perform the obligations under the Assigned Contracts after the Closing Date constitutes adequate assurance of future performance within the meaning of Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B).

Sound Business Purpose for the Sale

RR. Good and sufficient reasons for approval of the Agreement and the Sale have been articulated. The relief requested in the Sale Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest.

SS. The Debtor has demonstrated both (a) good, sufficient, and sound business purposes, reasons and justifications for approving the Agreement, and (b) compelling

circumstances for the sale outside the ordinary course of business, pursuant to Bankruptcy Code section 363(b).

Compelling Circumstances for an Immediate Sale

TT. To maximize the value of the Assets and preserve the viability of the business to which the Assets relate, it is essential that the Sale of the Assets occur within the time constraints set forth in the Agreement and the *Final Order (I) Authorizing the Debtor to use Cash Collateral; (II) Granting Adequate Protection; (III) Granting Related Relief* [Docket No. 236]. Time is of the essence in consummating the Sale.

UU. Given all of the circumstances of the Chapter 11 Case and the adequacy and fair value of the Purchase Price under the Agreement, the proposed Sale of the Assets to Purchaser constitutes a reasonable, prudent, and sound exercise of the Debtor's business judgment and should be approved.

VV. The consummation of the Sale and the assumption and assignment of the Assigned Contracts is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation Bankruptcy Code sections 105(a), 363(b), 363(f), 363(m), and 365, Bankruptcy Rule 6004 and Local Bankruptcy Rule 6004-1 and all of the applicable requirements of such sections and rules have been complied with in all respects.

WW. The Sale does not constitute a *sub rosa* or *de facto* chapter 11 plan. Approval of the Sale has not been sought without the functional equivalent of the protections that a disclosure statement would afford creditors and other parties in interest. The Sale does not propose to: (i) impair or restructure existing debt of, or equity interests in, the Debtor; (ii) impair or circumvent voting rights with respect to any future plan proposed by the Debtor; (iii) circumvent chapter 11 plan safeguards, such as those set forth in Bankruptcy Code sections 1125 and 1129; or (iv) classify claims or equity interests, compromise controversies, or extend debt maturities. Accordingly, the

Sale neither impermissibly restructures the rights of the Debtor's creditors, nor impermissibly dictates a liquidating chapter 11 plan for the Debtor.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

General Provisions.

1. **Relief Granted.** The relief requested in the Sale Motion and the transactions contemplated thereby and by the Agreement are approved for the reasons set forth in this Sale Order and on the record of the Sale Hearing, which is incorporated herein as if fully set forth in this Sale Order.

2. **Objections Overruled.** Except as otherwise expressly provided in this Sale Order, including ¶ 28, all objections to the Sale Motion and the relief requested therein that have not been withdrawn, waived, or settled by announcement to the Court during the Sale Hearing or by stipulation filed with the Court, including, without limitation, any and all reservations of rights included in such objections or otherwise, are hereby denied and overruled on the merits, with prejudice. Those parties who did not object, or withdrew their objections, to the Sale Motion are deemed to have consented pursuant to Bankruptcy Code section 363(f)(2).

3. **Prior Findings and Conclusions Incorporated.** This Court's findings of fact and conclusions of law set forth in the Bidding Procedures Order are incorporated herein by reference, except to the extent it may be inconsistent with the findings of fact and conclusions of law in this Sale Order.

4. **Sale Order and Agreement Binding on All Parties.** This Sale Order and the Agreement shall be binding in all respects upon all creditors of and holders of equity interests in the Debtor (whether known or unknown), agents, trustees and collateral trustees, holders of Interests in, against, or on the Assets, or any portion thereof, all Contract Counterparties and any

other non-Debtor parties to any contracts with the Debtor (whether or not assigned), all successors and assigns of the Debtor, and any subsequent trustees appointed in the Chapter 11 Case or upon a conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code and shall not be subject to rejection or unwinding. Nothing in any chapter 11 plan confirmed in the Chapter 11 Case, the confirmation order confirming any such chapter 11 plan, any order approving the wind down or dismissal of the Chapter 11 Case or any subsequent case under Chapter 7 of the Bankruptcy Code, or any order entered upon the conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code or thereafter or otherwise shall vacate, conflict with or derogate from the provisions of the Agreement or this Sale Order.

Approval of the Agreement

5. **Agreement Approved.** The Agreement and all other ancillary documents, and all of the terms and conditions thereof, are hereby approved.

6. **Authorization to Consummate Transactions.** Pursuant to Bankruptcy Code sections 363(b) and (f), the Debtor is authorized, empowered, and directed to use its reasonable best efforts to take any and all actions necessary or appropriate to (a) consummate the Sale pursuant to and in accordance with the terms and conditions of the Agreement, (b) close the Sale as contemplated in the Agreement and this Sale Order, and (c) execute and deliver, perform under, consummate, implement, and fully close the Agreement, including the assumption and assignment to Purchaser of the Assigned Contracts, in accordance with the procedures set forth in the Agreement, together with additional instruments and documents that may be reasonably necessary or desirable to implement the Agreement and the Sale.

Transfer of the Assets

7. **Transfer of the Assets Authorized.** Pursuant to Bankruptcy Code sections 105(a), 363(b), and 363(f), the Debtor is authorized and directed to transfer the Assets to Purchaser on or

as soon as reasonably practicable after the Closing Date, and such transfer shall constitute a legal, valid, binding, and effective transfer of such Assets and shall vest Purchaser with title to the Assets.

8. **Surrender of Assets by Third Parties.** All persons and entities that are in possession of some or all of the Assets on the Closing Date are directed to surrender possession of such Assets to Purchaser or its assignee at the Closing. On the Closing Date, each of the Debtor's creditors are authorized and directed to execute such documents and take such other actions as may be reasonably necessary to release their Interests in the Assets, if any, as such Interests may have been recorded or may otherwise exist with such Interests attaching to the Sale proceeds in the same validity, priority and extent that existed prior to the Closing. All persons are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with the ability of the Debtor to sell and transfer the Assets to Purchaser in accordance with the terms of the Agreement and this Sale Order.

9. **Net Proceeds.** All net proceeds from the Sale received by the Debtor at Closing will be held by the Debtor pending further order of the Court.

10. **Transfer Free and Clear of Interests.** Upon the Debtor's receipt of the Purchase Price, and other than Permitted Liens and Assumed Liabilities specifically set forth in the Agreement, the transfer of the Assets to Purchaser shall be free and clear of all Interests of any kind or nature whatsoever, including, without limitation, (a) successor or successor-in-interest liability, (b) Claims in respect of the Excluded Liabilities, and (c) any and all Contracts not assumed and assigned to Purchaser pursuant to the terms of the Agreement, with all such Interests to attach to the net proceeds received by the Debtor ultimately attributable to the Assets against, or in, which such Interests are asserted, subject to the terms thereof, with the same validity, force, and effect, and in the same order of priority, which such Interests now have against the Assets,

subject to any rights, claims, and defenses that the Debtor or its estate, as applicable, may possess with respect thereto.

11. **Legal, Valid, and Marketable Transfer with Permanent Injunction.** The transfer of the Assets to Purchaser pursuant to the Agreement constitutes a legal, valid, and effective transfer of good and marketable title of the Assets, and vests, or will vest, Purchaser with all right, title, and interest to the Assets, free and clear of all Interests except as otherwise expressly stated as obligations of Purchaser under the Agreement. All Persons holding interests or claims of any kind or nature whatsoever against the Debtor or the Assets, the operation of the Assets prior to the Closing Date, or the Sale are hereby and forever barred, estopped, and permanently enjoined from asserting against Purchaser, its successors or assigns, its property, or the Assets, any claim, interest or liability existing, accrued, or arising prior to the Closing other than with respect to Permitted Liens, Assumed Liabilities and Assigned Contracts.

12. **Recording Offices and Releases of Interests.** On the Closing Date, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete assignment, conveyance, and transfer of the Assets or a bill of sale transferring good and marketable title of the Assets to Purchaser subject to the terms hereof and the Agreement. This Sale Order is and shall be effective as a determination that, on the Closing Date, all Interests of any kind or nature whatsoever existing as to the Assets prior to the Closing Date, other than Permitted Liens, Assumed Contracts, and Assumed Liabilities shall have been unconditionally released, discharged, and terminated, and that the conveyances described herein have been affected. This Sale Order is and shall be binding upon and govern the acts of the Debtor, the Purchaser, all creditors and other parties in interest and all other persons and entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars

of deeds, clerks of courts, administrative agencies, governmental departments, secretaries of state, federal and local officials, and all other persons who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing persons is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Agreement. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Agreement. A certified copy of this Sale Order may be: (a) filed with the appropriate clerk; (b) recorded with the recorder; and/or (c) filed or recorded with any other governmental agency to act to cancel any Interests against the Assets, other than the Permitted Liens.

13. **Cancellation of Third-Party Interests.** If any person or entity which has filed statements or other documents or agreements evidencing Interests on or in all or any portion of the Assets (other than with respect to Permitted Liens, Assumed Contracts, or Assumed Liabilities) has not delivered to the Debtor prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary for the purpose of documenting the release of all Interests which such person or entity has or may assert with respect to all or a portion of the Assets, the Debtor and Purchaser are authorized to execute and file such statements, instruments, releases and other documents on behalf of such person or entity with respect to the Assets. Notwithstanding the foregoing, the provisions of this Sale Order authorizing the transfer of the Assets free and clear of all Interests (except only for Permitted Liens, Assumed Contracts, and Assumed Liabilities)

shall be self-executing, and it shall not be, or be deemed, necessary for any person or entity to execute or file releases, termination statements, assignments, consents, or other instruments in order for the provisions of this Sale Order to be implemented.

Assumption and Assignment of Contracts

14. **Authorization to Assume and Assign.** Upon the Closing, the Debtor is authorized and directed, in accordance with Bankruptcy Code sections 105(a), 363, and 365, to assume and assign each of the Assigned Contracts to Purchaser free and clear of all Interests as of the Closing Date in accordance with the Agreement. The payment of the applicable Cure Amounts (if any) by Purchaser on account of an Assigned Contract shall (a) effect a cure or adequate assurance of cure of all defaults existing thereunder as of the date on which the Debtor filed its voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the "Petition Date"), and (b) compensate for any actual pecuniary loss to such Contract Counterparty resulting from such default. Purchaser shall then have assumed the Assigned Contracts without any further pre-assumption duties, financial liabilities or other obligations and, pursuant to Bankruptcy Code section 365(f), the assignment by the Debtor of such Assigned Contracts shall not be a default thereunder. After the payment of the relevant Cure Amounts, neither the Debtor, nor Purchaser, shall have any further liabilities to the Contract Counterparties, other than Purchaser's obligations under the Assigned Contracts, that accrue and become due and payable on or after the Closing Date.

15. **Assignment Requirements Satisfied.** The Assigned Contracts shall be transferred to, and remain in full force and effect for the benefit of, Purchaser, in accordance with their respective terms, notwithstanding (a) any provision in any such Assigned Contract (including provisions of the type described in Bankruptcy Code sections 365(b)(2), (e)(1) and (f)(1)) which prohibits, restricts or conditions such assignment or transfer, or (b) any default by the Debtor prior to Closing under any such Assigned Contract or any disputes between the Debtor and a Contract

Counterparty with respect to any such Assigned Contract arising prior to Closing. In particular, any provisions in any Assigned Contract that restrict, prohibit or condition the assignment of such Assigned Contract or allow the Contract Counterparty to such Assigned Contract to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon the assignment of such Assigned Contract, constitute unenforceable anti-assignment provisions that are void and of no force and effect; provided however that nothing herein shall restrict or limit the requirement that the Purchaser conform to the terms of the PILOT Agreement including, without limitation, terms requiring it to qualify as an exempt organization. All other requirements and conditions under Bankruptcy Code sections 363 and 365 for the assumption by the Debtor and assignment to Purchaser of the Assigned Contracts have been satisfied. Upon the Closing, in accordance with Bankruptcy Code sections 363 and 365, Purchaser shall be fully and irrevocably vested with all right, title, and interest of the Debtor under the Assigned Contracts.

16. **Consent to Assign.** The Contract Counterparties to each Assigned Contract shall be and hereby are deemed to have consented to such assumption and assignment under Bankruptcy Code section 365(c)(1)(B) or this Court has determined that no such consent is required, and Purchaser shall enjoy all of the rights and benefits under each such Assigned Contract as of the Closing Date without the necessity of obtaining the Contract Counterparty's written consent to the assumption and assignment thereof.

17. **Section 365(k).** Upon the Closing and (a) the payment of the applicable Cure Amount with respect to an Assigned or assignable Contract, or (b) in the event of any dispute over the appropriate Cure Amount, the Debtor's reserve and escrow of the amount necessary to satisfy the Cure Amount asserted by the Contract Counterparty pending resolution of the dispute by the Bankruptcy Court, Purchaser shall be deemed to be substituted for the Debtor as a party to the

Assigned Contracts as of the Closing Date and the Debtor and its estate shall be relieved, pursuant to Bankruptcy Code section 365(k), from any further liability under the Assigned Contracts.

18. **No Default.** Subject to the terms hereof with respect to the Cure Amounts, all defaults or other obligations of the Debtor under the Assigned Contracts arising or accruing prior to the Closing Date have been cured or shall promptly be cured by the Debtor in accordance with the terms hereof such that Purchaser shall have no liability or obligation with respect to any default or obligation arising or accruing under any Assigned Contract prior to the Closing Date, except to the extent expressly provided in the Agreement, except for Purchaser's payment of the Cure Amounts. Each party to an Assigned Contract is forever barred, estopped, and permanently enjoined from asserting against Purchaser or its property or affiliates, or successors and assigns, any breach or default under any Assigned Contract, any claim of lack of consent relating to the assignment thereof, or any counterclaim, defense, setoff, right of recoupment, or any other matter arising prior to the Closing Date for such Assigned Contract or with regard to the assumption and assignment therefore pursuant to the Agreement or this Sale Order. Upon the payment of the applicable Cure Amount, if any, the Assigned Contracts will remain in full force and effect, and no default shall exist under the Assigned Contracts nor shall there exist any event or condition which, with the passage of time or giving of notice, or both, would constitute such a default.

19. **Adequate Assurance Provided.** The requirements of Bankruptcy Code sections 365(b)(1) and 365(f)(2) are hereby deemed satisfied with respect to the Assigned Contracts based on Purchaser's evidence of its financial condition and wherewithal and without any further action by Purchaser, including but not limited to any other or further deposit. Pursuant to Bankruptcy Code section 365(f), Purchaser has provided adequate assurance of future performance of the obligations under the Assigned Contracts.

20. **No Fees.** There shall be no rent accelerations, assignment fees, increases or any other fees or other charges of any nature whatsoever assessed against or imposed on Purchaser or the Debtor because of the assumption and assignment of the Assigned Contracts.

21. **Injunction.** Pursuant to Bankruptcy Code sections 105(a), 363, and 365, other than the right to payment of the Cure Amounts, if any, all Contract Counterparties are forever barred and permanently enjoined from raising or asserting against the Debtor or Purchaser any assignment fee, default, breach or claim, or pecuniary loss arising under or related to the Assigned Contracts existing as of the Petition Date or any assignment fee or condition to assignment arising by reason of the Closing.

22. **Resident Agreements.** All Residency Agreements and Option Agreements, including but not limited to those listed on **Exhibit 1** to this Sale Order and listed on Schedule 1(iii) of the Agreement, and all related liabilities, will be assumed and assigned to Purchaser as of the Closing Date.

23. **Contract Objections.** Except as set forth in ¶ 28, each Contract Counterparty is deemed to have consented to such Cure Amount. Except as set forth in ¶ 28, each Contract Counterparty is deemed to have consented to the assumption and assignment, and Purchaser shall be deemed to have demonstrated adequate assurance of future performance with respect to, such Assigned Contracts pursuant to Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B). Nothing in this Sale Order, the Sale Motion, or in any notice or any other document is, or shall be, deemed an admission by the Debtor that any Assigned Contract is an executory contract or unexpired lease, or must be assumed and assigned pursuant to the Agreement in order to consummate the Sale.

24. **Reservation of Rights.** Notwithstanding anything herein to the contrary, and subject to the Agreement, within five days of the Closing Date, Purchaser may remove any contract

or lease from **Exhibit 2** (and thereby exclude such executory contract from the definition of Assigned Contracts). The Debtor shall file a schedule of the Assigned Contracts reasonably promptly after the Closing Date and shall supplement such schedule from time to time in accordance with this Sale Order.

25. **No Further Debtor Liability.** Except as provided in the Agreement or in this Sale Order, after the Closing, the Debtor and its estate shall have no further liabilities or obligations with respect to any Assumed Liabilities, and all holders of such Claims are forever barred and estopped from asserting such Claims against the Debtor, its successors or assigns, its property, or the Debtor's estate.

26. **No Waiver of Rights.** The failure of the Debtor or Purchaser to enforce, at any time, one or more terms or conditions of any Assigned Contracts shall not be a waiver of any such terms or conditions, or of the Debtor's or Purchaser's rights to enforce every term and condition of the Assigned Contracts.

27. **Resolution with City of Keene (“Keene”).** This paragraph resolves the objections of Keene filed as Docket Entries Numbers 263 and 276. Nothing in this paragraph changes the allocations between the Debtor and Purchaser under the Agreement §2.5(g). Keene shall be paid as follows: (a) \$658,000 will be paid to Keene from the net proceeds of the Sale by the title agent on the Closing Date; (b) at Closing, the title agent will further pay any prorated portions or water or sewer charges accrued up to the Closing Date; and (c) any real estate taxes owed on taxable real estate shall be paid by the Debtor when such taxes become due. The payments made by the title agent or otherwise pursuant to the foregoing sentence will satisfy all of the PILOT Agreement and real estate tax claims held by Keene through March 31, 2022, and water and sewer charge claims through the date of Closing. Said payments satisfy and extinguish any liens securing the payment

thereof. Purchaser will be liable for water and sewer charges for services provided after the Closing. In addition, the Debtor, Purchaser and Keene have agreed, and it is hereby ordered, as follows:

- (i) **Adequate Assurance of Future Performance.** The Purchaser shall deliver to Keene the unconditional guarantee of performance by Covenant Living Communities and Services, its “parent” company, of the obligations under the PILOT agreement.
- (ii) **Tax Year beginning April 1, 2022.** If the Closing does not occur on or before March 31, 2022, then the Debtor shall strictly perform in accordance with the PILOT agreement and applicable State Law and the stay Bankruptcy Code section 362 is modified, to the extent necessary, to allow the City of Keene to render invoices described in the PILOT.
- (iii) **Preservation of Regulatory and Police Powers.** Nothing in this Order shall be construed as enjoining or restricting Keene’s lawful exercise of its regulatory or police powers under Bankruptcy Code section 362(b) with respect to issues other than those related to the payment of the Cure Amount or charges for and the payment of water and sewer provided to the Assets and the amount and payment of real estate taxes for the year ending March 31, 2022.
- (iv) **Inconsistent Terms:** If any term of this Order is in any fashion inconsistent with the terms of this Paragraph then this Paragraph shall control.

28. **Resolution with Life Care Services LLC.** Life Care Services LLC, dba Life Care Services® (“LCS”) filed an objection [Docket No. 267] (the “LCS Objection”) to the proposed cure payment as to the Management Agreement (as defined in the LCS Objection) and the Purchaser’s adequate assurance of future performance as to same. LCS and the Debtor agree that (a) as of the date the form of Sale Order was presented to the Court, the LCS Agreement was not included on the list of Assigned Contracts; and (b) notwithstanding anything to the contrary in this Sale Order or the Agreement, if the Debtor and/or the Purchaser elect to add the LCS Agreement to the list of Assigned Contracts, the Debtor will provide LCS at least ten (10) business days’ notice and an opportunity to object and (if not resolved) be heard both as to the Cure Amount and

as to the Purchaser's demonstration of adequate assurance of future performance with respect to the Management Agreement under Bankruptcy Code section 365. For the avoidance of doubt, LCS does not consent to the assumption and assignment of the Management Agreement or agree to the Cure Amount proposed by the Debtors; the Debtor reserves the right to provide LCS notice of proposed assumption and assignment of the Management Agreement in accordance with this paragraph; and LCS reserves the right to oppose such assumption and assignment and the proposed Cure Amount, including on the grounds set forth in the LCS Objection, as may be supplemented in accordance with the reservation of rights therein.

Prohibition of Actions Against Purchaser

29. **No Successor Liability.** Except for the Permitted Liens, Assumed Contracts, and Assumed Liabilities set forth in the Agreement, or as otherwise expressly provided for in this Sale Order or the Agreement, Purchaser shall not have any liability or other obligation of the Debtor arising under or related to any of the Assets for any reason or under any theory, including without limitation, alter ego, de facto merger, piercing the corporate veil or any other form of successor liability. Without limiting the generality of the foregoing, and except as otherwise expressly provided herein or in the Agreement, Purchaser shall not be liable for any Claims against the Debtor or any of its predecessors or affiliates, and Purchaser shall have no successor or vicarious liabilities of any kind or character, including, without limitation, under any theory of antitrust, environmental, successor, or transfer reliability, labor law, de facto merger, mere continuation, or substantial continuity, whether known or unknown as of the Closing Date, now existing, or hereafter arising, whether fixed or contingent, whether asserted or unasserted, whether legal or equitable, whether liquidated or unliquidated, including, without limitation, liabilities on account of warranties, intercompany loans, receivables among the Debtor and its affiliates, environmental

liabilities, and any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of any of the Assets prior to the Closing.

30. **Actions Against Purchaser Enjoined.** Except with respect to Permitted Liens, Assumed Contracts, and Assumed Liabilities set forth in the Agreement, or as otherwise permitted by the Agreement or this Sale Order, all persons and entities, including, without limitation, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade creditors, litigation claimants, and other creditors, holding Interest of any kind or nature whatsoever against, or in, all or any portion of the Assets, arising under, out of, in connection with, or in any way relating to, the Debtor, the Assets, the operation of the Debtor's business prior to the Closing Date, or the transfer of the Assets to Purchaser, hereby are forever barred, estopped, and permanently enjoined from asserting against Purchaser, or any of its affiliates, successors, or assigns, or their property or the Assets, such persons' or entities' Interests in and to the Assets, including, without limitation, the following actions against Purchaser or its affiliates, or their successors, assets, or properties: (a) commencing or continuing in any manner any action or other proceeding; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or other order; (c) creating, perfecting, or enforcing any Lien or other Claim; (d) asserting any set off, right of subrogation, or recoupment of any kind; (e) commencing or continuing any action, in any manner or place, that does not comply or is inconsistent with the provisions of this Sale Order or other orders of this Court, or the agreements or actions contemplated or taken in respect thereof; or (f) revoking, terminating, or failing or refusing to transfer or renew any license, permit, or authorization to operate any of the Assets or conduct any of the business operated with the Assets.

Provisions Pertaining to the State of New Hampshire

31. Nothing in this Order or the Agreement shall alter or modify obligations of the Debtor and Purchaser to comply with applicable state law (including, without limitation, RSA 7:19-b; RSA 547:3-c and 3-d; and RSA 420-D) with respect to (a) review and approval of the Sale authorized by this Order or (b) the eligibility of any Purchaser to be a transferee of any license, permit, registration, or other authorization from the State of New Hampshire (the “Permissions”). The Purchaser shall be deemed to have acknowledged that review and necessary approvals or consents by the New Hampshire Circuit Court Probate Division (RSA 547:3-c and 3-D), the New Hampshire Attorney General Charitable Trusts Unit (RSA 7:19-b), and the New Hampshire Department of Insurance (RSA ch. 420-D) are required for the Debtor to consummate the Sale and for a Closing to occur. The Purchaser shall further be deemed to have acknowledged that approvals may be required with respect to Permissions from the State of New Hampshire notwithstanding the listing or description of any Permits in the Agreement and that entry of this Order shall not authorize a transfer of Permissions, regardless of whether included within the definition of Permits in the Agreement, if, under applicable state law, the Purchaser is ineligible for or unqualified to receive such Permissions or, if qualified, has not satisfied all required conditions related thereto.

32. Neither the findings of fact nor conclusions of law in the Bidding Procedures Order or this Order shall be binding on the State of New Hampshire or any of its agencies or courts with respect to the exercise of regulatory or police powers, in regulatory proceedings, formal or informal investigation or review, or with respect to approvals related to the Sale or any Permissions, or preclude such agencies from seeking and obtaining reimbursement for any costs under RSA 420-D:25.

33. Notwithstanding anything to the contrary in the Agreement, any related documents, or this Order, nothing therein shall affect the State of New Hampshire’s rights of recoupment.

Other Provisions

34. **Effective Date.** The Debtor and Purchaser may consummate the Agreement at any time after entry of this Sale Order by waiving any and all closing conditions set forth in the Agreement that have not been satisfied and by proceeding to close the Sale without any notice to the Court, any prepetition or postpetition creditor of the Debtor and/or any other party in interest.

35. **Access to Books and Records.** Following the Closing of the Sale, the Debtor shall have, and Purchaser shall provide, reasonable access to their books and records, to the extent they are included in the Assets transferred to Purchaser as part of the Sale.

36. **Bulk Sales Law.** No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the Sale.

37. **Agreement Approved in Entirety.** The failure specifically to include any particular provision of the Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Agreement be authorized and approved in its entirety.

38. **Modifications to Agreement.** The Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, in a writing signed by such parties, without further order of this Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtor's estate or its creditors and prior notice of such modification is provided to the Bond Trustee, the Official Committee of Unsecured Creditors, and Savings Bank of Walpole.

39. **Standing.** The transactions authorized herein shall be of full force and effect, regardless of any Debtor's lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

40. **Authorization to Effect Order.** The Debtor is authorized to take all actions necessary to effect the relief granted pursuant to this Sale Order in accordance with the Sale Motion.

41. **Automatic Stay.** The automatic stay pursuant to Bankruptcy Code section 362 is hereby modified, lifted, and annulled with respect to the Debtor and Purchaser to the extent necessary, without further order of this Court, to (a) allow Purchaser to deliver any notice provided for in the Agreement, and (b) allow Purchaser to take any and all actions permitted under the Agreement in accordance with the terms and conditions thereof.

42. **No Other Bids.** No further bids or offers for the Assets shall be considered or accepted by the Debtor after the date hereof unless the Sale to Purchaser is not consummated or otherwise does not occur in accordance with the Agreement or its related documents.

43. **Order to Govern.** To the extent that this Sale Order is inconsistent with any prior order entered or pleading filed in the Chapter 11 Case, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order and the Agreement (including all ancillary documents executed in connection therewith), the terms of this Sale Order shall govern.

Dated: November 22, 2021

/s/ Bruce A. Harwood

Bruce A. Harwood
Chief Bankruptcy Judge

Exhibit 1 to Sale Order**Assumed Residency Agreements**

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Resident - F1001	Residency Agreement	\$0.00
Resident - F1002	Residency Agreement	\$0.00
Resident - F1003	Residency Agreement	\$0.00
Resident - F1004	Residency Agreement	\$0.00
Resident - F1005	Residency Agreement	\$0.00
Resident - F1006	Residency Agreement	\$0.00
Resident - F1007	Residency Agreement	\$0.00
Resident - F1008	Residency Agreement	\$0.00
Resident - F1009	Residency Agreement	\$0.00
Resident - F1010	Residency Agreement	\$0.00
Resident - F1011	Residency Agreement	\$0.00
Resident - F1012	Residency Agreement	\$0.00
Resident - F1013	Residency Agreement	\$0.00
Resident - F1015	Residency Agreement	\$0.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Resident - F1016	Residency Agreement	\$0.00
Resident - F1017	Residency Agreement	\$0.00
Resident - F1018	Residency Agreement	\$0.00
Resident - F1019	Residency Agreement	\$0.00
Resident - F1020	Residency Agreement	\$0.00
Resident - F1021	Residency Agreement	\$0.00
Resident - F1022	Residency Agreement	\$0.00
Resident - F1023	Residency Agreement	\$0.00
Resident - F1024	Residency Agreement	\$0.00
Resident - F1025	Residency Agreement	\$0.00
Resident - F1026	Residency Agreement	\$0.00
Resident - F1027	Residency Agreement	\$0.00
Resident - F1028	Residency Agreement	\$0.00
Resident - F1029	Residency Agreement	\$0.00
Resident - F1031	Residency Agreement	\$0.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Resident - F1032	Residency Agreement	\$0.00
Resident - F1034	Residency Agreement	\$0.00
Resident - F1037	Residency Agreement	\$0.00
Resident - F1039	Residency Agreement	\$0.00
Resident - F1040	Residency Agreement	\$0.00
Resident - F1041	Residency Agreement	\$0.00
Resident - F1044	Residency Agreement	\$0.00
Resident - F1045	Residency Agreement	\$0.00
Resident - F1046	Residency Agreement	\$0.00
Resident - F1047	Residency Agreement	\$0.00
Resident - F1049	Residency Agreement	\$0.00
Resident - F1050	Residency Agreement	\$0.00
Resident - F1051	Residency Agreement	\$0.00
Resident - F1052	Residency Agreement	\$0.00
Resident - F1053	Residency Agreement	\$0.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Resident - F1053	Residency Agreement	\$0.00
Resident - F1054	Residency Agreement	\$0.00
Resident - F1055	Residency Agreement	\$0.00
Resident - F1056	Residency Agreement	\$0.00
Resident - F1057	Residency Agreement	\$0.00
Resident - F1058	Residency Agreement	\$0.00
Resident - F1059	Residency Agreement	\$0.00
Resident - F1060	Residency Agreement	\$0.00
Resident - F1061	Residency Agreement	\$0.00
Resident - F1062	Residency Agreement	\$0.00
Resident - F1063	Residency Agreement	\$0.00
Resident - F1064	Residency Agreement	\$0.00
Resident - F1065	Residency Agreement	\$0.00
Resident - F1066	Residency Agreement	\$0.00
Resident - F1067	Residency Agreement	\$0.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Resident - F1069	Residency Agreement	\$0.00
Resident - F1070	Residency Agreement	\$0.00
Resident - F1074	Residency Agreement	\$0.00
Resident - F1075	Residency Agreement	\$0.00
Resident - F1076	Residency Agreement	\$0.00
Resident - F1077	Residency Agreement	\$0.00
Resident - F1079	Residency Agreement	\$0.00
Resident - F1080	Residency Agreement	\$0.00
Resident - F1081	Residency Agreement	\$0.00
Resident - F1082	Residency Agreement	\$0.00
Resident - F1083	Residency Agreement	\$0.00
Resident - F1086	Residency Agreement	\$0.00
Resident - F1088	Residency Agreement	\$0.00
Resident - F1089	Residency Agreement	\$0.00
Resident - F1090	Residency Agreement	\$0.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Resident - F1091	Residency Agreement	\$0.00
Resident - F1101	Residency Agreement	\$0.00
Resident - F1102	Residency Agreement	\$0.00
Resident - F1103	Residency Agreement	\$0.00
Resident - F1104	Residency Agreement	\$0.00
Resident - F1105	Residency Agreement	\$0.00
Resident - F1106	Residency Agreement	\$0.00
Resident - F1107	Residency Agreement	\$0.00
Resident - F1108	Residency Agreement	\$0.00
Resident - F1109	Residency Agreement	\$0.00
Resident - F1110	Residency Agreement	\$0.00
Resident - F1111	Residency Agreement	\$0.00
Resident - F1112	Residency Agreement	\$0.00
Resident - F1113	Residency Agreement	\$0.00
Resident - F1114	Residency Agreement	\$0.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Resident - F1115	Residency Agreement	\$0.00
Resident - F1116	Residency Agreement	\$0.00
Resident - F1117	Residency Agreement	\$0.00
Resident - F1118	Residency Agreement	\$0.00
Resident - F1119	Residency Agreement	\$0.00
Resident - F1120	Residency Agreement	\$0.00
Resident - F1121	Residency Agreement	\$0.00
Resident - F1122	Residency Agreement	\$0.00
Resident - F1123	Residency Agreement	\$0.00
Resident - F1124	Residency Agreement	\$0.00
Resident - F1125	Residency Agreement	\$0.00
Resident - F1126	Residency Agreement	\$0.00
Resident - F1127	Residency Agreement	\$0.00
Resident - F1128	Residency Agreement	\$0.00
Resident - F1129	Residency Agreement	\$0.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Resident - F1130	Residency Agreement	\$0.00
Resident - F1131	Residency Agreement	\$0.00
Resident - F1132	Residency Agreement	\$0.00
Resident - F1133	Residency Agreement	\$0.00
Resident - F1134	Residency Agreement	\$0.00
Resident - F1135	Residency Agreement	\$0.00
Resident - F1136	Residency Agreement	\$0.00
Resident - F1137	Residency Agreement	\$0.00
Resident - F1138	Residency Agreement	\$0.00
Resident - F1139	Residency Agreement	\$0.00
Resident - F1140	Residency Agreement	\$0.00
Resident - F1141	Residency Agreement	\$0.00
Resident - F1142	Residency Agreement	\$0.00
Resident - F1143	Residency Agreement	\$0.00
Resident - F1144	Residency Agreement	\$0.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Resident - F1145	Residency Agreement	\$0.00
Resident - F1146	Residency Agreement	\$0.00
Resident - F1147	Residency Agreement	\$0.00
Resident - F1148	Residency Agreement	\$0.00
Resident - F1149	Residency Agreement	\$0.00
Resident - F1150	Residency Agreement	\$0.00
Resident - F1151	Residency Agreement	\$0.00
Resident - F1152	Residency Agreement	\$0.00
Resident - F1153	Residency Agreement	\$0.00
Resident - F1154	Residency Agreement	\$0.00
Postpetition 1	Postpetition Residency Agreement	\$0.00
Postpetition 1	Postpetition Residency Agreement	\$0.00
Postpetition 2	Postpetition Residency Agreement	\$0.00
Postpetition 3	Postpetition Residency Agreement	\$0.00
Postpetition 4	Postpetition Residency Agreement	\$0.00

Exhibit 2 to Sale Order**Assigned Contracts⁴**

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
A PLACE FOR MOM	Resident placement	\$0.00
ABM HEALTHCARE SUPPORT SVC INC	Medical equipment	\$0.00
ALL WAYS ACCESSIBLE INC	Equipment maintenance	\$0.00
AMERIPRIDE SVC INC	Uniforms	\$0.00
ARCH MECHANICAL CONTRACTORS	HVAC	\$0.00
ASCAP LICENSE AGREEMENT	Music license	\$0.00
ASCENTIUM CAPITAL LLC	Retirement home television (customer # 2521433)	\$0.00
ASCENTIUM CAPITAL LLC	Retirement home television (customer # 2249335)	\$0.00
BERGERON CONSTRUCTION CO INC	Construction services	\$0.00
BEST VENDORS, LLC	Vending machines	\$0.00
BK SYSTEMS INC	Fire Alarm Maintenance	\$0.00
BLUESPIRE INC (ATTANE)	Marketing/Advertising Agency	\$12,316.00
CITY OF KEENE	PILOT Agreement	\$658,000

⁴ The presence of a contract or lease on this schedule does not constitute an admission by the Debtor that such contract is an executory contract or such lease is an unexpired lease pursuant to Bankruptcy Code section 365 or any other applicable law, and the Debtor reserves all rights to withdraw any proposed assumption and assignment or to reject any contract or lease at any time before the Closing Date.

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
CORT	Rental furniture	\$1,321.75
CUMMINS SALES AND SVC	Generator	\$0.00
DARTMOUTH-HITCHCOCK	Medical Director	\$1,300.00
DHHS COVID TESTING PROGRAM	COVID testing	\$0.00
DIRECT ENERGY	Electricity	\$13,119.64
ESSITY	Soap dispenser lease	\$0.00
FULL COUNT	POS System	\$0.00
GDS LANDMARK GROUP	Snow plowing	\$0.00
HAMPSHIRE FIRE PROTECTION	Fire system maintenance	\$11,775.00
IMPACT FIRE SERVICES, LLC	Fire system maintenance	\$1,850.00
IRONSHORE	Liability and umbrella insurance	\$0.00
JP PEST SVC LLC	Pest service	\$349.40
KAREN HOGAN	Marketing consulting	\$0.00
LISA M BLANCHETTE	Salon services	\$0.00
MCKESSON ORBITS SYSTEM AGREEMENT	Med cart	\$1,354.61
MEALSUITE INC	Meal ordering	\$0.00
MOBILE X DIAGNOSTICS	Labs contract	\$0.00
MPLC LICENSE AGREEMENT	Motion picture license	\$0.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
NETSMART INFO SYSTEMS	EMR system	\$0.00
NEW ENGLAND OFFICE SOLUTIONS INC	Copiers	\$0.00
OFFICE SYSTEM OF VT/NH	Copiers	\$0.00
OMNICARE OF NEW HAMPSHIRE	Pharmacy	\$0.00
ONE CALL NOW	Call bell	\$0.00
PITNEY BOWES	Mail system/postage machine lease	\$0.00
POWERS GENERATOR SERVICE, LLC	Generator maintenance/testing	\$0.00
PREMIERE TRANSITIONS	Resident placement	\$0.00
PROCTOR AND GAMBLE	Supplies	\$0.00
RAQUEL D. SCHMITT	Salon services	\$0.00
RELIAS LLC	Training system	\$0.00
RESILIENT BUILDINGS GROUP INC	Design review	\$0.00
SALESFORCE	CRM	\$0.00
SCHINDLER ELEVATOR CORP	Elevator maintenance/emergency contract	\$0.00
SEIMENS	Fire Alarm Maintenance	\$1,355.00
SESAC, LLC	Music license	\$0.00
SHARPS COMPLIANCE INC	Hazmat disposal	\$70.00

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
SINGLE DIGITS	IT/Technology	\$0.00
SUBURBAN PROPANE	Utility	\$1,174.43
SYSCO BOSTON LLC	Food	\$7,566.11
TMI TRUST COMPANY	Escrow agent	\$0.00
TOUCHTOWN INC	Community communication screens	\$1,015.00
US CELLULAR	Cell phone	\$310.55
WASTE MANAGEMENT OF NEW HAMPSHIRE, INC	Trash	\$5,618.96
WELLS FARGO EQUIPMENT FINANCE, INC.	Bus lease	\$0.00
WRE SVC (WIND RIVER)	Grease trap	\$0.00

APPENDIX M
Assignment and Assumption Agreement (Covenant Living of Keene)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "*Assignment*") is made as of November 22, 2021 ("*Effective Date*"), between Covenant Living Services, an Illinois not for profit corporation, ("*Assignor*") and Covenant Living of Keene, a New Hampshire not-for-profit voluntary corporation ("*Assignee*"). Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement (as defined below).

RECITALS

WHEREAS, Assignor has entered into that certain Asset Purchase Agreement, dated August 17, 2021, with the Prospect-Woodward Home d/b/a Hillside Village Keene ("*Seller*"), a New Hampshire not-for-profit voluntary corporation, as may be amended from time to time (the "*Purchase Agreement*"), pursuant to which Assignor or its assignee is acquiring the Purchased Assets and assuming the Assumed Liabilities on the terms and conditions contained in the Purchase Agreement; and

WHEREAS, The Seller has filed a voluntary bankruptcy petition under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. Sections 101 et seq. in the United States Bankruptcy Court of the District of New Hampshire; and

WHEREAS, Assignee is an Affiliate of Assignor; and

WHEREAS, pursuant to and as expressly permitted by Section 8.6 of the Purchase Agreement, Assignor desires to assign, transfer and convey all of its interests and obligations under the Purchase Agreement to Assignee, and Assignee has agreed to accept such assignment, transfer and conveyance of all of Assignor's interests in and to the Purchase Agreement and to otherwise assume Assignor's obligations under the Purchase Agreement as provided in this Assignment.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment of Purchase Agreement. Effective as of the Effective Date, Assignor hereby transfers and assigns to Assignee all of Assignor's right, title and interest as Buyer in and to the Purchase Agreement, including but not limited to, the Purchased Assets and the Assumed Liabilities.

2. Assumption. Effective as of the Effective Date, Assignee hereby accepts such assignment of all of Assignor's right, title and interest as Buyer in and to the Purchase Agreement, including but not limited to, the Purchased Assets, and assumes all obligations of Assignor as Buyer under the Purchase Agreement arising from and after the Effective Date, including but not limited to, the Assumed Liabilities, and agrees to fully pay, perform and satisfy all of the terms, conditions, covenants and agreements of the Purchase Agreement on the part of the Buyer thereunder to be kept and performed during the remaining term of the Purchase Agreement and

any extension or renewal thereof, accruing on and after the Effective Date or otherwise attributable to the period commencing on such date and continuing thereafter, including without limitation, the obligation to pay the Purchase Price in cash at Closing as required by the Purchase Agreement and assume and pay any Cure Amounts in connection with the Residency Agreements and other Assumed Contracts, if any.

3. Reference to the Purchase Agreement. The provisions of this Assignment are subject in all respects to the terms of the Purchase Agreement Except with respect to the assignment and assumption of rights and obligations contained in this Assignment, nothing contained in this Assignment shall be deemed or construed to alter, modify, add to or waive any of the rights, obligations, terms, covenants, conditions, or other provisions contained in the Purchase Agreement.

4. Captions. The Section headings contained in this Assignment are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Assignment or the intent of any provision of this Assignment.

5. Further Assurances. The parties hereto shall from time to time after the date hereof execute and deliver such additional instruments of conveyance in addition to this Assignment as one may reasonably request of the other to evidence more fully the assumption of the Assumed Liabilities.

6. Notice. Notices shall be as provided in the Purchase Agreement, with the addition of the following address for Assignee: Covenant Living of Keene, c/o Covenant Living Services, 5700 Old Orchard Road, Chicago, IL 60077 Attention: David Erickson; dgerickson@covliving.org; with a simultaneous copy to: Erickson Peterson Cramer, 350 St. Peter Street, Suite 601, St. Paul, MN 55102; jpeterson@epclawyers.com

7. Applicable Law. This Assignment shall be governed by and construed in accordance with the laws of the State of New Hampshire without regard to principles of conflicts of law.

8. Amendment; Waiver. This Assignment may be modified or supplemented only by written Assignment of the parties hereto.

9. Covenant Living Services Obligations. Nothing contained in this Assignment shall relieve or be deemed to relieve Covenant Living Services from its duties, financial liabilities and other obligations under the Purchase Agreement prior to Closing.

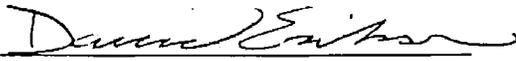
10. Counterparts. This Assignment may be executed in separate counterparts, each of which shall be an original and all of which shall be deemed to be one and the same Assignment. Electronic signatures shall be deemed to be original signatures.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be executed and delivered as of the date and year first above written.

ASSIGNOR:

COVENANT LIVING SERVICES

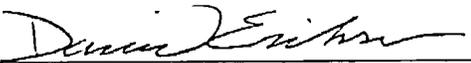
By: 

Name: David G. Erickson

Title: Senior VP/General Counsel

ASSIGNEE:

COVENANT LIVING OF KEENE

By: 

Name: David G. Erickson

Title: Senior VP/General Counsel

APPENDIX N
Current Accounting of Prospect-Woodward Restricted Funds

**PROSPECT HILL HOME DBA PROSPECT PLACE
GENERAL FUND**

NO.	YEAR	DONOR	MARKET VALUE 9/30/2021
<u>Prospect-Place Restricted Funds</u>			
1	1893	Ingersoll, Miss Caroline H.	\$10,054.25
2	1906	Harris, Gordis D.	\$2,345.30
3	1907	Hall, Mary R.	\$4,665.76
4	1908	Wheelock, George Alexander	\$74,161.18
5	1912	Burt, Mrs. A. L.	\$9,051.22
6	1919	Gordon, Mrs. Sarah A.	\$51,542.53
7	1920	Thayer, Julia B. & Margaret Chapin	\$42,690.86
8	1923	Martin, Olive E. (Layton-Martin Fund)	\$4,158.38
9	1923	Wood, Sarah	\$8,316.80
10	1924	Coffin, Mrs. A. B. (Memory Martha Wheeler)	\$824.48
11	1925	Goodnow, Horace L.	\$15,502.72
12	1927	Ellis, Effie A.	\$20,151.02
13	1928	Jones, Charles A.	\$8,005.55
14	1928	Pierce, Frederick B.	\$8,005.55
15	1930	Blanchard, Anna A.	\$7,905.09
16	1932	Tilton, Mary Ellen	\$3,867.00
17	1934	Lane, Abbott	\$7,504.32
18	1934	Wright, Mary P.	\$3,752.17
19	1936	Wilcox, Lillian A.	\$3,663.52
20	1939	Wright, Katharine L.	\$25,830.65
21	1940	Ellis, Alice H.	\$6,983.09
22	1942	Lane, Harriet L.	\$145,316.03
23	1946	Amidon, Annie E.	\$31,691.83
24	1955	Abbott, Charles	\$10,947.32
25	1955	Stearns, Mary G.	\$60,147.17
26	1958	Carter, Sarah J.	\$52,498.84
27	1961	Harris, Gordie D.	\$24,273.43
28	1961	Whitcomb, Edna C.	\$50,424.57
29	1964	Hall, Carrie S.	\$96,916.03
30	1967	Pearson, William	\$92,443.45
31	1975	Faulker, Elizabeth J.	\$10,379.39
32	1991	Hamblet, Fred	\$12,668.64
33	2007	Davis, Donald Trust	\$10,741.34
34	2007	Donald D Davis Charitable Unitrust	<u>\$46,218.43</u>
Total Prospect-Place Restricted Funds			<u>\$963,647.91</u>

**PROSPECT HILL HOME DBA PROSPECT PLACE
GENERAL FUND**

NO.	YEAR	DONOR	MARKET VALUE 9/30/2021
<u>Woodward Restricted Funds</u>			
1	1933	Ellis, Effie A.	\$49,919.32
2	1933	Edgar F. Dean	\$11,440.91
3	1934	Woodward, Ellen A.	\$9,083.61
4	1934	Woodward, Harry S.	\$106,489.96
5	1935	Lane, Abbott	\$12,812.62
6	1936	Lane, Abbott	\$3,993.56
7	1936	Wilcox, Frederick C.	\$3,327.95
8	1943	Grant M. Hall	\$31,153.98
9	1944	Hall, Grace M.	\$43,986.57
10	1954	Smith, Emma A.	\$2,094.42
11	1960	Dunn, May C.	\$1,663.98
12	1963	Wilson, Susie G.	\$1,663.98
13	1975	Page, Frances C.	\$14,838.46
14	1975	Page, Harry A.	\$10,785.34
15	1976	Perry, Josephine M.	\$8,319.89
16	1976	Colony, Ruth	\$67,560.20
17	1983	Alexander, Ethel V.	<u>\$713.17</u>
Total Woodward Restricted Funds			<u>\$379,847.92</u>
18	Unknown	Hamblet Memorial Garden	<u>\$18,577.79</u>
Combined Total			<u>\$1,362,073.62</u>

APPENDIX O
Supplement to Letter of Intent Dated June 10, 2021

Certain Information Contained in this Appendix has been Redacted Because it is Confidential, Proprietary Information Excluded from Public Disclosure Under NH RSA 91-A:5(IV)



SUPPLEMENT TO LETTER OF INTENT DATED JUNE 10, 2021

**COVENANT LIVING COMMUNITIES AND SERVICES
RESPONSE TO HILLSIDE VILLAGE – SECOND ROUND BID QUESTIONNAIRE**

1. Residency Agreements:

- a. *Please confirm Buyer will honor all residency agreements, including refund liabilities (inclusive of those in the queue for any residents who have vacated) and future service obligations, [REDACTED]*
- b. Response: As stated in Section 4 of the Letter of Intent dated June 10, 2021 (“Letter of Intent”), submitted by Covenant Living Communities and Services (“Buyer”), Buyer will honor all residency agreements, including refund liabilities (inclusive of those in the queue for any residents who have vacated) and future services obligations, [REDACTED].
[REDACTED] Buyer is relying upon the accuracy of the due diligence information provided by Seller in this regard, in order to establish a financing plan for the Facility that includes these liabilities.

2. Stalking Horse Provisions:

It is anticipated that Hillside Village will be sold through a Chapter 11 Bankruptcy or similar process which will require your second round bid to be structured as a Stalking Horse bid. With this in mind, please provide within your Letter of Intent:

- a. *Proposed Breakup Fee-See Letter of Intent, Section 10*
- b. *Proposed Expense Reimbursement-See Letter of Intent, Section 17(b)*
- c. *Confirmation that upon completion of your third-party reports (Property Condition Assessment, Phase I Environmental, Survey, Appraisal, etc.), you will release those reports for Seller to provide to all other potential interested bidders.*
Response: Buyer will release reports that have been prepared by third-party consultants (other than financial advisors and marketing consultants), such as Phase I Environmental, survey, title commitments, and appraisal.
- d. *All other relevant terms such as your purchase price, contingencies and how much time you will need to close following the entry of a court order approving the sale-See Letter of Intent, Sections 1,7, 11 and 14*

3. Source of Equity:

- a. *Please provide an overview of the proposed transaction structure (i.e. sources and uses) See below*
- b. *Include the anticipated amount of equity and evidence of your ability to access equity (i.e. Is this capital fully discretionary? Are funds available at this time?). See below*
- c. *Do you anticipate that Hillside Village’s current endowment funds will be transferred to you, subject to the fund restrictions and Director of Charitable Trust*

approval and oversight? Yes, Buyer anticipates that the current endowment funds will be transferred to Buyer, subject to the restrictions noted above.

4. Source of Debt:

- a. *Specify whether third-party financing is being utilized, and if so in what capacity, and what percentage of the purchase price is being contemplated.*
- b. *Please outline the prospective lender's status with the deal and general timing/process.*
- c. *Confirm any financing contingency would expire on or before due diligence expiration.*

Response to questions 3(a) and (b), and 4(a), (b) and (c):

Buyer is an A-rated organization by Fitch. We have a strong balance sheet as evidenced by the fact that our days cash on hand is more than four times the requirement in our bond covenants. We have the ability to finance this acquisition in a variety of ways, including options such as issuing taxable fixed rate debt, using a bank loan, or utilizing a combination of equity and debt. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. New Hampshire CCRC Statutory Provisions:

- a. *Minimum Liquid Reserve. Please confirm Buyer has adequate funds to satisfy post-closing MLR (RSA 420-D:8 and Ins Section 1805).*

Response: Buyer has reviewed the liquid reserves requirements, which are required to be maintained in an amount equal to 12 months' principal and interest payments plus that portion of two months' operating expenses which

relates to life care residents. Buyer is including these reserve requirements in its financing plan for the purchase of the Facility.

- b. *New Hampshire CCRC Regulatory Requirements. Please confirm your familiarity with New Hampshire law and regulations for operating a CCRC, including 420-D:18 (regarding commissioner approval of dividends) and 420-D:22 (regarding the requirement to maintain records and assets within the state).*

Response: Buyer has reviewed these sections of the New Hampshire regulations.

- c. *Certificate of Authority. Please confirm whether there are impediments to you obtaining a certificate of authority from the New Hampshire Insurance Commissioner (RSA 420-D:2) prior to closing.*

Response: Buyer is not aware of any impediments to obtaining a certificate of authority from the New Hampshire Insurance Commissioner.

6. Construction Repairs:

- a. *Please confirm Buyer's anticipated capital improvements, including but not limited to construction repairs.*

[REDACTED]

Buyer is not assuming any liability in connection with the construction dispute between the Seller and its contractors. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

APPENDIX P
Bankruptcy Court Bid Procedure Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home	)	Case No. 21-10523-BAH
dba Hillside Village,)	
	)	Re: Docket No. 10
Debtor. ¹)	
)	

ORDER (A) APPROVING BIDDING PROCEDURES IN CONNECTION WITH THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS, (B) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (C) AUTHORIZING THE DEBTOR TO ENTER INTO THE STALKING HORSE AGREEMENT, (D) AUTHORIZING PAYMENT OF THE STALKING HORSE PAYMENT AS AN ADMINISTRATIVE EXPENSE, (E) SCHEDULING AN AUCTION AND A SALE HEARING, (F) APPROVING PROCEDURES FOR THE ASSUMPTION AND ASSIGNMENT OF CONTRACTS, AND (G) GRANTING RELATED RELIEF

Upon the motion (the “Motion”)² of the above-captioned debtor as debtor-in-possession (the “Debtor”) for entry of an order (this “Order”) (a) authorizing and approving the bidding procedures attached hereto as **Exhibit 1** (the “Bid Procedures”) in connection with the sale of substantially all of the Debtor’s assets (the “Assets”), (b) approving the form and manner of notice in substantially the form attached hereto as **Exhibit 2** (the “Sale Notice”) of an auction (the “Auction”) and sale hearing (the “Sale Hearing”) with respect to the sale of the Assets free and clear of liens, claims, encumbrances, and other interests (the “Sale”), (c) authorizing the Debtor to enter into the Stalking Horse Agreement (as defined hereinafter), (d) authorizing payment of the Stalking Horse Payment as an administrative expense, (e) scheduling the

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431.

² Reference is made herein to the Motion, the procedures that are attached to this Order as **Exhibit 1** (the “Bid Procedures”), and that certain Asset Purchase Agreement dated as of August 17, 2021 between Covenant Living Services (the “Stalking Horse”) and Debtor (the “Stalking Horse Agreement”). Capitalized terms used but not defined in this Order shall have the meanings stated in the Motion, the Bid Procedures, or the Stalking Horse Agreement, as applicable.

Auction and the Sale Hearing, and (f) approving procedures for the possible assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale (collectively, the “Contracts”); the Court having reviewed the Motion and the First Day Declaration; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334(b); and the Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtor, the estate, creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore,

THE COURT FINDS THAT:

A. The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. The Debtor has articulated good and sufficient reasons for this Court to (i) approve the Bid Procedures; (ii) authorize the Debtor to enter into the Stalking Horse Agreement; (iii) allow and authorize payment of the Stalking Horse Payment as an allowed and final administrative expense pursuant to Bankruptcy Code section 503(b) without further hearing or proof; (iv) schedule the Auction and Sale Hearing and approve the manner of notice of the Auction

and Sale Hearing; and (v) approve procedures for the assumption and assignment of the Contracts, including notice of the proposed cure amounts.

C. The Debtor reasonably determined in the exercise of the business judgment that the Bid Procedures are fair, reasonable, and appropriate and represent the best method for maximizing the value of the Assets for the benefit of the Debtor and its estate.

D. The Bid Procedures were negotiated in good faith by the Debtor and the Stalking Horse for purposes of Bankruptcy Code section 363(m).

E. Assumption and Assignment Procedures. The Motion, this Order, and the assumption and assignment procedures (the “Assignment Procedures”) provide counterparties with proper and reasonable notice of the potential assumption by the Debtor and assignment to the Successful Bidder of their Contracts, the procedures associated therewith, and any cure amounts relating thereto.

F. Sale Notice. The Sale Notice provides interested parties with timely and proper notice of the proposed Sale, including, without limitation: (a) the date, time, and place of the Auction (if one is held); (b) the Bid Procedures; (c) the deadline for filing objections to the Sale and entry of the Sale Order, and the date, time, and place of the Sale Hearing; (d) reasonably specific information concerning the Assets to be sold; (e) a description of the Sale as being free and clear of liens, claims, encumbrances, and other interests (collectively, “Interests”), with all such Interests attaching with the same validity and priority to the Sale proceeds; and (f) notice of the proposed assumption and assignment of Contracts to the Successful Bidder. No other or further notice of the Sale shall be required.

G. The Debtor has demonstrated a compelling business justification for the payment of the Stalking Horse Payment under the circumstances set forth in the Stalking Horse Agreement,

including without limitation, (i) the amount of the proposed Stalking Horse Payment is reasonable as compared to other cases with similar circumstances, (ii) the presence of a stalking horse will encourage competitive bidding, and (iii) because any Overbid must surpass the amount of the Stalking Horse Payment, the estate will benefit even if the Stalking Horse Payment is made.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. All objections to entry of the Bid Procedures Order that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled. No determinations are made with respect to the approval of the Sale and all rights are reserved to all parties with respect thereto.
3. The Bid Procedures, in the form attached hereto as **Exhibit 1**, are approved in their entirety and incorporated into this Order by reference, and the Bid Procedures shall govern the sale of the Assets, including the Auction, and the Debtor is authorized to take any and all actions necessary to implement the Bid Procedures. To the extent of any conflict between the terms of this Order and the Bid Procedures, the terms of this Order shall control.

II. The Auction

4. As further described in the Bid Procedures, the Auction, if any, shall take place on November 3, 2021 at 10:00 a.m. (prevailing Eastern Time), or such later time on such day or other place as may be set pursuant to the Bid Procedures. The Debtor may permit participants to attend remotely.
5. The Bond Trustee shall be deemed to be a Qualified Bidder and is not required to make any Good Faith Deposit. The Bond Trustee may participate in the Auction and may credit bid up to the conclusion of the Auction, in its sole and absolute discretion, any portion and up to the entire amount of the Bond Trustee's claims at any time on all the Assets constituting its

collateral; provided, however, the Bond Trustee must bid in cash at least the amount of the Stalking Horse Payment, which amount must be payable in cash at the Closing (the “Credit Bid”). The Bond Trustee will not be a Backup Bidder unless the Bond Trustee consents in writing otherwise. If the Bond Trustee elects to exercise its right to Credit Bid, such bid shall provide that the Stalking Horse Payment must be paid in cash.

6. Subject to the prior paragraph, the Stalking Horse shall have the right (including as part of any Overbid) to credit bid all or a portion of its Stalking Horse Payment (if any) pursuant to Bankruptcy Code section 363(k).³

7. The Bond Trustee and Savings Bank of Walpole (“SBW”) have agreed that, in the event that the Bond Trustee enters a credit bid at the Sale which credit bid is ultimately the Successful Bid then, prior to the closing, SBW and the Bond Trustee shall negotiate in good faith to determine a value applicable to SBW’s senior parity secured position/interest with that of the Bond Trustee in any of the purchased assets subject to the credit bid of the Bond Trustee. Such agreed to amount shall be paid by the Bond Trustee to SBW in readily available funds at the time of the closing. The Bond Trustee and SBW shall cooperate in good faith to the extent that any further orders or approvals of the Court are required to effectuate this or any further or amended agreement between them. If the Bond Trustee and SBW cannot arrive at such an agreement as to the amount to be paid to SBW in connection with such credit bid as set forth herein, then each of them reserves all rights and may in their sole discretion seek a hearing and determination from the Court.

8. The Bond Trustee agrees that, if it submits a Credit Bid as contemplated by the Bidding Procedures which is ultimately the Successful Bid, then at the Closing of such sale based

³ The Stalking Horse credit bid shall include the full amount of the eligible Expense Reimbursement.

upon such Credit Bid, the Bond Trustee will deposit cash into an escrow account held by the Debtor in an amount equal to the aggregate amount of claims of those parties that have asserted mechanics' liens against the Debtor's property subject to purchase by the Bond Trustee pursuant to its credit bid. The liens of the mechanics' lienholders and Bond Trustee shall attach to the funds in the escrow account pending a determination of the relative validity, priority, and amount of such mechanics' liens with respect to the Bond Trustee's security interests in such assets as of the Petition Date. All parties agree that each of their rights are reserved with respect to all such claims and issues in connection therewith and nothing contained in this Order shall modify, amend or waive such rights. Nothing in this order shall impede the prepetition liens from attaching to the proceeds of any sale.

9. In the event of a competing Qualified Bid, all Qualified Bidders will be entitled, but not obligated, to submit Overbids. The initial Overbid shall be equal to or exceed \$34,010,000, the aggregate amount of the Stalking Horse Bid (\$33,000,000), Stalking Horse Payment (\$910,000), and the Minimum Bid Increment (\$100,000).

10. The Debtor may, in consultation with the Bond Trustee, SBW, and the Official Committee of Unsecured Creditors (the "Committee") (a) determine which Qualified Bid (including the Credit Bid) is the highest or otherwise best offer; (b) reject at any time before the entry of the Sale Order any Bid (other than the Stalking Horse Bid and any Credit Bid) that, in the discretion of the Debtor, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bid Procedures, or (iii) contrary to the best interest of the Debtor's estate and its creditors; (c) impose such other terms and conditions upon Qualified Bidders as the Debtor determines to be in the best interest of the Debtor's estate; and (d) continue or cancel the Auction (provided that the Auction may be cancelled if, by the Bid Deadline, no

Qualified Bid, other than the Stalking Horse Bid, has been received by the Debtor and the Bond Trustee has not indicated its intention to exercise its right to submit a Credit Bid).

11. No person or entity, other than the Stalking Horse Bidder, shall be entitled to any expense reimbursement, breakup fee, topping or termination fee, or other similar fee or payment, and by submitting a Bid, such person or entity is deemed to have waived its right to request or file with this Court any request for expense reimbursement or any other fee of any nature in connection with the Auction and the Sale, whether by virtue of Bankruptcy Code section 503(b) or otherwise.

III. Assumption and Assignment Notices & Procedures

12. On or before September 24, 2021, the Debtor shall serve on all non-Debtor counterparties (the “Contract Counterparties”) to any Contract that may be assumed by the Debtor and assigned to the Successful Bidder a notice, which shall be substantially in the form attached hereto as **Exhibit 3** (a “Cure and Possible Assumption and Assignment Notice”), setting forth the Debtor’s calculation of the cure amount, if any, that would be due and owing to such Contract Counterparty if the Debtor decided to assume, or assume and assign, such Contract, and alerting such Contract Counterparty that its Contract may be assumed and assigned to the Successful Bidder.

13. The presence of a Contract on the Cure and Possible Assumption and Assignment Notice does not constitute an admission that such Contract is an executory contract or unexpired lease, and the presence of a Contract on any notice shall not prevent the Debtor from subsequently withdrawing such request for assuming or rejecting such Contract any time before such Contract is actually assumed and assigned or rejected pursuant to the Sale Order.

14. Any Contract Counterparty that objects to the cure amount set forth on the Cure and Possible Assumption and Assignment Notice or to the possible assignment of its Contract must file an objection with the Bankruptcy Court (a “Contract Objection”) on or before 4:00 p.m.

(prevailing Eastern Time) on October 15, 2021, which Contract Objection must also be served on (a) counsel for the Debtor, (i) Polsinelli PC, 600 Third Avenue, 42nd Floor, New York, New York 10016, Attn: Jeremy R. Johnson (jeremy.johnson@polsinelli.com) and Attn: Stephen J. Astringer (sastringer@polsinelli.com), and (ii) Hinckley, Allen & Snyder LLP, 650 Elm Street, Manchester, New Hampshire 03101, Attn: Daniel M. Deschenes (ddeschenes@hinckleyallen.com) and 28 State Street, Boston, Massachusetts 02109, Attn: Jennifer V. Doran (jdoran@hinckleyallen.com); (b) counsel for the Bond Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: Daniel S. Bleck (dsbleck@mintz.com); (c) counsel for the Committee, (i) Perkins Coie LLP, 131 S. Dearborn Street, Suite 1700, Chicago, Illinois 60603, Attn: Eric E. Walker (ewalker@perkinscoie.com), and (ii) McLane Middleton, 900 Elm Street, Manchester, New Hampshire 03101, Attn: Joseph A. Foster (joe.foster@mclane.com); (d) counsel for the Stalking Horse, (i) Covenant Living Communities & Services, 5700 Old Orchard Rd, Skokie, Illinois 60077, Attn: David G. Erickson, and (ii) Erickson Peterson Cramer, 350 St. Peter Street, Suite 601, St. Paul, Minnesota 55102, Attn: Julie A. Peterson (jpeterson@epclawyers.com); (e) counsel for SBW, Devine, Millimet & Branch, Professional Association, 111 Amherst Street, Manchester, New Hampshire 03101, Attn: Charles R. Powell (cpowell@devinemillimet.com); (f) the Office of the United States Trustee for the District of New Hampshire, James C. Cleveland Building, 53 Pleasant Street, Suite 2300, Concord, NH 03301, Attn: Kimberly Bacher (Kimberly.Bacher@usdoj.gov); and (g) the Clerk of the Bankruptcy Court for the District of New Hampshire (collectively, the “Notice Parties”).

15. If a Contract Counterparty does not timely file and serve a Contract Objection, that party will be forever barred from objecting to (a) the Debtor’s proposed cure amount, or (b) the potential assignment of that party’s Contract to the Successful Bidder. If a Contract Counterparty

files a timely Contract Objection asserting a higher cure amount than the amount listed in the Cure and Possible Assumption and Assignment Notice, or objecting to the possible assignment of that Contract Counterparty's Contract, and the parties are unable to consensually resolve the dispute, the amount to be paid under Bankruptcy Code section 365 (if any) or, as the case may be, the Debtor's ability to assign the Contract to the Successful Bidder will be determined at the Sale Hearing.

16. No later than 4:00 p.m. (prevailing Eastern Time), on October 29, 2021 (the "Bid Deadline"), each bidder other than the Stalking Horse (each an "Other Bidder") shall (i) designate in writing to the Debtor which of the Contracts are to be assumed by the Debtor and assigned to such Other Bidder if such Other Bidder becomes the Successful Bidder and (ii) submit to the Debtor financial and other information about such Other Bidder to demonstrate that such Other Bidder is able to provide adequate assurance of future performance as required by Bankruptcy Code section 365 (the "Other Bidder Adequate Assurance Information"). All Residency Agreements shall be deemed included in the list of Contracts referred to in the prior sentence.

17. If the Successful Bidder or Backup Bidder is an Other Bidder, at least three (3) calendar days before the Sale Hearing, the Debtor shall provide written notice to the Contract Counterparties to each Contract designated by such Other Bidder for assumption by the Debtor and assignment to such Other Bidder (each an "Other Bidder Designated Contract") advising that such Other Bidder is the Successful Bidder or Backup Bidder (as applicable) and that Contract has been designated for assumption by the Debtor and assignment to such Other Bidder.

18. By November 4, 2021, the Debtor shall file with the Court and serve on the Contract Counterparties who are parties to a Contract to be assumed and assigned a further notice, substantially in the form attached hereto as **Exhibit 4** (the "Assumption Notice"), identifying the

Successful Bidder, stating which Contracts will be assumed and assigned to the Successful Bidder, and providing such Contract Counterparties with the Successful Bidder's assurance of future performance.

19. Any Contract Counterparty that objects to the adequacy of the assurance set forth in the Assumption Notice must file an objection (an "Adequate Assurance Objection") with the Bankruptcy Court prior to the Sale Hearing, or note its Adequate Assurance Objection at the Sale Hearing.

20. If a Contract Counterparty does not make an Adequate Assurance Objection prior to or at the Sale Hearing, such party will be forever barred from objecting to the adequacy of the assurance to be provided by the Successful Bidder. If a Contract Counterparty makes an Adequate Assurance Objection prior to or at the Sale Hearing, and if the parties are unable to consensually resolve the dispute, then the adequacy of the assurance provided by the Successful Bidder will be determined at the Sale Hearing.

IV. Notice of the Sale Process

21. The Sale Notice, the Cure and Possible Assumption and Assignment Notice, and the Assumption Notice, in substantially the forms attached to this Order as Exhibit 2, Exhibit 3, and Exhibit 4 are approved.

22. Within five (5) business days after the entry of this Order, the Debtor (or its agents) shall file on the docket and serve the Sale Notice by first-class mail upon: (a) the Office of the United States Trustee for Region 1, James C. Cleveland Building, 53 Pleasant Street, Suite 2300, Concord, NH 03301; (b) counsel to the Bond Trustee; (c) counsel for the Committee; (d) the Contract Counterparties; (e) all parties who have expressed a written interest in the Assets; (f) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim, or interest in the Assets; (g) the Internal Revenue Service; (h) all other

applicable state and local taxing authorities; (i) all the Debtor's other creditors; (j) each governmental agency that is an interested party with respect to the Sale and transactions proposed thereunder; and (h) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002.

V. The Sale Hearing

23. The Sale Hearing shall be held before the Court on November 8, 2021 at 9:30 a.m. (prevailing Eastern Time) or at such time thereafter as counsel may be heard or at such other time the Bankruptcy Court may determine. The Debtor will seek entry of an order of the Court at the Sale Hearing approving and authorizing the Sale of the Assets to the Successful Bidder. Upon entry of this Order, the Debtor is authorized to perform any obligation intended to be performed prior to the Sale Hearing or entry of the Sale Order with respect thereto. The Sale Hearing may be continued from time to time without further notice other than such announcement being made in open court or a notice of adjournment being filed with the Court and served on the Notice Parties.

VI. Objections to the Sale

24. Objections, if any, to the relief requested in the Motion relating to the Sale (except for any objection that arises at the Auction), including the transaction contemplated by the Stalking Horse Agreement (the "Stalking Horse Bid"), must be in writing, filed with the Court, and be served so that it is actually received no later than October 29, 2021 no later than 4:00 p.m. (prevailing Eastern time). Objections shall be served on the Notice Parties. A party's failure to timely file or make an objection in accordance with this Order shall forever bar the assertion of any objection to the Sale, entry of the Sale Order, and/or consummation of the Sale with the Successful Bidder pursuant to the applicable purchase agreement, including, without limitation, the assumption and assignment of the Contracts to the Successful Bidder pursuant to the applicable purchase agreement, and shall be deemed to constitute such party's consent to entry of the Sale

Order and consummation of the Sale and all transactions related thereto, including, without limitation such assumption and assignment.

VII. The Stalking Horse Payment

25. If the Stalking Horse Agreement has not been terminated by the Debtor based on a material breach by the Stalking Horse and the Debtor (or any Trustee or successor in interest) sells or transfers control over all or any substantial portion of the Assets in a transaction or series of transactions with one or more persons other than the Stalking Horse pursuant to the terms of the Bid Procedures, upon consummation of such transaction or transactions, from the proceeds of such a sale or sales (such a transaction, an "Alternative Transaction"), the Debtor shall pay the Stalking Horse the sum of \$660,000 plus up to \$250,000 of actual, documented costs and expenses incurred by Covenant in connection with the Transaction (the "Stalking Horse Payment"). The Stalking Horse Payment shall be treated as an allowed and approved administrative expense claim under Bankruptcy Code section 503(b)(1) without further proof or any further hearing. No further order of this Court shall be required to pay the Stalking Horse Payment other than any dispute arising with respect to the appropriate amount of the expense reimbursement; *provided, however*, that under no circumstances shall the Stalking Horse Payment be paid other than from the first proceeds received by or upon behalf of the Debtor from the Alternative Transaction pursuant to the Bid Procedures. For the purposes of all calculations used in the Bid Procedures, the Stalking Horse Payment shall be equal to \$910,000.

VIII. New Hampshire Regulatory Matters

26. This Order shall not alter or modify obligations of the Debtor and any Successful Bidder to comply with applicable federal and state law (including, without limitation, N.H. RSA 7:19-b; N.H. RSA 547:3-c and 3-d; and N.H. RSA Chapter 420-D) with respect to review and approval of the transaction proposed in the Motion or any modifications thereto in the event that

the Debtor seeks approval of a sale to a Successful Bidder on terms other than those proposed in the Stalking Horse Agreement. The Stalking Horse and all other Qualified Bidders shall be deemed to have acknowledged that review and necessary approvals or consents by, among others, the New Hampshire Circuit Court Probate Division (N.H. RSA 547:3-c and 3-d), the New Hampshire Attorney General, Charitable Trusts Unit (N.H. RSA 7:19-b), and the New Hampshire Department of Insurance (N.H. RSA Chapter 420-D), are required for the Debtor to consummate the Sale.

27. Entry of this Order does not modify or alter state regulatory and licensing requirements. The findings of fact and conclusions of law in this Order shall not be binding on the State of New Hampshire or any of its agencies in regulatory proceedings or issuing approvals related to the required approvals described in the preceding paragraph nor to any state licensure or program participation determinations. The Debtor and any Successful Bidder must separately comply with all applicable state regulatory and licensing requirements with respect to a Sale of the Debtor's assets and subsequent operation thereof. The Stalking Horse and all other Qualified Bidders at the Auction shall be deemed to have acknowledged that any sale of the Debtor's Assets is subject to regulatory and licensing approvals by the State of New Hampshire.

28. The following shall be added to the Bid Procedures:

The Debtor and any Successful Bidder must separately comply with all applicable state regulatory and licensing requirements with respect to a Sale of the Debtor's assets and subsequent operation thereof. All Qualified Bidders are deemed to have acknowledged that any sale of the Debtor's Assets is subject to regulatory and licensing approvals by the State of New Hampshire. This includes deemed acknowledgment by all Qualified Bidders that review and approvals or consents by the New Hampshire Circuit Court Probate Division (N.H. RSA 547:3-c and 3-d), the New Hampshire Attorney General, Charitable Trusts Unit (N.H. RSA 7:19-b), and the New Hampshire Department of Insurance (N.H. RSA Ch. 420-D), are necessary for the Debtor to consummate the Sale. The Sale Procedures Order did not modify or alter state regulatory and licensing requirements.

29. The Debtor shall provide the State with the lists of Preliminarily Interested Investors, Qualified Bidders and Qualified Bids when such information is provided to the Consultation Parties (as defined in the Bid Procedures). The State and its counsel are authorized to attend the Auction.

IX. Other Relief Granted

30. Nothing in this Order, the Stalking Horse Agreement or the Motion shall be deemed to or constitute the assumption or assignment of a Contract.

31. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a). The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

32. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry, notwithstanding any provision in the Bankruptcy Rules or the Local Rules to the contrary, and the Debtor may, in its discretion and without further delay, take any action and perform any act authorized by this Order.

33. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: September 21, 2021

/s/ Bruce A. Harwood
Bruce A. Harwood
Chief Bankruptcy Judge

Exhibit 1 to Bid Procedures Order

Bid Procedures

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home	)	Case No. 21-10523-BAH
dba Hillside Village,)	
)	
Debtor. ¹)	
)	

BIDDING PROCEDURES

By the Motion dated August 30, 2021, the above-captioned debtor and debtor in possession (the “Debtor”) sought approval of, among other things, the procedures through which it will determine the highest or otherwise best price for the sale of substantially all of the Debtor’s assets and operations being offered for sale (the “Assets”) described in that certain Asset Purchase Agreement dated as of August 17, 2021 between Covenant Living Communities and Services (the “Stalking Horse”) and the Debtor (the “Stalking Horse Agreement”), a copy of which is attached to the Motion as **Exhibit A**.

On September [●], 2021, the U.S. Bankruptcy Court for the District of New Hampshire (the “Bankruptcy Court”) entered an order (the “Sale Procedures Order”), which, among other things, authorized the Debtor to determine the highest or otherwise best bid for the Assets through the process and procedures set forth below (the “Bid Procedures”)² to be employed for the proposed sale (the “Sale”) of the Assets. It is contemplated that the Sale will be implemented through a purchase agreement, subject to the receipt of higher and better bids at an auction (the “Auction”) and the corresponding entry into a sale agreement with a Successful Bidder (as defined below) according to these Bid Procedures. The Bankruptcy Court has jurisdiction with respect to any dispute that may arise with respect to these Bid Procedures. These Bid Procedures set forth the process (the “Bidding Process”) by which the Debtor is authorized to conduct the Auction for the Sale of its Assets.

Important Dates (All times are prevailing Eastern Time)

- **September 24, 2021 at 4:00 p.m.:** Debtor to send Cure and Possible Assumption and Assignment Notices to All Contract Counterparties and Notice of the Sale
- **October 15, 2021 at 4:00 p.m.:** Deadline to file and serve any Contract Objection.

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Bid Procedures Order.

- **October 29, 2021 at 4:00 p.m.:** Deadline to (a) submit Bid to be considered for the Auction; and (b) file and serve objections to relief requested at Sale Hearing (except for any objection that arises at the Auction)
- **November 3, 2021 at 10:00 a.m.:** Proposed date of Auction
- **November 4, 2021 at 4:00 p.m.:** Debtor to file notice of Successful Bidder, Backup Bidder, and Assumption Notices
- **November 8, 2021 at 9:30 a.m.:** Proposed date of Sale Hearing and deadline to make an Adequate Assurance Objection (either by filing such Adequate Assurance Objection with the Court prior to the Sale Hearing or noting its Adequate Assurance Objection at the Sale Hearing)

Marketing Process

The Debtor, in consultation with Grandbridge Real Estate Capital LLC (“Grandbridge”), developed a list of parties who the Debtor believes may potentially be interested in and who the Debtor reasonably believes would have the financial resources to consummate a Sale, which list includes both potential strategic investors and financial investors (each, individually, a “Contact Party”, and collectively, the “Contact Parties”). The Debtor shall consult with the Bond Trustee, Savings Bank of Walpole (“SBW”), and the Committee (together, the “Consultation Parties”) on all aspects of the Bidding Process and the Sale process. Grandbridge has or will contact the Contact Parties to explore their interest in pursuing a Sale. The Contact Parties may include parties that the Debtor or its advisors have previously contacted regarding a Sale, regardless of whether such parties expressed any interest, at such time, in pursuing a Sale. The Debtor will continue to discuss and may supplement the list of Contact Parties throughout the marketing process, as appropriate and in consultation with the Consultation Parties.

The Debtor shall distribute to each Contact Party an “Information Package” that is comprised of:

- (a) a cover letter;
- (b) a copy of these Bid Procedures; and
- (c) a copy of a confidentiality agreement (the “Confidentiality Agreement”).

To participate in the Bidding Process and to receive access to any materials relating to the Assets (the “Diligence Materials”), a party must submit to the Debtor an executed Confidentiality Agreement, signed and transmitted by the person or entity wishing to have access to the Diligence Materials.

A party who qualifies for access to the Diligence Materials shall be a “Preliminarily Interested Investor.” All due diligence requests must be directed to Grandbridge.

Bid Qualification Process³

To be eligible to participate in the Auction, each offer, solicitation or proposal (each, a “Bid”), and each party submitting such a Bid (each, a “Bidder”), must be determined by the Debtor, in consultation with the Consultation Parties, to satisfy each of the following conditions:

- (1) Good Faith Deposit: Each Bid must be accompanied by a deposit in the amount of One Million Dollars (\$1,000,000) to be deposited into an interest-bearing escrow account to be identified and established by the Debtor (the “Good Faith Deposit”).
- (2) Terms: A Bid must include executed transaction documents pursuant to which the Bidder proposes to effectuate the Sale, including an asset purchase agreement (the “Transaction Documents”). The Transaction Documents shall also identify any executory contracts and unexpired leases of the Debtor that the Bidder wishes to have assumed and assigned to it pursuant to the Sale (collectively, the “Assigned Contracts”).
- (3) Principal Terms: A Bid must have a Purchase Price of at least \$34,010,000.⁴ A Bid must include an executed asset purchase agreement similar in form and substance to Stalking Horse Agreement, as modified by the potential purchaser, pursuant to which the Bidder proposes to effectuate the contemplated transaction and a black-lined copy of the asset purchase agreement marked to show all changes requested by the Bidder, including specifications of the proposed purchase price and any changes to any exhibits or schedule to the agreement. A Bid must identify with particularity each and every condition to closing and all executory contracts to be assumed and assigned pursuant to the asset purchase agreement as well which liabilities it will be assuming. A Bid should propose a transaction involving substantially all, or a portion of, the Debtor’s Assets or operations. The Debtor, in consultation with the Consultation Parties, shall evaluate all Bids to determine whether such Bid(s) maximizes the value of the Debtor’s estate as a whole. The asset purchase agreement must include a commitment to close by no later than the Closing Date (as defined in the Stalking Horse Agreement).
- (4) Corporate Authority: Each Bidder must provide written evidence, reasonably acceptable to the Debtor, in consultation with the Consultation Parties, demonstrating appropriate corporate authorization to consummate the proposed transaction; *provided, however*, that, if the Bidder is an entity specially formed for the purpose of effectuating the transaction, then the Bidder must furnish written evidence reasonably acceptable to the Debtor, in consultation with the Consultation Parties, of the approval of the transaction by the equity holder(s) of such Bidder.

³ None of the Bid Qualification Process requirements apply to the Stalking Horse or the Stalking Horse Agreement, as may be amended (the “Stalking Horse Bid”). For avoidance of doubt, the Stalking Horse Bid is a Qualified Bid and the Stalking Horse Bidder is a Qualified Bidder.

⁴ The Purchase Price must be higher than the aggregate of the Stalking Horse Bid (\$33,000,000), Stalking Horse Payment (\$910,000), and Initial Overbid (\$100,000).

- (5) Government Approvals Timeframe: Each Bid must set forth an estimated timeframe for obtaining any required governmental, licensing, regulatory or other approvals or consents for consummating any proposed purchase. Please be advised as follows:

The Debtor and any Successful Bidder must separately comply with all applicable state regulatory and licensing requirements with respect to a Sale of the Debtor's assets and subsequent operation thereof. All Qualified Bidders are deemed to have acknowledged that any sale of the Debtor's Assets is subject to regulatory and licensing approvals by the State of New Hampshire. This includes deemed acknowledgment by all Qualified Bidders that review and approvals or consents by the New Hampshire Circuit Court Probate Division (N.H. RSA 547:3-c and 3-d), the New Hampshire Attorney General, Charitable Trusts Unit (N.H. RSA 7:19-b), and the New Hampshire Department of Insurance (N.H. RSA Ch. 420-D), are necessary for the Debtor to consummate the Sale. The Sale Procedures Order did not modify or alter state regulatory and licensing requirements.

- (6) Consent to Jurisdiction: By submitting a Bid, each Bidder agrees and shall be deemed to have agreed to submit to the jurisdiction of the Bankruptcy Court and waives any right to a jury trial in connection with any disputes relating to the Debtor's qualification of bids, the Auction, if any, the construction and enforcement of the Bidding Procedures, the sale documents and the closing, as applicable.
- (7) Proof of Financial Ability to Perform: Each Bidder must provide written evidence, sufficient for the Debtor to reasonably conclude, in consultation with the Consultation Parties, that the Bidder has the necessary financial ability to close the transaction and provide adequate assurance of future performance under all Assigned Contracts to be assumed and assigned in such transaction. Such information should include, *inter alia*, the following:
- (a) contact names and numbers for verification of financing sources,
 - (b) evidence of the Bidder's internal resources and proof of any debt or equity funding commitments that are needed to close the transaction;
 - (c) the Bidder's current financial statements; and
 - (d) any such other form, financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor, in consultation with the Consultation Parties, demonstrating that such Bidder has the ability to close the transaction; *provided, however*, that the Debtor shall determine, in its reasonable discretion, in consultation with the Debtor's advisors and the Consultation Parties, whether the written

evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Bidder's financial qualifications.

- (8) Contingencies: A Bid may not be conditioned on obtaining financing or any internal approval, or on the outcome or review of due diligence, but may be subject to the accuracy in all material respects at the closing of specified representations and warranties.
- (9) Irrevocable: A Bid must be irrevocable through the Auction; *provided, however*, that if such Bid is accepted as the Successful Bid or the Backup Bid (as defined herein), such Bid shall continue to remain irrevocable, subject to the terms and conditions of the Bid Procedures.
- (10) Disclaimer of Fees: Each Bid (other than a Stalking Horse Bid) must disclaim any right to receive any break-up fee, expense reimbursement, termination fee, or any other similar form of compensation.
- (11) Bid Deadline: Regardless of when a party qualifies as a Preliminarily Interested Investor, the Debtor must receive a Bid in writing, on or before October 29, 2021 at 4:00 p.m. (the "Bid Deadline"). Bids must be sent to the following by the Bid Deadline to be considered: (a) counsel for the Debtor, (i) Polsinelli PC, 600 Third Avenue, 42nd Floor, New York, New York 10016, Attn: Jeremy R. Johnson (jeremy.johnson@polsinelli.com) and Attn: Stephen J. Astringer (sastringer@polsinelli.com), and (ii) Hinckley, Allen & Snyder LLP, 650 Elm Street, Manchester, New Hampshire 03101, Attn: Daniel M. Deschenes (ddeschenes@hinckleyallen.com) and 28 State Street, Boston, Massachusetts 02109, Attn: Jennifer V. Doran (jdoran@hinckleyallen.com); (b) broker for the Debtor, Grandbridge Real Estate Capital LLC, 1408 North Westshore Boulevard, Suite 910, Tampa, Florida 33607, Attn: Allen McMurtry; (c) counsel to the Bond Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: Daniel S. Bleck (dsbleck@mintz.com); (d) counsel for the Committee, (i) Perkins Coie LLP, 131 S. Dearborn Street, Suite 1700, Chicago, Illinois 60603, Attn: Eric E. Walker (ewalker@perkinscoie.com), and (ii) McLane Middleton, 900 Elm Street, Manchester, New Hampshire 03101, Attn: Joseph A. Foster (joe.foster@mclane.com); and (e) counsel to Savings Bank of Walpole, Devine, Millimet & Branch, Professional Association, 111 Amherst Street, Manchester, New Hampshire 03101, Attn: Charles R. Powell (cpowell@devinemillimet.com) (collectively, the "Notice Parties").

A Bid received from a Bidder before the Bid Deadline that meets the above requirements shall constitute a "Qualified Bid," and such Bidder shall constitute a "Qualified Bidder."

Credit Bid

The Bond Trustee shall be deemed to be a Qualified Bidder and is not required to make any Good Faith Deposit in submitting a Credit Bid (defined below). The Bond Trustee may

participate in the Auction and may Credit Bid at any time up to the conclusion of the Auction, in its sole and absolute discretion, any portion and up to the entire amount of its claim; provided, however, the Bond Trustee must bid in cash at least the amount of the Stalking Horse Payment, which amounts must be payable in cash at the Closing (a “Credit Bid”). The Bond Trustee will not be a Backup Bidder unless it consents in writing otherwise. If the Bond Trustee elects to exercise its right to Credit Bid, such bid shall provide that the Stalking Horse Payment must be paid in cash. If the Bond Trustee or its designee elects to Credit Bid, the Bond Trustee shall no longer be a Consultation Party.

Auction

If one or more Qualified Bids is received by the Bid Deadline (other than the Stalking Horse Bid) and/or the Bond Trustee has indicated its intent to submit a Credit Bid, the Debtor will conduct the Auction to determine the highest and best Qualified Bid. This determination shall take into account any factors the Debtor, upon consultation with the Consultation Parties, reasonably deems relevant to the value of the Qualified Bid to the estate, including, *inter alia*, the following: (a) the amount and nature of the consideration; (b) the proposed assumption of any liabilities and/or Assigned Contracts; (c) the ability of the Qualified Bidder to close the proposed Transaction; (d) the impact of the Qualified Bid on residents; (e) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (f) any purchase price adjustments; (g) the impact of the Sale on any actual or potential litigation; and (h) the net after-tax consideration to be received by the Debtor’s estate (collectively, the “Bid Assessment Criteria”). If no Qualified Bid (other than the Stalking Horse Bid) is received by the Bid Deadline and the Bond Trustee has not indicated its intent to submit a Credit Bid, no Auction shall be conducted and the Stalking Horse Bid shall be deemed the Successful Bid. Only Qualified Bidders may participate in the Auction.

The Auction, if necessary, shall take place on November 3, 2021 at 10:00 a.m., at Hinckley, Allen & Snyder LLP, 28 State Street, Boston, Massachusetts 02109 or other place as the Debtor shall notify all Bidders who have submitted Qualified Bids. The Debtor may permit bidders to participate remotely subject to all of the other terms contained herein. The Auction shall be transcribed or videotaped, and shall be conducted according to the following procedures:

The Debtor Shall Conduct the Auction

The Debtor and its professionals shall direct and preside over the Auction in consultation with the Consultation Parties. At the start of the Auction the Debtor shall describe the terms of the highest and best Qualified Bid(s) (the “Auction Baseline Bid”).

All Bids made thereafter shall be Overbids (as defined below) and shall be made and received on an open basis and all material terms of each Overbid shall be fully disclosed to all Bidders who have submitted Qualified Bids. The Debtor shall maintain a transcript of all Bids made and announced at the Auction, including the Auction Baseline Bid and all Overbids.

Stalking Horse Rights

The Stalking Horse Payment shall be taken into account with each round of bidding and in each phase of the Auction by adding the amount of the Stalking Horse Payment to the amount of each bid made by the Stalking Horse. Any credit bids submitted by a party other than the Stalking

Horse shall include a cash component that is sufficient to pay the amount of the Stalking Horse Payment. Within at least two days prior to the Auction, if the Stalking Horse is not the highest and best Bid, the Debtor shall advise the Stalking Horse of the Auction Baseline Bid and shall provide a copy of the asset purchase agreed associated with such Auction Baseline Bid. The Stalking Horse Payment used in the bidding calculations hereunder shall be \$910,000.

Terms of Overbids

An “Overbid” is any Bid made at the Auction subsequent to the Debtor’s announcement of the Auction Baseline Bid. To submit an Overbid for purposes of this Auction, a Bidder must comply with the following conditions:

(1) Minimum Overbid Increment

The initial minimum Overbid shall be \$100,000. In advance of the Auction and after a review of the Qualified Bids received, the Debtor, in consultation with its advisors and the Consultation Parties, shall determine the increments of any subsequent Overbid after the Auction Baseline Bid but such amount shall not be less than \$100,000 (the “Minimum Overbid Increment”) for a Bid for all of the Debtor’s Assets, and in an amount to be determined by the Debtor, in consultation with the Consultation Parties at the Auction; *provided*, that the Debtor shall retain the right to modify the bid increment requirements at the Auction in consultation with the Consultation Parties. Additional consideration in excess of the amount set forth in the Auction Baseline Bid may include only cash, the assumption of debt, or a Credit Bid.

(2) Remaining Terms are the Same as for Qualified Bids

Except as modified herein, an Overbid must comply with the conditions for a Qualified Bid set forth above; *provided, however*, that the Bid Deadline shall not apply. Any Overbid shall remain open and binding on the Bidder unless and until the Debtor, in consultation with the Consultation Parties, accepts a higher Overbid, subject to such Bidder remaining a Backup Bidder.

To the extent not previously provided (which shall be determined by the Debtor in consultation with the Consultation Parties), a Bidder submitting an Overbid must submit, as part of its Overbid, written evidence (in the form of financial disclosure, credit-quality support information or other enhancement reasonably acceptable to the Debtor in consultation with the Consultation Parties) demonstrating such Bidder’s ability to close the transaction proposed by such Overbid.

(3) Announcing Overbids

The Debtor shall announce at the Auction the material terms of each Overbid, the basis for calculating the total consideration offered in each such Overbid and the resulting benefit to the Debtor’s estate based on, *inter alia*, the Bid Assessment Criteria.

(4) Consideration of Overbids

The Debtor reserves the right, in its reasonable business judgment, to make one or more adjournments in the Auction to, among other things: facilitate discussions between the Debtor and

individual Bidders, allow individual Bidders to consider how they wish to proceed, and give Bidders the opportunity to provide the Debtor with such additional evidence as the Debtor in its reasonable business judgment and in consultation with the Consultation Parties, may require, that the Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount.

No Collusion; Good-Faith Bona Fide Offer

Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (i) it has not engaged in any collusion with respect to the Sale or Bidding Process (including that it has no agreement with any other Bidder or Qualified Bidder to control the price) and (ii) its Qualified Bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bidder or the Backup Bidder.

Backup Bidder

Notwithstanding anything in the Bid Procedures to the contrary, if an Auction is conducted, the party with the next highest or otherwise best Qualified Bid(s) at the Auction, as determined by the Debtor, in the exercise of its business judgment, shall be required to serve as a backup bidder (the “Backup Bidder”). The Backup Bidder shall be required to keep its final Bid at Auction (or if the Backup Bidder submitted one or more Overbids at the Auction, its final Overbid) (the “Backup Bid”) open and irrevocable until sixty (60) days after entry of the Sale Order (the “Outside Backup Date”) or the closing of the transaction with the Successful Bidder. Following entry of the Sale Order, if the Successful Bidder fails to consummate an approved transaction because of a breach or failure to perform on the part of such Successful Bidder, the Debtor may designate the Backup Bidder to be the new Successful Bidder, and the Debtor will be authorized, but not required, to consummate the transaction with the Backup Bidder without further order of the Bankruptcy Court. In such case, the defaulting Successful Bidder’s deposit, if any, shall be forfeited to the Debtor’s estate, and the Debtor specifically reserves the right to seek all available damages from the defaulting Successful Bidder. The closing date to consummate the transaction with the Backup Bidder shall be the later of (a) sixty (60) days after the date that the Debtor provides notice to the Backup Bidder that the Successful Bidder failed to consummate a Sale and that the Debtor desires to consummate the transaction with the Backup Bidder, or (b) March 31, 2022 (the “Outside Closing Date”). The deposit, if any, of the Backup Bidder shall be held by the Debtor until the earlier of two (2) business days after (a) the closing of the Sale with the Successful Bidder and (b) the Outside Backup Date; provided, however, that in the event the Successful Bidder does not consummate the transaction as described above and the Debtor provides notice to the Backup Bidder, the Backup Bidder’s deposit shall be held until the closing of the transaction with the Backup Bidder. In the event that the Debtor fails to consummate a transaction with the Backup Bidder as described above, the Backup Bidder’s deposit shall be forfeited to the Debtor’s estate, and the Debtor specifically reserves the right to seek all available damages from the defaulting Backup Bidder.

Additional Procedures

The Debtor may announce at the Auction additional procedural rules that are reasonable under the circumstances (*e.g.*, the amount of time to make subsequent Overbids) for conducting the Auction so long as such rules are not inconsistent with these Bid Procedures.

Consent to Jurisdiction as Condition to Bidding

All Qualified Bidders, and all Bidders at the Auction shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to the Stalking Horse Agreement, the Auction or the construction and enforcement of any Transaction Documents.

Rights to Credit Bid

The Bond Trustee shall have the right to Credit Bid as set forth in the Bid Procedures Order. The Stalking Horse Bidder shall have the right (including as part of any Overbid) to credit bid all or a portion of the value of the Stalking Horse Payment at the Auction, including the full amount of the potential Expense Reimbursement for the Assets pursuant to Bankruptcy Code section 363(k).

Closing the Auction

The Auction shall continue until there is only one or more Qualified Bid(s) that the Debtor determines in its reasonable business judgment, after consultation with its financial and legal advisors and the Consultation Parties, is the highest and best Qualified Bid(s) at the Auction (the “Successful Bid” and the Bidder submitting such Successful Bid, the “Successful Bidder”). In making this decision, the Debtor, in consultation with its financial and legal advisors and the Consultation Parties, shall consider the Bid Assessment Criteria. The Auction shall not close unless and until all Bidders who have submitted Qualified Bids have been given a reasonable opportunity to submit an Overbid at the Auction to the then-existing Overbid. Prior to the conclusion of the Auction, the Successful Bidder and the Backup Bidder shall have submitted fully executed Transaction Documents memorializing the terms of the Successful Bid(s) and Backup Bid and the Successful Bidder shall have increased the amount of its Good Faith Deposit to 3% of the cash purchase price of the Successful Bid.

Bid Protections

The Stalking Horse is entitled to the Stalking Horse Payment, to the extent it becomes payable, pursuant to the terms of the Stalking Horse Agreement and the Bid Procedures Order.

Except for the Stalking Horse, no other party submitted an offer or Bid for the Assets or a Qualifying Bid shall be entitled to any expense reimbursement, breakup fee, termination, or similar fee or payment or any other protection against the Debtor designating another party as the Successful Bidder or Backup Bidder.

Procedures for Determining Cure Amounts and Adequate Assurance for Contract Counterparties to Assigned Contracts.

By September 24, 2021, the Debtor shall send a notice to each counterparty to an executory contract or unexpired lease (each a “Contract Counterparty”) setting forth the Debtor’s calculation of the cure amount, if any, that would be owing to such Contract Counterparty if the Debtor decided to assume or assume and assign such executory contract or unexpired lease, and alerting such Contract Counterparty that its contract may be assumed and assigned to the Successful Bidder (the “Cure and Possible Assumption and Assignment Notice”), a copy of which is attached to the Bid Procedures Order as **Exhibit 3**. Any Contract Counterparty that objects to the cure amount set forth in the Cure and Possible Assumption and Assignment Notice or the possible assignment of its executory contract or unexpired lease must file an objection (a “Contract Objection”) on or before 4:00 p.m. (prevailing Eastern Time) on October 15, 2021, which Contract Objection must be served on the Notice Parties. If a Contract Counterparty does not timely file and serve a Contract Objection, that party will be forever barred from objecting to (a) the Debtor’s proposed cure amount, or (b) the assignment of that party’s executory contract or unexpired lease to the Successful Bidder. Where a Contract Counterparty to an Assigned Contract files a timely Contract Objection asserting a higher cure amount than the amount listed in the Cure and Possible Assumption and Assignment Notice, or an objection to the possible assignment of that Contract Counterparty’s executory contract or unexpired lease, and the parties are unable to consensually resolve the dispute, the amount to be paid under Bankruptcy Code section 365 (if any) or, as the case may be, the Debtor’s ability to assign the executory contract or unexpired lease to the Successful Bidder will be determined at the Sale Hearing.

By November 4, 2021, the Debtor shall file with the Court and serve on the Contract Counterparties a further notice substantially in the form attached to the Bid Procedures Order as **Exhibit 4** (the “Assumption Notice”) identifying the Successful Bidder, stating which Contracts will be assumed and assigned to the Successful Bidder, and providing such Contract Counterparties with the Successful Bidder’s assurance of future performance. Any Contract Counterparty that objects to the adequacy of the assurance set forth in the Assumption Notice must file an objection with the Bankruptcy Court (an “Adequate Assurance Objection”) prior to the Sale Hearing or note its Adequate Assurance Objection at the Sale Hearing. If a Contract Counterparty does not make an Adequate Assurance Objection prior to or at the Sale Hearing, such party will be forever barred from objecting to the adequacy of the assurance to be provided by the Successful Bidder. If a Contract Counterparty makes an Adequate Assurance Objection prior to or at the Sale Hearing, and the parties are unable to consensually resolve the dispute, the adequacy of the assurance provided by the Successful Bidder will be determined at the Sale Hearing.

Sale Hearing

The Bankruptcy Court has scheduled a hearing (the “Sale Hearing”) on November 8, 2021, at 9:30 a.m. (prevailing Eastern Time), at which the Debtor will seek approval of the Sale to the Successful Bidder. Objections to the Sale of the Assets to the Successful Bidder or Back-Up Bidder must be filed and served so that they are actually received by the Debtor no later than 4:00 p.m. (prevailing Eastern Time) on October 29, 2021 (except for any objection that arises at the Auction) on the Notice Parties.

Return of Good Faith Deposits

The Good Faith Deposits of all Qualified Bidders shall be held in one or more interest-bearing escrow accounts by Connecticut Attorneys Title Insurance Company and shall not become property of the Debtor's estate absent further order of the Court. The Good Faith Deposits of any Qualified Bidder that is neither the Successful Bidder nor the Backup Bidder shall be returned to such Qualified Bidder not later than two (2) business days after the Sale Hearing. Upon the return of the Good Faith Deposits, their respective owners shall receive any and all interest that will have accrued thereon. If the Successful Bidder timely closes the winning transaction, its Good Faith Deposit shall be credited towards its purchase price. The forgoing notwithstanding, the Good Faith Deposit of the Stalking Horse shall be returned to the Stalking Horse pursuant to the provisions of the Stalking Horse Agreement.

Reservation of Rights

The Debtor reserves the right to modify these Bid Procedures in its reasonable business judgment in any manner, after consultation with the Consultation Parties, that will best promote the goals of the Bidding Process or impose, at or prior to the Auction, additional customary terms and conditions on the Sale of the Assets.

Attachment A to Bid Procedures

Form of Confidentiality Agreement

CONFIDENTIALITY AGREEMENT

Date: _____

Re: Confidentiality Agreement Regarding Potential Transaction

Ladies and Gentlemen:

In connection with your consideration of a possible acquisition of substantially all of the assets and assumption of certain liabilities ("Transaction") of The Prospect-Woodward Home d/b/a Hillside Village Keene (the "Company"), you have requested certain confidential and other information concerning the Company. You agree to treat any information concerning the Company, its affiliates, subsidiaries, management companies, and parent companies, whether furnished to you before or after the date of this letter, together with any and all analyses or other documents prepared by you or any of your directors, employees, advisors, attorneys, accountants, consultants, subcontractors, representatives or lending institutions (collectively, "Representatives") which contain or otherwise reflect such information (collectively, "Evaluation Material"), in accordance with this agreement. The term "Evaluation Material" does not include information that (a) was already in your possession prior to the time of disclosure to you by the Company or its Representatives, provided that such information was not furnished to you by a source known by you to be bound by a confidentiality agreement with the Company, or otherwise prohibited from disclosing the information to you, (b) was or becomes generally available to the public other than as a result of a disclosure by you or your Representatives, (c) becomes available to you on a non-confidential basis from a source other than the Company or its Representatives, provided that such source is not known by you to be bound by a confidentiality agreement with the Company, or otherwise prohibited from disclosing the information to you, or (d) that was or is independently developed by you without violating your obligations hereunder.

The Evaluation Material will be used solely for the purpose of evaluating the Transaction between the Company and you, will not be used in any way detrimental to the Company and its Representatives, and will be kept confidential by you and your Representatives, except to the extent that disclosure (a) has been consented to in writing by the Company, or (b) is made to your Representatives who need to know such information for the purpose of evaluating the Transaction (it being understood that such Representatives shall be informed by you of the confidential nature of the Evaluation Material). You shall be responsible for any breach of this agreement by any of your Representatives as if such Representative had been substituted for "you" as a party and signatory to this letter. You will not contact any shareholders, lenders, creditors, employees or directors of the Company regarding the Company without the prior written consent of the undersigned.

In the event that you or any of your Representatives are requested or required by law, regulatory authority or other applicable judicial or governmental order to disclose any Evaluation

Material, you will provide the Company with prompt notice of any such request or requirement so that the Company may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this agreement. In the event that such protective order or other remedy is not obtained, or that the Company waives compliance with the terms hereof, you may disclose only that portion of the Evaluation Material that is legally required.

In addition, without the prior written consent of the Company, you will not, and will direct your Representatives not to, disclose to any person (a) that the Evaluation Material has been made available to you or your Representatives, (b) that discussions are taking place concerning a Transaction, or (c) any terms or other facts with respect to the Transaction, including the status thereof.

It is understood and agreed that money damages may not be a sufficient remedy for any breach of this agreement, and that the Company is entitled to seek specific performance and injunctive or other equitable relief. Such remedy shall not be deemed to be the exclusive remedy for breach of this agreement, but shall be in addition to all other remedies available at law or equity to the Company.

The Company shall not be deemed to have made any representations or warranties as to the accuracy or completeness of the Evaluation Material. Only those representations or warranties that are made by the Company in a final definitive agreement regarding a Transaction, when, as and if executed, and subject to such limitations and restrictions as may be specified therein, will have any legal effect.

Within ten days after being so requested by the Company or its Representatives, except to the extent you are advised by legal counsel that complying with such request would be prohibited by law or regulatory authority, you will return or destroy all Evaluation Material. Any destruction of materials shall be confirmed by you in writing. Any Evaluation Material that cannot be returned or destroyed (such as oral Evaluation Material) shall remain confidential, subject to the terms of this agreement.

This agreement binds the parties hereto only with respect to the matters expressly set forth herein. As such, unless and until a subsequent definitive written agreement regarding a Transaction between the Company and you has been executed, (a) neither the Company nor you will be under any legal obligation of any kind whatsoever to negotiate or consummate a Transaction, and (b) you shall have no claim whatsoever against the Company or any of its respective directors, officers, owners, affiliates or Representatives arising out of or relating to any Transaction or Evaluation Material. No interest, license or any right respecting the Evaluation Material, other than expressly set out herein, is granted under this agreement by implication or otherwise.

Additionally, you agree not to solicit for employment any Company employees to whom you may be introduced or with whom you otherwise had contact as a result of your consideration of a Transaction for a period of two (2) years after the date of this agreement, provided that you shall not be restricted in any general solicitation for employees (including through the use of

employment agencies) not specifically directed at any such persons, and provided further that you shall not be restricted in hiring any such person who responds to any such general solicitation.

You hereby acknowledge that you are aware, and further agree that you will advise your Representatives, that Federal and State securities laws limit the circumstances in which any person who has material, non-public information about a company may purchase or sell securities of such a company and prohibit any such person from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities. Moreover, you agree that you shall not use any of the Evaluation Materials to purchase or attempt to purchase or otherwise engage in trading of claims of the Company (including, without limitation, claims held by trade creditors, bank lenders, other secured and unsecured lenders or any other parties).

You further acknowledge and confirm that (a) you have had the opportunity to have this agreement reviewed by counsel and have either utilized or waived this opportunity; and (b) the undersigned has due authority to bind you and your Representatives to the terms of this agreement.

This agreement shall be governed by and construed in accordance with the internal laws of the State of New Hampshire, without giving effect to applicable principles of conflicts of law to the extent that the application of the laws of another jurisdiction would be required thereby. Venue for any action to enforce the provisions of this letter agreement shall be properly laid in the United States Bankruptcy Court for the District of New Hampshire. This agreement shall be binding upon and shall insure to the benefit of the Company and its successors and assigns. This agreement constitutes the entire agreement between the parties hereto regarding the subject matter hereof. No amendments, changes or modifications may be made to this agreement without the express written consent of each of the parties hereto. If any term or provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms and provisions of this agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. No failure or delay by the Company in exercising any right hereunder or any partial exercise thereof shall operate as a waiver thereof or preclude any other or further exercise of any right hereunder.

Your obligations under this agreement shall remain in effect for a period of two years from the date hereof, except as otherwise stated herein.

Very truly yours,

The Prospect-Woodward Home d/b/a Hillside Village Keene:

Name:

Title:

Confirmed and Agreed to:

By: _____

Name:

Title:

Exhibit 2 to Bid Procedures Order

Sale Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home	)	Case No. 21-10523-BAH
dba Hillside Village,)	
)	
Debtor. ¹)	
)	

**NOTICE OF BID PROCEDURES, AUCTION, HEARING AND DEADLINES
RELATING TO THE SALE OF SUBSTANTIALLY
ALL OF THE ASSETS OF THE DEBTOR**

PLEASE TAKE NOTICE that on August 30, 2021, The Prospect-Woodward Home, as debtor and debtor-in-possession (the “Debtor”) in the above-captioned case (the “Bankruptcy Case”), filed a *Motion of the Debtor for Entry of (I) an Order (A) Approving Bid Procedures in Connection with the Sale of Substantially All of the Debtor’s Assets, (B) Approving the Form and Manner of Notice thereof, (C) Scheduling an Auction and Sale Hearing, (D) Approving Procedures for the Assumption and Assignment of Contracts, and (E) Granting Related Relief; and (II) an Order (A) Approving the Asset Purchase Agreement Between the Debtor and the Successful Bidder, and (B) Authorizing the Sale of Substantially All of the Debtor’s Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (C) Authorizing the Assumption and Assignment of Contracts, and (D) Granting Related Relief* [Docket No. 10] (the “Bid Procedures and Sale Motion”).² The Debtor seeks to complete a sale (the “Transaction”) of substantially all its assets (the “Assets”) to a prevailing bidder or bidders (the “Successful Bidder”) at an auction (the “Auction”) free and clear of all liens, claims, encumbrances and other interests pursuant to Bankruptcy Code section 363.

PLEASE TAKE FURTHER NOTICE that, on September [●], 2021 the Bankruptcy Court entered an order [Docket No. ●] (the “Bid Procedures Order”) approving the bidding procedures set forth in the Bid Procedures and Sale Motion (the “Bid Procedures”), which set the key dates and times related to the sale of the Debtor’s Assets under the asset purchase agreement with the Successful Bidder. **All interested bidders should carefully read the Bid Procedures.** To the extent that there are any inconsistencies between the Bid Procedures and the summary description of its terms and conditions contained in this notice, the terms of the Bid Procedures shall control. Pursuant to the Bid Procedures Order, the Debtor has entered into an Asset Purchase Agreement (the “Stalking Horse Agreement”) for the sale of substantially all of the Debtor’s assets to Covenant Living Communities and Services (the “Stalking Horse”) subject to competitive bidding as set forth in the Bid Procedures Order.

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Bid Procedures and Sale Motion.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bid Procedures, the Debtor must receive a Qualified Bid from interested bidders in writing, on or before October 29, 2021, or such later date as may be agreed to by the Debtor (the “Bid Deadline”). To be considered, Qualified Bids must be sent to the following at or before the Bid Deadline: (a) counsel for the Debtor, (i) Polsinelli PC, 600 Third Avenue, 42nd Floor, New York, New York 10016, Attn: Jeremy R. Johnson (jeremy.johnson@polsinelli.com) and Attn: Stephen J. Astringer (sastringer@polsinelli.com), and (ii) Hinckley, Allen & Snyder LLP, 650 Elm Street, Manchester, New Hampshire 03101, Attn: Daniel M. Deschenes (ddeschenes@hinckleyallen.com) and 28 State Street, Boston, Massachusetts 02109, Attn: Jennifer V. Doran (jdoran@hinckleyallen.com); (b) broker for the Debtor, Grandbridge Real Estate Capital LLC, 1408 North Westshore Boulevard, Suite 910, Tampa, Florida 33607, Attn: David Kliewer (david.kliewer@grandbridge.com); (c) counsel for the Bond Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: Daniel S. Bleck (dsbleck@mintz.com); (d) counsel for the Committee, (i) Perkins Coie LLP, 131 S. Dearborn Street, Suite 1700, Chicago, Illinois 60603, Attn: Eric E. Walker (ewalker@perkinscoie.com), and (ii) McLane Middleton, 900 Elm Street, Manchester, New Hampshire 03101, Attn: Joseph A. Foster (joe.foster@mclane.com); and (e) counsel for Savings Bank of Walpole, Devine, Millimet & Branch, Professional Association, 111 Amherst Street, Manchester, New Hampshire 03101, Attn: Charles R. Powell (cpowell@devinemillimet.com).

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bid Procedures, if the Debtor receives one or more Qualified Bids (other than the Credit Bid) by the Bid Deadline, the Auction will be conducted on **November 3, 2021 at 10:00 a.m.** (prevailing Eastern Time) at Hinckley, Allen & Snyder LLP, 28 State Street, Boston, Massachusetts 02109, or at such other place, date and time as may be designated by the Debtor. The Debtor may conduct the Auction remotely to the extent necessary to comply with applicable COVID-19 health guidelines.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bid Procedures, the Debtor has designated certain Assigned Contracts that may be assumed or assumed and assigned to the Successful Bidder. By **September 24, 2021**, the Debtor shall send a notice to each counterparty to an Assigned Contract setting forth the Debtor’s calculation of the cure amount, if any, that would be owing to such counterparty if the Debtor decided to assume or assume and assign such Assigned Contract, and alerting such non-debtor party that its contract may be assumed and assigned to the Successful Bidder (the “Cure and Possible Assumption and Assignment Notice”).

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bid Procedures, any counterparty that objects to the cure amount set forth in the Cure and Possible Assumption and Assignment Notice or the possible assignment of its Assigned Contract(s) must file with the Bankruptcy Court and serve an objection (a “Cure or Assignment Objection”) so that it is actually received on or before **4:00 p.m. ET on October 15, 2021** by (a) counsel for the Debtor, (i) Polsinelli PC, 600 Third Avenue, 42nd Floor, New York, New York 10016, Attn: Jeremy R. Johnson (jeremy.johnson@polsinelli.com) and Attn: Stephen J. Astringer (sastringer@polsinelli.com), and (ii) Hinckley, Allen & Snyder LLP, 650 Elm Street, Manchester, New Hampshire 03101, Attn: Daniel M. Deschenes (ddeschenes@hinckleyallen.com) and 28 State Street, Boston, Massachusetts 02109, Attn: Jennifer V. Doran (jdoran@hinckleyallen.com); (b) counsel for the

Bond Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: Daniel S. Bleck (dsbleck@mintz.com); (c) counsel for the Committee, (i) Perkins Coie LLP, 131 S. Dearborn Street, Suite 1700, Chicago, Illinois 60603, Attn: Eric E. Walker (ewalker@perkinscoie.com), and (ii) McLane Middleton, 900 Elm Street, Manchester, New Hampshire 03101, Attn: Joseph A. Foster (joe.foster@mclane.com); (d) counsel for Savings Bank of Walpole, Devine, Millimet & Branch, Professional Association, 111 Amherst Street, Manchester, New Hampshire 03101, Attn: Charles R. Powell (cpowell@devinemillimet.com); (e) the Office of the United States Trustee for the District of New Hampshire, James C. Cleveland Building, 53 Pleasant Street, Suite 2300, Concord, NH 03301, Attn: Kimberly Bacher (Kimberly.Bacher@usdoj.gov) (d) the Office of the United States Trustee for the District of New Hampshire; and (f) the Clerk of the Bankruptcy Court for the District of New Hampshire (collectively, the “Notice Parties”). Where a counterparty to an Assigned Contract files a timely Cure or Assignment Objection asserting a higher cure amount than the amount listed in the Cure and Possible Assumption and Assignment Notice, or an objection to the possible assignment of that counterparty’s Assigned Contract, and the parties are unable to consensually resolve the dispute, the amount to be paid under Bankruptcy Code section 365 (if any) or, as the case may be, the Debtor’s ability to assign the Assigned Contract to the Successful Bidder will be determined at the Sale Hearing (as defined below).

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bid Procedures, if a Contract Counterparty does not make an Adequate Assurance Objection prior to or at the Sale Hearing, such party will be forever barred from objecting to the adequacy of the assurance provided by the Successful Bidder. Where a Contract Counterparty makes an Adequate Assurance Objection prior to or at the Sale Hearing, and the parties are unable to consensually resolve the dispute, the adequacy of the assurance provided by the Successful Bidder will be determined at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that a hearing will be held to approve the sale of the Assets to the Successful Bidder (the “Sale Hearing”) at the Bankruptcy Court on **November 8, 2021 at 9:30 a.m. (prevailing Eastern Time)**, or at such time thereafter as counsel may be heard or at such other time as the Bankruptcy Court may determine. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing or on the agenda for such Sale Hearing. Objections to the sale of the Assets to the Successful Bidder must be filed and served so that they are received no later than **October 29, 2021 at 4:00 p.m. (prevailing Eastern Time)** by the Notice Parties. Any Contract Counterparty that objects to the adequacy of the assurance set forth in the Assumption Notice must file an objection (an “Adequate Assurance Objection”) with the Bankruptcy Court prior to the Sale Hearing, or note its Adequate Assurance Objection at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that this notice is subject to the full terms and conditions of the Bid Procedures and Sale Motion, the Bid Procedures Order and the Bid Procedures, which shall control in the event of any conflict, and the Debtor encourages parties in interest to review such documents in their entirety. A copy of the Bid Procedures and Sale Motion, the Stalking Horse Agreement, the Bid Procedures and the Bid Procedures Order may be obtained (a) upon request to Donlin, Recano & Company, Inc. (the notice and claims agent retained in the

Chapter 11 Case) by calling (877) 739-9997; (b) by visiting the website maintained in the Chapter 11 Case at <https://www.donlinrecano.com/hvk> or (c) for a fee via PACER by visiting <https://ecf.nhb.uscourts.gov/>.

Dated ●, 2021

/s/ *Draft*

HINCKLEY, ALLEN & SNYDER LLP

Daniel M. Deschenes (Bar No. 14889)

Owen R. Graham (Bar No. 266701)

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*Proposed Counsel to the Debtor and Debtor
in Possession*

Exhibit 3 to Bid Procedures Order

Cure and Possible Assumption and Assignment Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:	)	Chapter 11
)	
The Prospect-Woodward Home	)	Case No. 21-10523-BAH
dba Hillside Village,)	
)	
Debtor. ¹)	
)	

**NOTICE TO COUNTERPARTIES TO POTENTIALLY ASSUMED
EXECUTORY CONTRACTS AND UNEXPIRED LEASES REGARDING CURE
AMOUNTS AND POSSIBLE ASSIGNMENT TO SUCCESSFUL BIDDER AT AUCTION**

PLEASE TAKE NOTICE that on August 30, 2021, the above-captioned debtor and debtor in possession (the “**Debtor**”) filed a motion (the “Bid Procedures and Sale Motion”) with the United States Bankruptcy Court for the District of New Hampshire (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that on September [●], 2021, the Bankruptcy Court entered an order [Docket No. ●] (the “Bid Procedures Order”) approving Bid Procedures (the “Bid Procedures”), which set key dates, times and procedures related to the sale of substantially of the Debtor’s assets (the “Assets”). To the extent that there are any inconsistencies between the Bid Procedures and the summary description of the terms and conditions contained in this Notice, the terms of the Bid Procedures shall control. Pursuant to the Bid Procedures Order, the Debtor has entered into an Asset Purchase Agreement (the “Stalking Horse Agreement”) for the sale of substantially all of the Debtor’s assets to Covenant Living Communities and Services (the “Stalking Horse”) subject to competitive bidding as set forth in the Bid Procedures Order.

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU OR ONE OF YOUR AFFILIATES IS A COUNTERPARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE LISTED BELOW WITH THE DEBTOR:²

[Counterparty Name]	[Contract/Lease]	Cure Amount
---------------------	------------------	-------------

Pursuant to the Bid Procedures, the Debtor may assume the Executory Contract(s) or Unexpired Lease(s) listed above to which you are a counterparty. Also pursuant to the Bid Procedures, the Debtor may assign the Executory Contract(s) or Unexpired Lease(s) to the successful bidder (the “Successful Bidder”) at an auction of substantially all of the Debtor’s assets currently scheduled for November 3, 2021 at 10:00 a.m. (prevailing Eastern Time).

¹ The last four digits of the Debtor’s federal taxpayer identification are 2146. The address of the Debtor’s headquarters is 95 Wyman Road, Keene, New Hampshire 03431.

² This Notice is being sent to counterparties to Executory Contracts and Unexpired Leases. This Notice is not an admission by the Debtor that such contract or lease is executory or unexpired.

The Debtor has conducted a review of its books and records and has determined that the cure amount for unpaid monetary obligations under such contract or lease is \$[AMOUNT] (the “Cure Amount”). If you (a) object to the proposed assumption or disagree with the proposed Cure Amount, or (b) object to the possible assignment of such Executory Contract(s) or Unexpired Lease(s) to the Successful Bidder, **you must file an objection with the Bankruptcy Court no later than October 15, 2021 at 4:00 p.m. (prevailing Eastern Time)**, (the “Objection Deadline”) and serve such objection on the following parties:

Counsel to the Debtor	Counsel to Bond Trustee
<p style="text-align: center;">Polsinelli PC 600 Third Avenue 42nd Floor New York, New York 10016 Attn: Jeremy R. Johnson Jeremy.johnson@polsinelli.com Attn: Stephen Astringer sastringer@polsinelli.com</p> <p style="text-align: center;">-and-</p> <p style="text-align: center;">Hinkley, Allen & Snyder LLP 650 Elm Street Manchester, New Hampshire 03101 Attn: Daniel M. Deschenes ddeschenes@hinckleyallen.com</p> <p style="text-align: center;">-and-</p> <p style="text-align: center;">28 State Street Boston, Massachusetts 02109 Attn: Jennifer V. Doran jdoran@hinckleyallen.com</p>	<p style="text-align: center;">Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. One Financial Center Boston, Massachusetts 02111 Attn: Daniel S. Bleck dsbleck@mintz.com</p>
Clerk of the Bankruptcy Court	The United States Trustee
<p style="text-align: center;">United States Bankruptcy Court for the District of New Hampshire</p>	<p style="text-align: center;">Office of the United States Trustee for the District of New Hampshire James C. Cleveland Building 53 Pleasant Street, Suite 2300 Concord, New Hampshire 03301 Attn: Kimberly Bacher kimberly.bacher@usdoj.gov</p>

Counsel to the Committee	Counsel to Savings Bank of Walpole
<p style="text-align: center;">Perkins Coie LLP 131 S. Dearborn Street, Suite 1700 Chicago, Illinois 60603 Attn: Eric E. Walker ewalker@perkinscoie.com</p> <p style="text-align: center;">-and-</p> <p style="text-align: center;">McLane Middleton 900 Elm Street Manchester, New Hampshire 03101 Attn: Joseph A. Foster Joe.foster@mclane.com</p>	<p style="text-align: center;">Devine, Millimet & Branch, Professional Association 111 Amherst Street Manchester, New Hampshire 03101 Attn: Charles R. Powell cpowell@devinemillimet.com</p>

If no objection to the Cure Amount or the assignment of your Executory Contract(s) or Unexpired Lease(s) to the Successful Bidder is filed by the Objection Deadline, **you will be deemed to have stipulated that the Cure Amount as determined by the Debtor and set forth above is correct and you shall be forever barred, estopped and enjoined from (a) asserting any additional cure amount under the above-listed Executory Contract(s) and Unexpired Lease(s) or (b) objecting to the assumption and assignment of the above-listed Executory Contract(s) and Unexpired Lease(s) to the Successful Bidder.**

Dated: ●, 2021

/s/ *Draft*

HINCKLEY, ALLEN & SNYDER LLP

Daniel M. Deschenes (Bar No. 14889)

Owen R. Graham (Bar No. 266701)

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*Proposed Counsel to the Debtor and Debtor
in Possession*

Exhibit 4 to Bid Procedures Order

Assumption Notice

of its business judgment, that the Contracts and any modifications thereto set forth on **Schedule 1** attached hereto (collectively, the “Assigned Contracts”) shall be assumed and assigned to the Successful Bidder, subject to the Successful Bidder’s payment of the cure amount set forth on **Schedule 1**, or such other cure amounts as are agreed by the parties.

PLEASE TAKE FURTHER NOTICE that the Successful Bidder has the right under certain circumstances to designate additional Contracts as Assigned Contracts or remove certain Contracts from the list of Assigned Contracts prior to closing.

PLEASE TAKE FURTHER NOTICE that copies of the Sale Motion, the Bid Procedures, and the Bid Procedures Order, as well as all related exhibits, including the proposed Sale Order, are available: (a) upon request to Donlin, Recano & Company, Inc. (the notice and claims agent retained in the Chapter 11 Case) by calling (877) 739-9997; (b) by visiting the website maintained in the Chapter 11 Case at <https://www.donlinrecano.com/hvk>; or (c) for a fee via PACER by visiting <https://ecf.nhb.uscourts.gov/>.

PLEASE TAKE FURTHER NOTICE that, except as otherwise provided by the Bid Procedures Order, the time for filing objections to (a) the cure amounts related to the Assigned Contracts and (b) the Debtor’s ability to assume and assign the Assigned Contracts has passed and no further notice or action is necessary with respect to such matters.

PLEASE TAKE FURTHER NOTICE that any Contract Counterparty that objects to the adequacy of the Successful Bidder’s assurance of continued performance set forth in **Schedule 1** hereto must file an objection with the Bankruptcy Court prior to the Sale Hearing or note such objection at the Sale Hearing.

Dated: ●, 2021

/s/ *Draft*

HINCKLEY, ALLEN & SNYDER LLP

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*Proposed Counsel to the Debtor and Debtor
in Possession*

Schedule 1 to Assumption Notice

Assigned Contracts¹⁶

Counterparty	Description of Assigned Contracts or Leases	Cure Amount

¹⁶ The presence of a contract or lease on this **Schedule 1** does not constitute an admission by the Debtor that such contract is an executory contract or such lease in an unexpired lease pursuant to Bankruptcy Code section 365 or any other applicable law, and the Debtor reserves all rights to withdraw any proposed assumption and assignment or to reject any contract or lease at any time before such contract or lease is assumed and assigned pursuant to an order of the Court.

APPENDIX Q
11/19/20 Letter to Residents



November 19, 2020

Dear Resident,

While all of us experience the COVID-19 pandemic and its immediate impact on the way we live, your Board of Trustees, leadership team, and staff are committed to protecting you and Hillside Village Keene (“HVK”) so that HVK can continue to provide the services and lifestyle to which you have become accustomed. You are already familiar with what we are doing as it relates directly to COVID-19. We regret the impact that it has had on you, but we know that you understand.

We also want to bring you up to date on other ongoing challenges that impact HVK and our plan for the future.

Over the past two years, HVK has faced two significant challenges – completion of construction and COVID-19. The construction issues required HVK to make payments to the contractor from funds originally intended to be ongoing reserves. HVK is still working with the contractor to resolve the construction issues and to negotiate final payment. COVID-19 has contributed to lower than planned occupancy, lower than planned revenue and lower than planned reserves. The result is that HVK is not as strong financially as we had originally planned and was unable to make a full interest payment from its operations to its bondholders on July 1, 2020. Bondholders, in fact, received a full payment, but a portion of the payment came from a special debt service reserve fund created especially to be available in this type of circumstance.

We are currently negotiating with the bondholders so that we can have time to develop and implement a plan of correction that will put us in full compliance with the bond documents and will allow us to resolve the construction issues. We recently retained an advisory firm, OnePoint Partners (“OnePoint”), to assist us in these forbearance negotiations and in the development of the plan of correction. OnePoint’s professional staff consists of people with broad and deep experience in the planning, operations, and financing of continuing care retirement/life plan communities across the country and we look forward to working with them.

Regarding the annual monthly fee increase for 2021, we originally planned that we would provide such notice on November 1 for the increase to be effective January 1. Your residence and care agreement requires 60-day notice of fee increases. We have delayed the notice and its effective date until we have made more progress on the plan of correction.

We will keep you informed as we make progress on the plan of correction. In the meantime, please direct questions to Jolynn Whitten, who will route them to a member of the Board Task Force for a response.

Sincerely,

Nancy Crawford

Nancy Crawford
Chair, Board of Trustees

Jolynn Whitten

Jolynn Whitten
Executive Director

APPENDIX R
Resident Advisory Council Annual Report

Hillside Village

Resident's Association

Annual Report

2019-2021

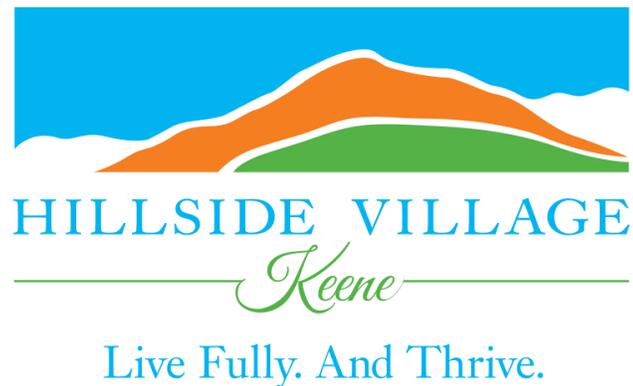


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Serving RAC Members

<u>Name, Office</u>	<u>Room</u>	<u>Term</u>	<u>Email</u>
Don Hart, President	█	2020-22	█
Judy Palmer, Vice-President	█	2020-22	█
Carol Greenberg, Clerk	█	2020-22	█
Rick Hashagen, Treasurer	█	2020-22	█
Rufus Frost	█	2020-21	█
Jim Hinds	█	2020-21	█
Molly Martin	█	2020-21	█

RAC Candidates for 2021-23

Rufus Frost
Jim Hinds
Evelyn Houston
Karen Reixach
Barbara Summers

President's Report

On behalf of the Resident Advisory Council, I welcome all of you to this 2nd Annual Meeting of the Association. The first meeting last year in mid-May was done entirely on Zoom because of the pandemic, and the main business item was election of members to the Council. The year prior to that, the Council was an "appointed" group chosen by Jolynn to prepare By-Laws and elections.

Here we are now, established, functioning, with By-Laws, maybe with a few mis-steps along the way, and hopefully some successes that have made our community a better place to live.

Every time I write the words "The Association" - which I know means everyone here with a room number and keys - some little tickle in the back of my brain brings to mind the possible title of a book by John Grisham or Tom Clancy. For them, the title might mean a fast-moving crime story, written with a movie in mind. It would be a page-turner, with spectacular evil, romance, and a mind-twisting solution: "New York Times best seller, THE Association!"

Why not imagine anything we want? In our elder years, imagination is a great gift for ourselves and for others. But let us also be clear that The Association we have created here is far more interesting than a crime story that ends in a movie.

We are creating a community of all sorts of people, a community of caring, respectful, challenging, aging folks, who do not have solutions, but live on the edge every day, ready to accept-or-lend a hand for one another. This is not just a good story-line. This is a community-in-the-making, a gift of small and essential miracles that keep us alive in a safe environment.

"Of course!" - as our teen-aged staff says so beautifully to calm our inquiries - of course we have staff and professional people around us, of course we have amenities - but the heart of the matter is the community we inhabit, that we form, that we are part of, in this new day of our lives.

The Resident Advisory Council has the unique privilege of being a kind of sounding board for the community, to be a heart monitor for who we are, to seek out the best of the best, to understand the messages received and hopefully strengthen us all. With that in mind, we thank you for being a part of this remarkable community, and as present at this annual meeting as you can be.

Don Hart,
President RAC

Archivist Report

President Don Hart appointed Jim Hinds to be the Resident Association Archivist. This report is a synopsis of the first years of life at Hillside Village, from the viewpoint of the residents. The report draws upon personal notes and RAC secretary minutes. Actual minutes of the RAC meetings can be found on Touchtown under Documents.

In seeing our life at Hillside Village as an evolving community – we are a group of diverse individuals, yet similar in many ways – the following seeks to note various actions and decisions in our life together. Much of 2020 and 2021 to date has been very challenging. Yet we are here and we thrive. May the following offer a sense of the journey we are on, and especially the rigorous changes that shadowed the year of the first elected council. This report does not end with any resolution of the current challenges, but believes in a trust and hope for a good future unfolding before and among us.

Appointed RAC synopsis (included to give a sense of history)

The first official meeting of the Resident Advisory Council was on October 1, 2019. Hillside Village Executive Director Jolynn Whitten, appointed this team of Don Hart, Joel Fowler, Sandy Goff, Rich Hashagen, Walter Mess, Judy Palmer and Mike Wiggin.

The writing of the association By-Laws became the first focus. The By-Laws were presented to the residents on February 27, 2020, with voted approval following. Within weeks of the acceptance of the By-Laws, life changed at Hillside Village (as around the world) in response to Covid-19. New protocols precluded any further in-person meetings. Zoom moved into the lexicon – noun, verb, adjective.

The next months focused on review and consolidation of the first Residents' Handbook. This work then passed into the hands of the first elected RAC.

Walter and Joel were appointed from the RAC to represent residents at early meetings of the Staff Coronavirus Task Force. Among the last actions of the initial council were to plan for the first election of resident councilors. This took place on May 25, 2020. And so the journey continues!

Elected RAC synopsis

- At the May 29, 2020 RAC meeting – the first official one for the elected council – we heard observations from some of the appointed council. This ZOOM meeting included Jolynn Whitten, who has attended all meetings, bringing insights and plans from the administration and staff, while also receiving questions and observations from the council and residents in attendance.

Among the various items discussed that day were: a reminder that the RAC represents all residents (Independent, Assisted, Health Care); the election of officers, with assistance from the appointed council; communication on safety issues regarding fire drills; establishment of the Liaison Committees; and use of Touchtown by the RAC – to please include your name, photo, contact info to assist all residents in communicating with the RAC.

Officers elected: Don Hart, President; Judy Palmer, VP; Rich Hashagen, Treasurer; Carol Greenberg, Secretary.

- At the July 24, 2020 ZOOM RAC meeting, invited guests included: Jolynn Whitten; Nancy Crawford, HSVK chair; Nancy Thompson, HSVK board member, and Future Directions Committee and local realtor.

One of the topics was the news, process, and possible decisions regarding sale of the adjoining Borden property. A primary view was -- how a new owner of the land might impact the resident views across the meadow to the current woodlands. It was noted that the Board has no available funds to purchase the land. Conversations ensued regarding residents making a purchase of some or all of the land, seeking to sequester the land into conservation and protecting our view.

Discussions also covered emergency signs content and placement; this topic is a work in progress within the Facilities Liaison team and Andy Kropff. Finally, the creation and integration of the Liaison Committees into the process of the RAC.

- At the September 24, 2020 Zoom RAC meeting, we heard from Jolynn Whitten regarding budget time-frames. When to release notices of monthly fee increases is predicated on a finalized budget. The budget could be set before November, but the board finance team was not sure. For 2021, the Board of Trustees voted to offer merit raises for all staff, up to 3% maximum.

Also during the meeting, there were further discussions on possible Borden land actions, without any conclusion. It was noted that in light of the constraints due to Covid-19, communication to the residents – content and methods – have not been

sufficient and clear. A once-a-week newsletter leaves holes for uncertainty and rumors. The Residents Handbook was being reviewed by the RAC members.

Good news - Treasurer, Rick Hashagen noted that he has received an EIN from the IRS, and has opened a bank account at Walpole Savings. Balances from the 2019 Employee Appreciation Fund will be transferred to this new account, and notices inviting residents and families to participate in the 2020 EAF would go out soon.

- At the October 22, 2020 Zoom RAC meeting, we heard from Jolynn Whitten, Mary Ellen Dunham and Joy Peterson regarding the licensing, the room allocation, and the unit types within the Health Center. Within the HC there are 43 Assisted Living units; and 20 Nursing Care beds (this is not Skilled Nursing licensed – which is found in hospitals and retirement homes and some rehab campuses) – which will hopefully open in December 2020. The lower floor houses the Memory Care wing, with 16 single bed units.

They noted that Dr. Leslie Pitts, the contracted medical supervisor for all HC residents, works closely with the HC staff and any personal medical providers. Once Covid-19 has passed, various clinics and reviews of health care in general and elements specific to Hillside Village will be available for us all.

Regarding Borden land, Jolynn noted that at this time the Prospect-Woodward Board cannot accept funds, acting as a conduit, for any proposed purchase of any land. Doing so would be problematic with regard to relations with the bondholders, and continuing legal action with the property builder – DEW-McMillian. Dan Curll noted that pledges of over \$80,000 had been made by residents.

From the Liaison Committees, special note was made of the creation of the Village Neighbors, current residents willing to be paired with new residents, offering insights and aid to those joining the Hillside community. And there are plans for occasional Zoom presentations by leaders of local groups (civic, non-profit, etc.) offering residents, especially those new to Keene, insights into various parts of life in the wider community.

- At the November 19, 2020 ZOOM RAC meeting, we heard from Jolynn on many Covid issues. She reported there were 14 positive cases in the HC (none in ILU) – 10 residents, 4 employees. There is repeated testing by the National Guard. When a vaccine is released, campuses such as HSVK will be among the first to receive shots, administered by CVS, here on campus. She also reported near final steps to reopen the Salon, with a new operator – Raquel Schmitt.

Rick Hashagen reported that with donations to date, the Employee Appreciation Fund had a balance of over \$29,400.

Jim Hinds, Facilities Liaison, noted Andy Kropff has approval and plans to add rain diverters on the roof edges, placed appropriately to control water runoff, especially in the winter – thus hopefully addressing long icicles hanging 3 floors above many doorways as we had last winter.

- At the December 22, 2020 ZOOM RAC meeting, Don Hart opened with comments regarding the recent news of financial distress at Hillside Village and the Board's contracting of a restructuring consultant. He noted that the situation raises more questions than answers. A desire of the RAC was to appoint a group of residents to be a liaison to the Board of Trustees and OnePoint Partners on our behalf.

Jolynn Whitten reported that recent Covid tests in the HC were all negative. In January 2021, Jennifer McCalley, will start as the new Health and Wellness Navigator. Many, sincere well-wishes have been extended to Trisha Jones who has been the HWN since before any resident moved in. We wished her well.

Rich Hashagen reported great response from residents – over \$55,000 in donations has been received. The RAC voted to distribute appreciation checks to all non-leadership employees: \$550 to FT; \$350 to PT; \$100 to per-diem.

With regard to the Hillside financial situation, Judy Palmer made the following motion, which was discussed by the RAC, commented on by many residents, and approved by the RAC.

I move that the RAC appoint a Task Force of HVK residents with whom OnePoint Partners and the HVK Task Force on Restructuring would consult regularly. The purpose of this Resident Task Force would be to give input to and receive and circulate information from OnePoint and the Board Task Force. The Resident Task Force would consist of approximately five residents with past experience in areas such as finance, law, marketing, non-profit boards, and business modeling. The RAC will receive brief resumes from interested Task Force candidates by Monday, December 28, and make selections on Friday, January 1 at 10:30am at an open meeting on Zoom. The Task Force would report to the RAC at its regular meetings. The expected timeline of the Task Force is 9-12 months.

- On December 30, 2020, at an executive meeting of the RAC, submissions of many residents showing interest in being part of the Resident Task Force were reviewed. The RAC chose to include all twelve submissions into the RTF. It was further decided to ask Walter Mess to chair the Task Force. On January 1, 2021, at a special ZOOM meeting of the RAC, the announcement was made to the residents on decisions regarding the Resident Task Force.

- At the January 21, 2021 ZOOM RAC meeting, Don Hart noted that Hillside Village (Board, Staff, Residents) were in a discovery phase, that must be approached slowly and carefully. He also noted we are probably feeling “virus fatigue”, having lived under a shadow of serious consequences, and must remain patient, smart, and inquisitive.

Tom Brod, of OnePoint Partners, spoke and emphasized many points, including: Jolynn Whitten, Toby Shea and Tom Brod (both of OPP) are working together to address the resignations of Rich Manwaring (Finance) and Judy Franseen (Marketing). OPP has hired a consultant to work with Rick in his final days, and to begin preparation of numerous reports for the bondholders. In addition a consultant on communications has joined the OPP team. She will take the lead in preparing statements to the press. We wish to speak with a single voice.

Tom noted that priorities are focused on the need to restructure and possibly “sell” Hillside Village. Sell is an action that encompasses either acquiring the assets and liabilities by a for-profit corporation, and affiliation -- acquisition by a non-profit entity. Either route entails many negotiations with the bondholders and an absorption of the debt -- over \$60 million, and must also offer sufficient funds to keep the campus going.

Jolynn noted good response to the first of three vaccine sessions. Over 50% of staff and nearly 100% of on-campus residents received the first of two Pfizer vaccines. There will be two more session in February. With the resignation of Karen Bertolani, Director of Nursing in the HC, Mary Ellen Dunham, Health Center director, was handling all necessary tasks and decisions.

Speaking for the RTF, Walter Mess noted that recent meetings with OPP and the Board TF have been helpful. He also noted that the job of the RTF was to communicate and assist this process with regard to resident questions and concerns. “We are being listened to, and valued, but are not part of the decision making.”

- The February 11, 2021 ZOOM RAC meeting had numerous visitors and over 50 residents and family online.

Toby Shea (OPP) introduced consultants Jamie Spencer – finances, and Karen Hogan – marketing. Both will participate with the respective Resident Liaison Committees.

Jolynn noted that the monthly recordings by the senior staff, in lieu of in-face townhall meetings will continue to be aired on Channel 2 and viewable on YouTube. As appropriate, links to the videos will be included in the Black Brook Ripples newsletter and entered into Touchtown. Eileen Ferra, assistant in finance has resigned. Gregg Burdett, HR director will seek to fill this position. Filling the finance director position is currently on hold. LCS is assisting with payroll and other financial issues along with Jamie Spenser.

Jolynn also remarked on the continuing success of vaccine compliance among residents and increasing percentages among staff. Later in February, indoor visiting will resume in the Health Center, and in Independent Living. The lounge across from the Concierge will be used for ILU residents. Discussions continue regarding re-opening of the Tavern and/or the Birches, but no dates are selected yet. This will likely be a restricted opening with social distancing.

A resolution was proposed by Jim Hinds:

On behalf of the residents of Hillside Village, the Resident Advisory Council extends grateful thanks to the Hillside Village staff for the recent (and upcoming) vaccine clinics. The efforts of many hands helped the process flow smoothly and easily. With so much information to be gathered and recorded on the forms, having much of the data already entered made the process much easier. Thanks for the continuing care and service.

The motion to share this on Touchtown and in the Ripples was seconded and approved.

Don Hart spoke about the question of whether the residents need help from an outside attorney. At an RAC executive session last Thursday, the RAC asked Rick Hashagen, Walter Mess, and Judy Palmer to begin conversations with attorneys to learn whether legal counsel might be able to help us.

Walter said that the RAC Task Force is primarily for communication. It is not involved in negotiations or decision making. He encouraged residents to send in

questions. He emphasized that “we are learning as we go along and will get no information unless there are questions”.

- On February 9, 2021, at an executive session of the RAC, approval was granted to secure legal counsel to represent the residents in various workings of the financial restructuring. Judy Palmer, Rich Hashagen and Walter Mess had determined a strong candidate. Rich has also secured monies and pledges for more than \$13,000 for the Legal Fund. Counsel will need a retainer, of up to \$10,000.

- The March 17, 2021 ZOOM RAC meeting was opened with an introduction of Joseph Foster, serving with McLane Middleton in their Manchester office, where he chairs the bankruptcy practice group. Joe said that “Residents have the greatest stake (in the bankruptcy process),” and that the court will want to hear from us. He also remarked that based on his study of Hillside’s history, HSVK “ran into (financial)difficulties fairly quickly”. Overall, he is optimistic about the outcome.

Jolynn Whitten reported on the continued weekly Covid testing in the HC – which ends before April. There have been no positive results in over a month. She is negotiating a method whereby any new staff or residents who have not been vaccinated can be vaccinated here at Hillside Village.

This week a new program 3V – Verified Vaccinated Visitors – will begin. Masks remain mandatory, but with proper information, residents can have in room visits, always following safety procedures to protect people and the environment.

The Salon in the HC has now opened. Lorie Rogers is working with Gretchen Nadeau to begin indoor fitness in April. With the resignation of Kristen Matheson, Aaron Pouliot will become Food & Beverage director. Eileen Ferra has returned to campus as the Accounting Director – hurrah. The search continues for a director of Marketing.

Occupancy numbers are: 107 ILU apartments, with 3 residents moving to Assisted Living. There are now 16 residents in AL, plus 10 residents in Memory Care. With another resignation, Joy Peterson, Outreach and Health Coordinator at the HC, there will be an effort to fill this position. This position is part of the Marketing team.

Rich Hashagen reported that since the end of February, over \$23,000 has been received toward the Legal Fund, of which \$10,000 was expended as the initial retainer.

As the year winds down for the 2020-2021 RAC, the process of election planning begins. Sandy Goff will lead a team to prepare this process. There will be 3 RAC slots opening for candidates.

Molly Martin made a resolution which was seconded and passed:

That we appoint a committee to coordinate a remembrance process for memorials at Hillside.

Molly reported good efforts on many Community Life fronts: Village Neighbors – preparing for new residents; Jean Nelson and Barbara Summers – exhibits outside the Birches; Anne McCune and others for the outside speakers Zoom sessions; wood workers (Paul Henkel, Marty Post, Jacques Hebert) for building a bookcase for the library.

Don Hart noted that various woodworkers made bird house kits for HC residents to assemble. These will be placed where the residents can watch the birds. Also workers are preparing a raised bed gardening box for the HC.

- At the April 22, 2021 ZOOM RAC meeting, Jolynn reported that due to declines in housekeeping staff, another attempt at scheduling was to begin. It was noted that the intended cycle of at least twice a month cleaning has not been doable. Retention of housekeeping staff has been a problem. The Board was considering increasing the compensation levels. A question from Jolynn about having unit cleaning occur in the early evening or weekends (which might help in hiring staff) received a reasonable acceptance to the idea.

A brief report regarding Memorial plans noted that a Memorial gathering would occur around, but not coincide with, the national Memorial Day of May 31. More info coming soon.

Don noted that the Annual Meeting of the Residents Association would occur on May 18, at 10AM, in the PAC, with masks and proper distancing. There would be an Annual Report available before then, distributed via email and available at the Concierge desk. Candidates for the three open council positions would be introduced at this meeting and a week of voting would commence following that meeting.

Jim Hinds,
Resident Association Archivist

Treasurer's Report

This reports on the status of the Hillside Residents Association checking account at the Savings Bank of Walpole.

The account was established in 2020 to provide a conduit for resident donations to the Employees Appreciation Fund. Subsequently the account was opened up to three other funds -- the Landscaping Committee, the Trails Committee, and the Legal Fees Fund to pay for our legal representation in the restructuring process. The present balances in those funds and for the account in total are as follows.

\$463.37 - Landscaping

\$800.00 - Trails

\$14,830.00 - Legal

\$9,596.65 - Employee Appreciation

\$25,689.92 – ACCOUNT TOTAL

Employee Appreciation Fund summary:

\$6,104.25 - Transferred in from Hillside Village (employee appreciation balance from 2019)

\$56,071 - Donations received from residents

\$53,200 - Distributed to employees in 2020

\$550 was given to each full-time employee

\$350 was given to each part-time employee

\$100 was given to each per-diem employee

\$9,596.65 - Balance

Legal Fees Fund summary:

\$24,830 - Donations received from residents

\$10,000 - Retainer paid to law firm

\$6,200 of the retainer has been used to date, leaving \$3,800 unused.

\$14,830 - Balance

Rick Hashagen Treasurer,
Residents Advisory Council -- May 3, 2021

HSVK Restructuring Resident Task Force Recap

May 12, 2021

Task Force Appointment

Hillside residents received the first indication of financial problems in November of 2020, by way of a letter from Board of Trustees Chair, Nancy Crawford. The Residents Advisory Council (RAC) decided that a resident task force should be appointed to work with the Board of Trustees and with OnePoint Partners to help in “solving financial issues and bringing financial stability to the Hillside Village community”.

The Residents Restructuring Task Force (RTF) was appointed by the Council 12/31/2020 and includes 12 residents. Since then we sadly lost one member, Dan Curll. He’s greatly missed.

Early Priorities and Actions

The group started meeting immediately. The first concern was communication. Hillside’s problems didn’t start in November when we were first informed, so residents had clearly been left out of the loop regarding the severity of the problems. The RTF thought that internal and external communication needed to be addressed immediately if Hillside was to mitigate PR and marketing problems, as well as resident anxiety.

The other pressing concern was to understand just how much power and influence residents would have over the restructuring process.

The first issue, communication, took some time but was ultimately addressed in a couple of ways. A meeting with the local paper was arranged by OnePoint at which the HSVK situation was laid out. An article appeared February 28, 2021 which outlined the problems in a reasonably balanced way. To address internal communications, we have been scheduling Zoom meetings between OnePoint Partners and residents. Task Force questions are submitted in advance, answered in the meetings, then the floor is opened for questions from residents. Meetings have also featured Karen Hogan to talk about marketing as well as members of Hillside’s Board of Trustees.

The second question, resident influence, was answered quickly - very little. HSVK is a 501(c)(3) corporation run by a Board of Trustees chaired by Nancy Crawford. They are responsible for all decisions relating to the structure, finances and management

of the corporation. Toby Shea of OnePoint Partners was appointed as Chief Restructuring Officer for the corporation. Besides OnePoint Partners the Board also engaged the Polsinelli law firm and is also advised by Attorney Mark McCue. All decisions about restructuring are made by this team. Resident wishes and concerns are noted by that team but the ultimate responsibility lies with them.

Since it was clear that the Resident Task Force would not be “at the table” in any negotiations or decisions we considered how we could best serve our neighbors. We agreed that we would attempt to understand and influence the restructuring process and try to facilitate communication.

Key Learnings

Hillside arrived at this point due to a number of unforeseen setbacks including the pandemic, construction delays, defective workmanship, and occupancy rates that were below expectations.

The RTF quickly learned that restructuring and Chapter 11 Reorganization are incredibly complex undertakings best left to experienced professionals, such as OnePoint Partners and the attorneys. The court, the NH Insurance Department (NHID), the NH Charitable Trust Unit, the bond-holders, the Hillside staff, various contractors and vendors, including LCS and DEW MacMillan, and of course us residents, all have an interest in the outcome. RTF member Richard Virkstis took on the role of researching the Life Care industry, its financial issues, the Chapter 11 process and restructuring in general. His research greatly helped the RTF begin to understand the industry and to frame our questions to OnePoint in both the resident Zooms and in the RTF/OnePoint meetings.

Understanding and staying current with the Hillside financials is a high priority of the RTF. Rick Hashagen and John Maher have taken the lead in this area, with regular deep dives into the monthly financial statements and on-line reports posted in EMMA, (an on-line repository of financial and bonding information for regulated corporations). Rick and John and the Hillside Finance Liaison Committee have a good working relationship with Jamie Spencer, the financial consultant with OnePoint.

The relationship with OnePoint in general has been good. They have been forthcoming and responsive to our questions and suggestions. Recaps of the OnePoint Zoom meetings are available in the Documents section of Touchtown. Many important questions have been addressed in those meetings and the notes are a reliable resource.

The RTF has had multiple meetings on-line and one in-person with OnePoint, including the first meeting that included a Polsinelli attorney and the HSKV attorney. We've also been in contact with the NH Insurance Department who assured us that they "are very focused... on this matter and the sense of urgency it presents with impact to residents".

Attorney

As the likelihood of Chapter 11 and the complexity of the process and the inability of residents to directly participate became more apparent, the Resident Task Force recommended to the RAC that we residents retain our own legal counsel.

A three-resident team of Walter Mess, Judy Palmer, Rich Hashagen were tasked with initial contact of lawyers. We spoke with two attorneys specializing in bankruptcy and recommended Attorney Joseph Foster of McLane Middleton in Manchester, NH. Joe specializes in bankruptcy. He's a past NH Attorney General and he's well connected with the NHID and NH Charitable Trust. McLane Middleton is a first tier NH law firm. Joe's background can be viewed on the McLane Middleton website. The RAC supported the recommendation and retained Attorney Foster.

In order to have access to the confidential information in the bidding materials and to discuss our case with the other attorneys Joe had to sign a non-disclosure agreement. It prevents him from sharing confidential details with residents but it does allow him to communicate with the other attorneys and stay current. He briefs a small group that includes two RAC members and the RTF Chair.

Our attorney fees are paid out of donations from residents to the Hillside Residents Association. The RTF requested that our legal fees be paid by Hillside along with all the other consultant and legal fees being paid out of our monthly fees, but the request was denied.

Current Status

The first round of bids from interested buyers/sponsors have been submitted to OnePoint and the Board. Everything about the bids and bidders is confidential including the mix between not-for-profit vs. for-profit. Our attorney will see a list of the bidders but won't be able to share it with us. The purpose of keeping the bids and bidders confidential is to avoid depressing the final bids and to prevent any violation of regulatory rules or potential insider trading. Attorney Foster is attempting to ensure that the purchase agreements include protection for resident contracts. As needed, he will represent residents in any legal or state agency proceedings.

From the first group of bidders a short list of those with the highest and best bids will be selected. There will be an “auction” of sorts. When a bid is finally accepted it will have to be approved by the bankruptcy court, the NH Insurance Department and the NH Charitable Trust.

We won’t have a vote in this process, but OnePoint, the Hillside board and our attorney have all been told that residents desire no less than what we were promised when we bought in. It is in the new operator’s interest to keep current residents happy and in our homes. The NHID is likely to put the resident’s interests first. The bondholders, of course, want their interests protected since HSVK owes them over \$60 million. The RTF and most residents we’ve heard from would like to see Hillside acquired by an experienced nonprofit who retains our contracts, fees and services unchanged. A new “owner” with enough financial resources who will also take care of the outstanding construction litigation and put money into improvements.

Residents also wish to continue to be involved in the community’s affairs including the Residents Advisory Council and membership on the Board of Trustees. Everyone involved is aware of our preferences and our attorney is keeping those front and center.

The timeline will depend on bondholder opinions of the bids. According to our attorney, if the bids are too low the process could stretch out longer. If they’re acceptable to the bondholders we could have a new owner or sponsor by early 2022.

Current Resident Task Force Members

Walter Mess, Chair*

Marty Post*

Rick Hashagen*

Barbara Summers

John Maher*

Tom Taylor*

Ernie Mills

Richard Virkstis*

Janet Parsons

Sue Warren*

Jim Price*

*meeting group

Community Life Liaison Committee Report

Community Life Members:

COMMUNITY LIFE COMMITTEE: Joyce Curll, Chair. Members: Vicki Boulton, Joyce Curll, Sandy Goff, Margaret Kasschau, Elaine Landry, Doug and Jean Nelson, Tina Spicher and Barbara Summers.

Residents Association Bylaws:

SECTION 13: Community Life Liaison Committee. The Community Life Liaison Committee works in conjunction with the Director of Community Life Enrichment to ensure the highest quality of social and cultural life and activity as is possible for the Hillside Village community.

This committee is a large umbrella under which several different teams provide a variety of programs that enhance life within the Hillside community. Below is a brief description of the committees' focus and the people who provided leadership for each group.

The **Welcome Committee**, chaired by Margaret Kasschau and joined by Pat Allen, Dave and Fay Barden, Vicki Boulton, Joyce Curll, Elaine Landry, Molly Martin and Nancy Wyman, developed a program, *Village Neighbors*, designed to assist new residents in a smooth transition to Hillside and the surrounding community. New residents were assigned a committee member, who guided them through the transition to their new home and the many activities and opportunities at Hillside Village.

The **Events Committee**, co-chaired by Jean Nelson, Barbara Summers and Anne McCune and supported by Maich Gardner, Bill Goodwin, Elaine Landry, Walter Mess and Doug Nelson, offered a variety of in-house events, e.g., the third floor *Art & Hobby Gallery*, the *Sunday Circle 20* and *Story Telling*. As an outreach program, this committee introduced a wide variety of community leaders to Hillside residents through monthly lunch-hour Zoom programs.

The **Library Committee**, co-chaired by Carol Greenberg and Jill Post and assisted by a group of volunteers consisting of Fay Barden, Marilee and Dave Rouillard, Linda Vermilyea and Barbara Woodward, established a lending library from scratch on the fourth floor of the Community Center. Through their efforts an empty room was transformed into a gathering place for readers and browsers where books,

newspapers, periodicals, CD's and jigsaw puzzles are now available for residents' enjoyment.

The **Art Committee**, first chaired by Walter Mess, now by Sandy Goff consists of these two plus Peter Berys, Vicki Boulton, Jim Hinds, Elaine Landry, Molly Martin, Ann Nihal, Mariette Sanders and Tina Spicher. With assistance of the Marketing staff, over ### pieces of art (mostly donations by residents) has been hung through out the campus. The team is creating a database of this art with photos and pertinent information. The first Resident & Staff Art Show, which was ready to open in April 2020 was cancelled because of the coronavirus. Jim Hinds created a music video from the submitted pictures to give us a taste of the creativity of many residents. This plan will reappear at a future date. As a sponsor, Hillside Village contributed 12 pieces of resident art to the 2020 Art Walk in Keene and will do so again in 2021, with a display in the windows at City Hall. Plans continue to develop an Art Gallery at Hillside with a permanent display system installed on the second floor between the MacKenzie and Knight Wings.

Submitted by Molly Martin,
RAC Liaison

Facilities Liaison Committee Report

FLC Members:

Walter Mess, Chair; Andy Kropff, HSVK Director Facilities; Joel Fowler; Jim Hinds; Judy Palmer; Bill Goodwin; Paul Henkel; Ted Aldrich; Pat Murphy; Mike Wiggin

Residents Association Bylaws:

SECTION 10: Facilities Liaison Committee. The Facilities Liaison Committee works with the Facilities Director in matters related to the physical plant and property. The Committee will consider and review actions related to the comfort, safety, appearance, durability and efficiency of the physical plant and property. The Committee will discuss with the Facilities Director development plans that could significantly impact the finances, services, environment or quality of life of the residents.

The Facilities Committee currently meets monthly. We hear and discuss updates and plans from the following areas:

- Landscape
- Indoor Plants
- Trails
- Greenhouse

- Building Maintenance
- Safety
- Tech

Other persons are invited to contribute as appropriate.

Landscape – Judy Palmer

After conferring with Jolynn and Andy on ways we could be useful consultants on plantings around the Hillside campus, the newly-formed resident Landscaping Committee developed a Mission Statement and obtained a map of Hillside's original 2016 site planting plan.

In February, Michael Nerrie from Walpole's Distant Hill Garden spoke to the Landscaping and Greenhouse Committees about native pollinator plants. In the spring and early summer several residents walked the property with former Cheshire County Forester Steve Roberge and, on another occasion, with former Keene State Facilities Director Bud Winsor to get recommendations on possible future tree species and planting sites on campus. Soon after Winsor's visit, Facilities mulched and purchased watering bags for the current campus trees.

In May, residents were able to privately order tomato and other balcony plants as part of Andy's larger order (entrance planters and Health Center Memory Garden plants) from nearby Gilsum Gardens. Several members of the Landscaping Committee used residents' geraniums that had been winter-tended by the Greenhouse Committee for planting in the meadow bridge planter boxes.

Eight residents and couples learned about straw bale gardening and planted vegetable and flowers in straw bales behind the barn, which were prepared by the Facilities Department.

The Landscaping Committee met weekly through the summer months, designing and then planting the Center Courtyard garden with fothergilla, spirea, hydrangea, thuja, pennisetum, and a ginkgo tree. Funds were raised for this effort through donations from over 20 Hillside residents and couples. Through the summer, donated iris bulbs were planted around the campus and Health Center. Two residents mulched the Bar Harbor junipers on the courtyard banks and numerous residents added plants to existing gardens in courtyards and helped with watering there. A number of bird feeders were put up. Along the field side of Woodside Boulevard, blueberries, forsythia, hydrangea bushes, and lilacs were planted. In the fall, hundreds of donated tulip, daffodil and scilla bulbs were planted around campus. A Holly Bush and a River Birch were planted at the Woodside end, adding

to Facilities' plantings of winterberry, holly, and inkberry bushes intended to screen the generator near the center courtyard.

Committee priorities for 2021 include plantings at "The Point" (Wyman Rd. Woodside Drive intersection); black gum trees for the Black Brook area in the meadow; and rhododendron bushes along the Woodside connector. Whenever residents have landscaping ideas or wishes, we respectfully encourage you to run them by our Committee, c/o Judy Palmer, Chair.

On behalf of Hillside residents, the Facilities Liaison Committee thanks Judy and the Landscape Committee for their untiring efforts to beautify the landscape and to improve our quality of life.

Trails – Paul Henkel

Ernie Mills has led the hiking activities, and is training additional leaders.

Ted Aldrich built a bridge to relocate the start of the Ridge Trail and avoid the need to walk along Wyman Road. He also planned and built the Stonewall, MEDC and Barn Trails with daily help from Joel Fowler. Preparation for these trails included removing over 3000 feet of barbed wire, restoring significant sections of stone walls, improving drainage and removing two large logs. Trail assistants included: Dave Wyman, Margaret Kasschau, Bill Goodwin, John Maher, Paul Henkel, Vicki Boulton, Judy Palmer, Mark Allen, Kim Temple, and others. Rustic trail name signs were artistically produced by Jacque Hebert, Nancy Riesler, Linda Vermilyea and Don Hart. Difficulty of use and road crossing signs were contributed by Evelyn Huston and Margaret Kasschau.

In 2021, with onset of warm weather, we plan additional improvements including better drainage and more crossing signs.

On behalf of the residents, the Facilities Liaison Committee thanks the Trails Committee for their efforts to expand, improve and maintain the Hillside trails system. They add tremendous value to Hillside Village and to the health and fitness of residents.

Indoor Plants – Bill Goodwin

The indoor plants fall within two categories. One is for the plants that are located at various locations in the hallways and swimming pool area. The other is for plants located in the "greenhouse" located on the third floor of the Dodds wing.

I want to thank the numerous volunteers who helped transplant and maintain the numerous plants within our facilities during the year. It certainly has added a

pleasant environment for the residents of Hillside Village. Volunteers who helped with this are: Gay Betz, Pat Dugger, Joel Fowler, Mary Frost, Sandy Goff, Bill Goodwin, Phyllis Groezinger, Sue Henkel, Susan Kessler, Ginger Ludeman, Lucy Maher, Debby Mess, Molly Martin, Pat Murphy, Judy Palmer, Carol Reil, Marion Scott, Tina Spicher, Jeannie Sy, Linda Vermilyea, Hattie Virkstis and Nancy and David Wyman.

On behalf of residents, the Facilities Liaison Committee thanks Bill and his fellow volunteers for their efforts to maintain the plants that make our facility more attractive and healthy.

Greenhouse – Joel Fowler

The Greenhouse, or solarium, has continued to be managed by volunteer residents with the assistance of the HV Facilities department. Shelving, paid for by a volunteer, was constructed by another resident, and installed this past year. Humidifiers were kept running through the winter where year-round and seasonal plants were maintained. Some of these are herbs being used by the HV Kitchen. Others are overwintered geraniums and other flowering plants that festoon the Black Brook bridge and other areas and balconies during the summer.

On behalf of residents, the Facilities Liaison Committee thanks Joel and all the Greenhouse volunteers for their efforts to keep our plants happy and healthy.

Building Maintenance – Andy Kropff (report by Walter Mess)

Andy keeps the committee up to date on building maintenance and repair issues and plans. Including ongoing repairs, wind and water damage including exterior and interior repairs, water leaks, landscaping, new plantings, ice and snow management and more. Liaison Committees work closely with Andy on landscaping, indoor plants, tech issues, trails and safety. The FLC appreciates Andy's ongoing involvement with the committee and his commitment to maintaining the facility, responding to issues and working with the residents.

On behalf of residents, the Facilities Liaison Committee thanks Andy for his dedication, his openness and his many skills, including his patience and diplomacy dealing with residents.

Safety – Walter Mess

Safety concerns include everything from fire preparedness to ice problems. The FLC has been working with Andy for the past year on plans and procedures for fire and emergency preparedness. Several members of the FLC have been involved in

reviewing fire alarm systems, Fire Department response, fire drills, evacuation procedures and more. Volunteer Floor Leaders have been named but the duties are a work in progress. The committee is in the process of drafting an interim fire emergency plan until Andy and the FD can finalize safe and effective processes for responding to alarms.

Other safety discussions have involved ice and snow control, hanging icicles, and easier access to the Meadow Walk.

Tech – Jim Hinds, FLC Liaison to the Resident Association Council

Tech activity at Hillside Village includes the elements all residents use daily: phone, TV, and Wi-Fi; support for residents regarding personal computer/printer issues and TVs by the maintenance staff and Jim Hinds; and the varied multi-media use in the PAC and Theater.

The landline phone service is administered by Inviacom. The system has a built-in voice-mail system, with messages stored at their servers. With a series of steps you can setup an outgoing message and review your incoming voicemails. You can also set up a “voice-mail to email” link as well. How-to sheets for these steps and more are available in Touchtown/Documents.

In late 2019 and early 2020, I offered a few teaching/intro sessions that introduced residents to Touchtown and wireless Casting of multi-media from tablets/laptops to TVs. Over the past year, the clamp down due to the pandemic limited gatherings for such technical teaching.

There will hopefully be more “teaching” beginning in the 3rd quarter 2021. Over the coming months, Jim Hinds will work with Lorie Rogers and Jenn McCalley to prepare a series of how-to sessions on using computers, laptops, tablets, and phones. Today, these are not just occasional use items, but devices that we rely on – even more in times such as now. The sessions will occur in the Theater once access is fully open. More to come!

Touchtown is a multi-layered, powerful tool for communicating information to the residents. I have attended a few webinars by the company’s support team and been impressed with what can be done with the software. At Hillside, Touchtown has been implemented one-way – the dissemination of information, yet there is more that can be implemented. This includes scheduling and registering of all events, pushing reminders and updates to all users and more. Example, a single edit to Announcements regarding an event can spread to all elements of Touchtown. I

hope that this year we expand our integration of Touchtown into the varied community life at Hillside Village.

Following many resident complaints regarding the TV signal quality as installed by Retirement Home TV (a subsidiary of AT&T) a negotiated tech change occurred in March 2020. *Thanks Andy K!* The quality of the distributed TV signal was increased to 720i (sometimes labeled HD or High Definition). Most flat-screen TVs today are capable of Full-HD or 1080i. The signal quality upgrade was a good “sight for sore eyes”.

The PAC and Theater have a good foundation of multi-media delivery. Sadly, the PAC was missing a component – an interface between the satellite TV controller and the multi-media projector. This interface is present and working in the Theater. Andy Kropff has approved installing this interface in the PAC. In the future, it will be possible to have different movies (from DVDs or satellite) playing in the two rooms at the same time.

Both of these rooms have a hearing assist loop installed. This loop broadcasts an audio signal (microphone, movie, TV) to many (but not all) hearing aid types. Sadly, the loop system in the PAC is currently down. A service call is in progress. The hearing loop works in the Theater. Paul Henkel is working with me to further test the system. We will prepare a “how-to” for those whose hearing aids contain the T-FAL receiver or tele-coil.

On behalf of residents, the Facilities Liaison Committee thanks Jim for his generous voluntary support for residents. He has rescued countless of our neighbors from the depths of hopeless technical despair.

Woodworkers – Jacques Hebert

The Woodworkers work on their own individual projects but most of their efforts have been for the benefit of Hillside and its residents. Projects completed and in progress:

- ❖ New bookshelves constructed and installed in the Library
- ❖ New puzzle storage shelves constructed and installed across from the Theater
- ❖ New DVD storage shelves constructed and installed across from the Theater
- ❖ 14 birdhouse kits prepared for Health Center residents to complete
- ❖ 8 have been finished and are placed around the HC
- ❖ 3 bluebird houses built and installed in the meadow
- ❖ 5 bird-feeders in progress to be placed around the premises

- ❖ 15 heavy duty planters built behind the barn for resident gardens. 10 more to be constructed
- ❖ 2 planters constructed for the use of the kitchen for herbs and vegetables
- ❖ A raised planter constructed for the Health Center 30" off the ground for wheelchair access. 3 more to be built
- ❖ The shelf under the windows in the greenhouse

On behalf of residents, the Facilities Liaison Committee thanks the Woodworkers, and especially Bill Moyle and Jacques Hebert, for generously volunteering their leadership, planning, skills and efforts for the benefit of Hillside residents.

Finance Liaison Committee Report

Our committee has been meeting monthly to review Hillside's financial reports. Initially we were meeting with Rick Manwaring to review the reports, and more recently with Jamie Spencer, our new financial guru. He has been very helpful to us in understanding Hillside's fairly complex financials.

Here is a brief summary of the main points from our review of the February 2021 reports.

Occupancy. As of February, 107 of the 140 Independent Living units are occupied. But only 23 of the 81 available rooms at the Health Center are occupied. Thus the shortfall in residents' service fees income needed to support the day-to-day costs.

Monthly income. Monthly income from residents' service fees -- approximately \$800,000 -- is not adequate to cover monthly operating expenses. The monthly operating loss has been in the range of \$50,000 to \$100,000 the last few months. Due to the losses, Hillside has not been able to pay the interest due on the outstanding bond debt.

Debt. The \$93 million of bonds issued to finance the construction of Hillside has been paid down to about \$60 million by the application of our entrance fees. The interest on the bonds, due in January 2021, was not paid.

Restructuring. As a result of the above circumstances, Hillside entered into the restructuring process late last year.

Cash. There is some good news. Hillside has \$5 million of available cash. This cash position should buy us time to complete the restructuring process.

Rick Hashagen, RAC Liaison

Food & Beverage Liaison Committee Report

Members of the Food & Beverage Committee 2020 -2021:

Chair: Caroline Edge, Secretary: Emmy Chamberlin, Fay Barden, Rufus Frost, Bev Gay, Barbara Green, Carol Greenberg, Evelyn Huston, Jill Post, Gail Robertson. From Hillside Village Management: Kristin Matheson, Chef Aaron Pouliot.

Residents Association Bylaws:

Section 9: Food & Beverage Liaison Committee: The Food & Beverage Committee is to provide a means of communication between the residents and the F & B department management. Further responsibilities include assistance with the resolution of residents' concern in this area, and the assistance with development of strategies for optimum resident satisfaction with the dining operation.

The Food & Beverage Committee met monthly during the past year. It has been a challenging year because of the difficulties associated with the COVID-19 Pandemic and the shutdown of many services at HSVK. The Birches Restaurant and The Black Brook Tavern were closed with meals delivered in containers and baskets to the residents' apartments.

The Keene Health Inspector makes regular, but unannounced, visits to kitchens throughout the area. Kristin, Aaron, and the kitchen staff are proud that on several visits, our kitchen earned a score of 100% for cleanliness which is extremely rare.

Various items were discussed in our monthly meetings such as portion sizes, menu selections, vegan offerings, "comfort" food (meatloaf, baked beans, franks & brown bread, pizza, etc.). Dietary restrictions were mentioned a few times with the request for lower sodium in cooking and soups. Chef Aaron explained some of his challenges: staffing problems, suppliers, food costs and quality problems associated with so many restaurants closing in metropolitan areas during the Pandemic.

All meetings have been cordial and respectful with very few complaints. In fact, it is the unanimous opinion of the members (and other residents) that we are extremely fortunate to have the six daily and weekly meal choices. Everyone agrees that Chef Aaron is doing a magnificent job as Executive Chef and Director of Food and Beverage.

Aaron mentioned that he hopes to have the dining room open soon but couldn't be specific on a date yet. The Tavern Menu, together with Beer & Wine lists are now posted on Touchtown. A request was made to have the Thrive offering posted on Touchtown as well.

At the April 21 meeting, Caroline Edge stepped down as Chairperson and Jill Post assumed that role for the next year.

Respectfully Submitted, Rufus Frost,
Liaison to RAC

Health Care Liaison Committee Report

The Health Center Liaison Committee members are:

Emmy Chamberlin, Huntley Hashagen, Elizabeth Hart, and Don Hart.

Residents Association Bylaws:

SECTION 12: Health Care Liaison Committee. The focus of this committee is to work in collaboration with the Hillside Village Health Center staff to promote the highest level of well-being for the residents through such means as health education, encouragement of healthy lifestyles, and support of those activities and policies that provide for the physical and emotional health of the entire Hillside Village community.

As we all know the Health Center was put on strict protocols because of the pandemic, and no one other than professional screened staff were allowed in. This went into effect literally a day or two after the organizational meeting last year when people were asked to serve on liaison committees. This has meant that no formal committee meetings have been held.

We have, however, been kept informed on a regular basis by Mary Ellen Dunham, Trisha Jones (while she was here), and now Jenn McCalley. Jolynn Whitten has also kept us up to date on changing protocols, especially around limited visits by family. All of this has greatly improved in the last month, and the Health Center may become open to all who are vaccinated as summer approaches.

One of the few extra-curricular activities that has been done is the making of unassembled bird houses that Health Care residents can finish. Woodworkers did the cutting out and placement of nails, and residents have now finished six or seven

houses visible on the hillside behind the Center. Woodworkers have also provided a wheelchair accessible planter for the courtyard, and there are other similar projects in production and more being dreamed up.

When the Health Center is more fully accessible to all of us the committee will invite many residents to share their interests and skills with this very special and valued part of our community.

Submitted by Don Hart,
chair & liaison to RAC

Marketing Liaison Committee Report

Committee Members:

Carol Greenberg, Vicki Boulton, Walter Mess, Ernie Mills, Miriam Lanata, Molly Martin, Hattie Virkstis, Dick Virkstis.

Residents Association Bylaws:

SECTION 14: Marketing Liaison Committee. The Marketing Liaison Committee works with the Marketing department of Hillside Village on tasks that will assist the department to optimize the results of marketing and transitioning of residents to Hillside. Activities may be in areas of welcoming, touring, profiling of residents and general brainstorming on relevant strategies.

The Marketing Liaison Committee met monthly for the past year. All of that time Hillside Village has been under COVID restrictions. These constraints have limited possibilities for committee members to interact with prospective residents, which was a main goal and activity. We remain hopeful that the coming year will restore our role of being a resource of value.

Carol Greenberg,
RAC Liaison

Memorial Committee Report

This Ad-Hoc team has meet with a primary focus: how to acknowledge the lives and deaths here at Hillside Village. This effort is played out in two methods, announcements of deaths in the community and an annual gathering to remember and celebrate those dying the past year.

Crafting an informative, compassionate method to inform us of the life and death we encounter is currently underway.

We are planning a first Memorial Gathering for later this Spring. Look for the announcement. Actual content is still being discussed, but the focus for this first event will be to note the deaths of those who moved in since January 2019, and those who died after making a deposit and whose spouse or significant other has moved into Hillside Village. We are a community of elders. Death will occur among us. We seek to honor and remember all who have contributed to this community.

Joining in discussions are Don Hart, Jim Hinds, Molly Martin, Jolynn Whitten, Jenn McCauley and Lorie Rogers.

Submitted by Jim Hinds

APPENDIX S
Minutes and FAQs with Resident Advisory Council and Hillside Village
Residents

January 28, 2020
Questions and Answers

The following is a recap of the information shared at this meeting by Toby and Tom in direct response to residents' questions collected and forwarded in advance by the Resident Task Force.

Toby welcomed all callers and indicated that these meetings which he and Tom would be having on a weekly basis were intended to be a supplemental channel of communication in addition to other information shared with residents. He indicated that they had grouped questions in themes and thought it would be efficient to start by answering a few of them thematically. Any questions not answered this week would move to the next week's meeting.

First two questions:

Could you share with us some of your success stories working with other CCRCs? Some that didn't end well for residents.

What is One Point's success rate in protecting residents in communities that they have dealt with?

Answers:

Tom and Toby have had long careers with different organizations before coming together at One Point. Between the two they have dealt with more than 25 distressed properties. In each situation, the end results honored resident contracts. In one situation, resident contracts improved.

The community where resident contracts improved is called The Groves in Lincoln MA. The property opened in an economy that had taken an unexpected downturn and was struggling with occupancy. The property was put into the hands of another owner who had capital to invest. A similar situation to Hillside. The Groves chose a new sponsor who already had a health center down the street from The Groves and they proposed to build one on-site – so the service component of the residents' contract was actually improved.

Questions:

Will the contracts have to be honored by new owners?

Will our life care guarantee be protected, and if so how?

What assurance can you give residents that their entry fee refunds will be protected?

Hillside Village Resident Q&A
Hosted by OnePoint Partners
Toby Shea & Tom Brod

January 28, 2020
Questions and Answers

From what I have been reading it seems that we (the residents) are called unsecured creditors when it comes to our entry fees - the refundable part. Is it true that in the event of a bankruptcy, chapter 11, or a sale that might be a sale of assets we could get nothing as our refundable entry fee would be considered a liability?

Answers:

Yes, it is true. Your refunds are on the balance sheet as unsecured liabilities. However, a new owner/sponsor operates with the understanding that harming residents financially leads to less desirable outcomes in terms of occupancy and reputation. And it's not good for the lenders for residents to be hurt. Residents are the greatest sales force for the community. It is better for lenders if they take the financial hit. This has been true not only based on Tom's and Toby's experience and but also in other properties across the country. We can't guarantee that is how it will work out at Hillside, but it is typical of how it works out.

From this point on in the meeting, Tom opened the meeting to hear and answer resident questions from those on the Zoom call.

Question:

Given your collective experience with 25 CCRC's that achieved positive results, how does Hillside compare to those with positive outcomes?

Answer:

Tom responded by saying he has had a whole range of experiences including straight restructuring and Chapter 11 sales. Each situation has distinct differences. The construction issues as a unique aspect of Hillside's situation. He has dealt with situations every bit as challenging but not specifically with a construction issue.

Toby continued by saying in every instance they have to evaluate the market to determine whether there exists a path to full occupancy. We believe there is a market here – there is a path to full occupancy for Hillside. That path is the key to a happy ending.

Tom added in this market, assisted living is less desirable than independent living and COVID influenced timing of unit sales, not their potential.

Question:

Please provide us a recap - is the worst scenario that you can't sell the property?

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January 28, 2020
Questions and Answers

Answer:

What we want is a new sponsor to come in with more capital. And we will keep negotiating with bondholders.

Question:

Didn't they decline to negotiate in July?

Answer: No. Last summer a forbearance term sheet was sent to the bondholders. They did not reply for two months. They then replied with a draft forbearance agreement and that is when the board called in restructuring professionals – One Point and Poisinelli. The bondholders did not refuse to negotiate; they said it would be better to sell to a new sponsor.

Question:

Has there been interest in our property?

Answer:

Yes, there has been continued interest along the way from potential sponsors or buyers.

Question:

To what extent does the unresolved construction dispute hinder the ability to market the property?

Answer:

Surely, we wish construction issues were resolved before seeking to sell but we face a challenge regarding that. Hillside does not have enough money on its own to fund all of the construction issues. We have been negotiating with bondholders to get that funding.

Question:

How optimistic are you that our situation will be resolved? And Kendal on your website – is that Kendal at Hanover?

Answer:

Tom responded that he has worked on 5 (actually 6) different Kendal communities, but not sure which Kendal is on One Point's website.

And yes, he is optimistic it will be worked out satisfactorily – maybe not for the bondholders.

Hillside Village Resident Q&A
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January 28, 2020
Questions and Answers

Question:

What are we paying as a management fee to LCS? Is the management fee an obstacle to achieving profitable operations?

Answer:

Based upon the 2019 audited financial statements, Hillside is paying LCS \$30,000 per month plus reimbursement for two LCS staff members. It increases over five years by an inflation factor. 2021 is approximately \$33,000 per month plus the reimbursement for two staff members.

Question:

\$90 million in bonds were originally secured to cover construction. There are now \$60 million of bonds outstanding. How much of that is related to the amount outstanding to the contractor? How are the bonds going to be retired?

Answer:

The property has a \$1.7 million dollar line of credit and \$60 million in bonds. The plan was for \$3 million to be repaid with entrance fees and the \$57million paid down in level payments over 30 years – just like a mortgage. The financing of Hillside was based on the idea that the combination of operating income and entrance fees after refunds would be enough to pay the debt service on the bonds over time.

The bonds funded many different things. \$56 million was the original estimated construction cost. That amount increased to \$65 million due to change orders and some of that increase is in dispute. There is \$1,250,000 left from the bonds to fund the remaining construction liability.

The basic restructuring challenge is what can Hillside afford to pay the bondholders on an annual basis? What sum of bonds can it support? Bondholders will argue it can support all \$60 million; we don't believe that. That is why we are in negotiations with representatives of the bondholders.

Question:

Toby was meeting with Walpole Bank. What happened in that meeting?

Answer:

He shared information and no action was taken – same as with the bondholders

Hillside Village Resident Q&A
Hosted by OnePoint Partners
Toby Shea & Tom Brod

January 28, 2020
Questions and Answers

Question:

What cash does Hillside clear before debt service?

Answer: It doesn't clear any income. Hillside is running an operating deficit. Monthly fees do not cover operating expenses for services. That's why we are trying to increase occupancy and also why we are looking for a sponsor that can take care of operating deficits and the capital needs that Hillside has.

Tom continued by making the point that they have not yet spoken directly with the bondholders, just the bondholders' advisors – which is pretty typical for this stage in the process.

Question:

When One Point arrived and learned of the situation – was there any tweaking of the budget. I know of another community that held back part of its fee to LCS. How much longer can we go without paying bondholders? What's in it for a new owner? Why would they prop us up?

Answer:

The bondholders have said you need a new owner. We have hired an experienced broker. We can go for a non-profit or a for-profit. A non-profit would likely have to borrow. A for-profit has capital already.

We have looked closely at expenses – reducing expenses doesn't solve the deficit problem. We need more occupancy – more revenue.

Question:

How are we funding operating deficits?

Answer:

Hillside has \$5.5 million in unrestricted cash to cover deficits. That amount is significant but doesn't allow for payment to correct the balcony problems.

Question:

Am I correct that monthly deficits are running around \$100,000?

Answer:

Yes for 2020; may be less in 2021

Question:

Hillside Village Resident Q&A
Hosted by OnePoint Partners
Toby Shea & Tom Brod

January 28, 2020
Questions and Answers

If filling independent living isn't enough to solve the problem – what will?

Answer:

The challenge is related more to the health center and the number of assisted living beds. The market is steady for independent living but there are too many assisted living beds in the local market. We have to solve that problem.

Question:

Would you please give us an overview of how we are structured and the role of the board?

Answer:

Hillside Village is a 501(3)c corporation; it is tax-exempt; and governed by the Board of Trustees. The board's role is governance, not management. Management is hired. The board has a fiduciary responsibility to the corporation. As a non-profit, there are no owners of the corporation.

One point of clarification: Toby Shea is a restructuring officer but not a member of the board

The meeting was closed with a commitment to meet next week on the same day and time – Thursday, February 4 @ 2:00 PM.

Report prepared by Ann Carter.

ACcommunication Partners

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Recap of Hillside Village RAC Task Force Meeting with OnePoint Partners February 12, 2021

The Hillside Village RAC Task Force met with Toby Shea and Tom Brod of OnePoint Partners from 2:00 pm to 3:30 pm on Friday, February 12. The purpose of the meeting was for Toby and Tom to answer questions submitted by the Task Force prior to the meeting. The following is a recap of those questions and answers in the order they were sent to Toby and Tom. Nothing herein constitutes legal advice and any resident seeking legal advice should speak with an attorney.

Bondholders

What action have Bondholders taken on our defaulted interest payment?

The bondholders are represented collectively by a bond trustee that takes direction from the bondholders on certain actions. The bond trustee is authorized to declare defaults, accelerate the bonds, and exercise remedies similar to a bank. The bond trustee must also obtain approval from bondholders before agreeing to change any terms of the financing such as the interest rate, maturity, the mortgage, or the borrower/owner. The bond trustee retained legal counsel and financial advisors in 2020 because of HSVK's weakening financial position and relatively low occupancy. To date, the bond trustee has not taken any legal action in connection with the defaulted interest payment.

Does any restructuring agreement need 100% bondholder approval?

As noted above, a permanent change in interest rate, maturity, the mortgage, or the owner requires 100% bondholder approval. As a practical matter such approval of any of these changes would be extremely difficult to achieve because the bonds are held by both institutions and individuals and the bond trustee would need to solicit all of the bondholders for their approval. This solicitation process is very difficult, expensive and time consuming and the 100% requirement means it is not frequently used in these situations.

There are other solutions, including the use of bankruptcy or other state court proceedings that can be used to override certain of the requirements in the bond documents. We are not certain which path we will be following but there several instances of CCRCs using chapter 11 of the U.S. Bankruptcy Code to close a transaction with a new owner or sponsor.

Savings Bank of Walpole**What is its position on our \$1.7 million loan?****When is principal and interest due...deferral requested?****Do they have any collateral?**

The line of credit with Savings Bank of Walpole is due for payment of interest and full payment of outstanding principal on April 1, 2021. The bank does not share in the mortgage.

Operating Deficit**Does OPP and management agree with our calculation that the monthly cash operating deficit is running about \$100,000?****Do they see this improving or worsening?****How long can Hillside sustain that deficit?**

Yes – monthly operating deficits in 2020 averaged approximately \$100,000. We expect to reduce the monthly operating deficits in 2021 but now must pay the restructuring costs so we currently expect the monthly cash deficits to remain approximately the same as in 2020. HSVK has approximately \$5 million in unrestricted cash reserves. We are monitoring the use of cash and HSVK's cash balances carefully so that we can sustain monthly cash deficits as long as necessary. We also want to continue to increase HSVK's occupancy levels since additional revenue will reduce the monthly deficits.

Accounts Payable**Are all salaries and operating bills paid current?****A/P increased from \$187,000 on October 31 to \$622,000 on November 30...why?**

Accounts Payable are current. The increase in A/P from October to November was offset by a similar decrease from November to December. The changes are attributable to timing differences.

Cash Available**The November 30 FS shows \$5.2 million of cash and "cash equivalents". How much of this is available to pay operating expenses vs money earmarked for PILOT taxes or whatever?**

All of the \$5.2 million is unrestricted and available to pay operating expenses. The monthly operating deficit includes approximately \$56,000 each month for the PILOT. This monthly amount is not an actual cash expense and the next PILOT payment to the city is not due until July. HSVK is current on PILOT payments at this time.

How much is cash in our bank account vs investments elsewhere? And where is that held, and what are the cash equivalents?

HSVK had approximately \$5.5 million in cash in various bank accounts plus another \$1.225 million in the endowment as of December 31, 2020.

What restricted assets became unrestricted? And who needed to approve that?

HSVK has three types of restricted assets: the original endowment, the funds held and controlled by the bond trustee, and funds restricted at the discretion of HSVK's board. The board can remove restrictions on assets it has previously restricted, which is what it did late in 2020. The

funds controlled by the bond trustee are not available to HSVK unless the bond trustee allows it. Only a certain amount of income on the endowment funds can be appropriated each year, and must be spent only for the stated purpose. HSVK cannot use the principal of the endowment funds.

Where do restructuring expenses show up on the balance sheet?

They are capitalized and show up as current assets.

Bond Reserves**What remains of the various bond reserves? And who can access them and for what?**

The bondholders originally had a debt service reserve fund of \$5.54 million funded from the proceeds of the bonds. As bonds were redeemed or repaid, the amount in the debt service reserve fund also was reduced. Last July, a portion of the debt service reserve fund was used to make the July 1 interest payment. The current balance is approximately \$2.58 million. The bond trustee also holds \$1.24 million in a construction fund and three small funds totaling \$470,000. The bond trustee controls the use of all of the funds it holds.

Construction Issues**What is the status of litigation?**

We are in arbitration with the contractor and the arbitration hearing date has been scheduled in December.

What does the \$4.7 million Retainage Payable liability on the balance sheet represent?

Those are funds retained under the construction contract. A portion is actual retainage and a portion represents payments withheld because of alleged construction defects.

SBA and NH Loans/Grants**Where do these show up on the balance sheet?****Who will be working to apply for forgiveness of these two loans/grants totaling \$1.5 million?****Is there a deadline?**

HSVK has received approximately \$800,000 in loans/grants. They are treated as unrestricted cash on the balance sheet. All of the paperwork for forgiveness has been submitted to the SBA.

Resident Refunds**Who would have priority in a Chapter 11 bankruptcy? Where would residents guaranteed refunds rank among the creditors?**

In bankruptcy, secured creditors have priority over unsecured creditors. The bondholders and bank are secured and therefore have priority over all unsecured obligations, including the obligations to residents. On a practical level in most situations involving CCRCs, the bondholders and any new owners or sponsors understand that the best way to maximize the CCRC's value and protect their bond investment is to protect and assume the residents' contracts, including refunds. The support of existing residents is critical to improving occupancy. Higher occupancy means higher value. Higher value is good for bondholders and other secured creditors. The materials provided to potential buyers and sponsors will assume all resident contracts are being honored.

The question above refers to “residents guaranteed refunds.” Although one of the contracts is called a Guaranteed 90% Refundable Plan, it would be more accurately called the Always 90% Refundable Plan. The refund is always 90% refundable because it does not decline over time as under the Traditional plan and it isn’t subject to being lowered as under the 90% Refundable Shared Cost plan. No resident refunds are actually guaranteed by HSVK. The refunds are contingent in that residents or their estates are entitled to their refunds upon HSVK’s receipt of a new entrance fee for their apartment but not before.

Residents don’t own their apartments. Your deposits and fees allow you the right to live in your apartment and to receive services but do not give you actual ownership.

New Escrow Agreement

Each resident has their own legal Agreement which is binding both ways. The new agreement to hold incoming residents’ fees in escrow appears to be in conflict with section IX. B. 1. of the Hillside Village Guaranteed 90% Refundable Residence and Care Agreement since refunds to current residents could be delayed significantly. This seems to represent a change in our contracts to which residents have not agreed.

- a. Where do the Trustees find the authority to unilaterally make such a change?**
- b. In the Trustees opinion, does such a change need to be approved by the NH Insurance Department? If so, has that been done?**

The purpose of the new option and escrow agreements is three-fold: 1) to protect prospective residents so that they will want to move into HSVK even with the uncertainty of a potential new owner or sponsor; 2) to protect current residents so that a new entrance fee available to pay a refund is not used to pay down secured debt; and 3) to encourage an increase in HSVK occupancy. In addition, current residents are likely to receive refunds sooner because of the option and escrow agreements. Without them, we believe marketing and sales would effectively stop and would be restarted only after completion of the restructuring/sale/affiliation process. This would delay sales and the receipt of new entrance fees would be delayed.

The option and escrow agreements are not a change in existing contracts. Going forward during the escrow period, new residents will not be paying HSVK an entrance fee. Instead, they will be making option payments into an independent escrow not controlled by HSVK. The option payments will give them the right to live in HSVK and receive services during the escrow period and will give them the option at the end of the escrow period to depart HSVK with their deposit or have their deposit converted to an entrance fee and paid to HSVK. The escrow period will end upon the completion of the restructuring/sale/affiliation process.

We believe the option and escrow agreements are good for current residents and prospective residents and will lead to higher occupancy, creating a more vibrant community while also reducing the monthly cash deficits through the receipt of incremental monthly service fees.

The New Hampshire Insurance Department (NHID) has approved both the option agreement and its use.

New Sponsor vs. Restructuring

Please comment on the following:

- a. Regarding the decision to not restructure the loans but rather to press on with seeking a new sponsor. We understand this was a Trustee decision. Further, we had understood that OnePoint would keep the Residents informed. However, we learned about this decision after the fact. Some Residents are concerned that this was a bad decision and would like to discuss our business reasoning with you:
 - I. Restructuring the Trustees with a Board of recognized professionals and restructuring management with a CEO and CFO would keep the 501 (c)(3) structure intact but with new, stronger governance. This type of approach is often done in large corporations.
 - II. This approach could reduce the time and energy needed to gain approvals of the NHID and the NH Charitable Trust Unit.
 - III. With a restructured Board and experienced new management, recapitalization should be achievable.

We appreciate the reasons listed above but two key issues led to the decision to seek a new owner or sponsor. First, HSVK will require additional capital to move forward because HSVK does not have sufficient capital to fund operating deficits, pay restructuring professionals, pay for construction corrections, and fund adequate reserves for future operations. A new owner or sponsor will provide additional capital. Second, HSVK cannot restructure its bonds unilaterally. The bondholders must agree to whatever the ultimate outcome is. The bondholders, through the bond trustee and advisors, have agreed that HSVK requires more capital and the bondholders are not willing to provide it. They want a new owner or sponsor for HSVK.

- b. Besides the tax status, the value of HSVK being a 501 (c)(3) is its ability to accept donations, of which there were many that came from local support to start HSVK. As residents we may be entitled to additional tax deductions if we support the facility through such things as the additional land acquisition, funded by residents, currently under consideration. As well as other contributions benefiting the community. The sooner governance is transferred to professionals, the better our chance of success.

The HSVK board and its advisors want HSVK to remain a 501(c)(3) organization by having a new sponsor which is also a 501(c)(3) organization. However, the identity of a new owner or sponsor will not be the HSVK board's decision alone. The bondholders will also have to agree and NHID must approve. The bondholders' duty is to maximize the value of their investments and they will want HSVK sold at the highest possible price, whether to a for-profit owner or a not-for-profit sponsor.

New Sponsor or Owner

Can you describe the process for evaluating a potential sponsor's offer? Some residents are strongly in favor of a non-profit. Will the residents have any opportunity to vet the potential sponsor?

HSVK's board has a fiduciary duty to current and future residents. When it receives offers, the board must consider whether the buyer has the financial resources to honor its commitments to residents and staff and to operate HSVK successfully after taking ownership. Financial strength is a key consideration, but it is not the only consideration. OnePoint will help review a prospective

buyer's reputation for providing high quality services and its ownership track record. OnePoint also will evaluate the practicality of a proposed financing and operational plan. Ordinarily buyers' bids are confidential for a number of reasons including securities laws and insider trading rules associated with the publicly-traded bonds. Certainly, residents will be informed of the buyer's identity once Hillside has reached a preliminary agreement and before the sale is closed. We are not sure if there is any way that we could give any residents access to buyer proposals before that point, but we will look into it and get back to you. We can tell you now that, in our experience, often a prospective buyer wants to meet with residents before closing on their purchase.



Recap of Hillside Village Resident Q&A with OnePoint Partners February 18, 2021

The Hillside Village Residents met with Toby Shea and Tom Brod from OnePoint Partners from 2:00 pm to 3:00 pm on Thursday, February 18. The purpose of the meeting was to answer questions submitted by the RAC Task Force prior to the meeting. The following is a recap of those questions and answers. Nothing herein constitutes legal advice and any resident seeking legal advice should speak with an attorney.

Chapter 11 Reorganization

It looks like Chapter 11 reorganization is most likely for Hillside. What does Chapter 11 bankruptcy mean?

Why would a financially distressed CCRC file for Chapter 11 rather than restructure its loans or simply put itself up for sale?

Are resident's interests better protected under an out of court restructuring?

What does Chapter 11 mean for staff?

What will change for the residents during the Chapter 11 process?

Would you please describe the process once a filing is made?

A Chapter 11 filing is NOT the same as a Chapter 7 which is a plan to liquidate. An example of an industry with companies that have accessed reorganization under Chapter 11 is the airline industry. The filing makes the news and then passengers continue to fly.

Chapter 11 is frequently necessary to allow companies and their lenders to restructure their debts or pursue sales that are not available outside of courts. Certain restructuring actions (including a new owner or sponsor) require 100% bondholder approval, which is difficult to achieve. Bankruptcy provides the ability to override these requirements and permit a restructuring or sale. An HSVK filing would have little impact on residents and staff; business "as usual" would continue.

The fact that the board and a majority of the bondholders are in agreement regarding the path forward is good. To date, our relationship with the bondholders is collaborative in part because we both agree a new owner/sponsor with capital to invest is necessary for HSVK to access a positive future. We are not sure of the exact amount of cash needed but it is a double digit million-dollar figure, not a single digit. Those funds are necessary to fund the restructuring process, fund operations as occupancy increases, resolve the construction issues, and establish the necessary reserves required by statute.

If HSVK were to file bankruptcy, it would first seek bankruptcy court approvals to continue operating the facility in the ordinary course. After receiving those approvals, which are almost always granted, HSVK would seek approval of timelines for a potential sale/sponsorship process and conduct the sale process to determine a successful bidder. The successful bidder would then close on the transaction and Hillside would exit bankruptcy with a new owner/sponsor.

OnePoint has provided the name of an attorney with experience representing residents of retirement communities in financial distress. By consulting with such an attorney, residents could decide whether they want their own legal representation. Consulting an attorney could give you the information to make a judgment that gives you the most comfort about how your interests are being addressed.

Restructuring Costs

How are all of the costs associated with restructuring being paid? Where do they appear on the monthly financial statements?

Some of the restructuring expenses are capitalized and listed as current assets and some are treated as operating expenses.

Sale Process

How many of OnePoint's cases went from non-profit to for-profit and what determined the decision?

In your experience, what is the impact to residents of going from a non-profit to a for-profit owner/sponsor – taxes, IRS deductions, services?

There is no impact to residents regarding taxes should the property go from non-profit owner to for-profit. Your medical deduction is still allowable. Although a for-profit owner would pay taxes, residents would not. Any potential owner would be motivated to maintain or increase the current level of services and keep existing residents happy, knowing that existing resident referrals are key to increasing occupancy.

Toby and Tom have assisted 25 senior living communities in financial distress. The selection of the new owner is subject to a two-pronged decision to select the highest AND best offer – not just the highest bid as might be the case when a sale, for example, involves a for-profit manufacturer. In that case, simply the highest bid would be selected. In the case of a non-profit charitable organization such as HSVK, the financial offer is important but just as important is the quality of the new owner or sponsor as it pertains to fulfilling the mission of assuring the community is here to serve residents today and tomorrow.

What are our prospects for a favorable sale? What would attract a non-profit buyer?

We believe that Hillside is an attractive opportunity for a new owner/sponsor. We also expect that the non-profits will be among those looking at Hillside. A non-profit owner would see the same benefits as a for-profit owner and in addition may see the purchase as an opportunity to expand its mission.

Escrow Agreement for New Residents**Could you explain the impact of the new escrow agreement on resident's contracts?**

The purpose of the new option and escrow agreements is threefold: 1) to protect prospective residents so they will want to move into HSVK even with the uncertainty of a potential new owner or sponsor; 2) to protect current residents so that a new entrance fee available to pay a refund and is not used to pay down secured debt; and 3) to encourage an increase in HSVK occupancy. In addition, current residents are likely to receive funds sooner because of the option and escrow agreements. Without them, we believe marketing and sales would effectively stop and would be restarted only after the completion of the restructuring/sale/affiliation process. This would delay sales and the receipt of new entrance fees would be delayed.

The option and escrow agreements are not a change in existing contracts. Going forward during the escrow period, new residents will not be paying HSVK an entrance fee. Instead, they will be making option payments into an independent escrow not controlled by HSVK. The option payments will give them the right to live in HSVK and receive services during the escrow period and will give them the option at the end of the escrow period to depart HSVK with their deposit or have their deposit converted to an entrance fee and paid to HSVK. The escrow period will end upon the completion of the restructuring/sale/affiliation process.

We believe the option and escrow agreements are good for both current residents and prospective residents and will lead to higher occupancy, creating a more vibrant community while also reducing the monthly cash deficits through the receipt of incremental monthly service fees. In fact, we have moved in two new couples to the community over the past month or so under the option and escrow agreement structure, whereas it is unlikely they would have done so without it.

The New Hampshire Insurance Department (NHID) has approved both the option agreement and its use.

Recap of Talking Points

Rather than using the one-page of talking points, what is a quick answer to the question "What's going on at Hillside?"

You could say, "Hillside is facing financial challenges associated with a construction dispute and Covid-19 and has to work things out with the bondholders."

We concluded this week's call with the reminder that the next call with resident will be Thursday, February 26 at 2:00 pm.



Recap of Hillside Village RAC Task Force Meeting with OnePoint Partners February 25, 2021

The Hillside Village Residents met with Toby Shea and Tom Brod of OnePoint Partners from 2:00 pm to 3:00 pm on Thursday, February 25. The purpose of this recurring weekly meeting is to answer questions submitted by the RAC Task Force prior to the meeting. The following is a recap of those questions and answers. Nothing herein constitutes legal advice and any resident seeking legal advice should speak with an attorney.

Keene Sentinel Meeting Update

As discussed at last week's meeting, Nancy Crawford, Kendall Lane and Tom Brod met yesterday with a reporter of the Keene Sentinel to bring the paper up to date on the situation at HSVK. The group covered all the important points of context and occurrences bringing the reporter up to date with the financial challenges HSVK faces and efforts to chart the path forward for the long term. They also provided him with updated photographs of HSVK for use

What is the market for CCRCs? Are there willing buyers?

Since COVID problems are affecting so many facilities, will we be competing more than normal for investment dollars? Is there enough interest in investing in CCRCs and enough capacity?

How much is restructuring/chapter 11 likely to cost and how is it paid? New owners?

Are new owners likely to take over bond payments or refinance the whole deal?

Is it likely that fees and services will change with a new owner/sponsor?

What would a worst-case outcome look like? What happens if there is no offer from an acceptable buyer?

The discussion on these questions started with Toby Shea's presentation of a macro view of a sale compared to a restructuring process. HSVK is pursuing a sale or new affiliation. A sale as an outcome is a direct process where a for-profit owner becomes the new owner of the property. The affiliation process is for a non-profit change.

We have hired a broker, Grandbridge, that is very active in senior living communities like HSVK. They have been hard at work performing due diligence over the last few weeks gathering information necessary to understand HSVK. When they have completed their information gathering and analysis work, they will complete the preparation of a bid package or offering memorandum. The next step is to issue a "teaser" with a profile of the property to prospective buyers/sponsors without identifying HSVK by name. The broker will target regional and national for-profit and not-for-profit prospects. If an organization has interest, it will sign a non-disclosure (confidentiality) agreement after which it will receive the offering memorandum and access to a secure virtual data room containing additional documents and information. Based on a schedule received from Grandbridge yesterday, the offering memorandum could be ready to go to interested prospects in April following the execution of respective non-disclosure statements.

An offering memorandum and data room will include information about HSVK's history, sponsor, and mission, a summary of the market area and other background information. The broker will also prepare and provide financial projections that will be both in the bid package and in the data room. The goal of the bid package is to present the property in as favorable a position as possible with appropriate disclosure to attract the highest number of bidders. We believe HSVK presents a great opportunity for the right buyer who has the capital to deal with some of the current financial challenges.

The investor market for CCRC's or life care communities today is stronger than several months ago because of the progress that has been made in developing and distributing COVID-19 vaccines.

The market for HSVK's independent living apartments is stronger than assisted living apartments due to the construction of a large number of assisted living units in HSVK's market since 2017. There is confidence that high occupancy of HSVK's independent living apartments can be achieved and maintained but the same is not true for the assisted living apartments. The assisted living market needs to be addressed. Regarding Health Center utilization, a new actuarial analysis based on HSVK's current population – birthdates, gender, couple or single (no names included) - projects utilization of assisted living, memory care and nursing over the next 30 years. The actuarial model incorporates historical utilization from hundreds of other life care communities. The financial projections in the virtual data room will incorporate this actuarial analysis.

The financial projections will be contained in a financial model. Interested buyers or sponsors who receive the offering memorandum and access to the virtual data room will be able to manipulate assumptions, including occupancy and inflation rates, in the financial model allowing them to formulate their own expectations of how HSVK could perform financially in the future under different scenarios.

The market of for-profit and not-for-profit buyers and sponsors is active. We have been contacted on an unsolicited basis from several interested parties. We are optimistic that a party will emerge with the capital to take HSVK to its next chapter.

The difference between a sale and a restructuring is reflected in the outcomes. A sale of the property results in a new legal entity that comes in with new financing. The current bondholders are paid, likely at a discount from the face value of their bonds and they are gone. Think of selling your home. The buyer pays you; you pay off your mortgage debt and the new owner has his/her own financing.

A restructuring result in the bondholders remaining but where the terms of their debt changes – the dollar amount and/or the interest rate could be reset and/or the repayment term could be extended with the goal of easing the burden of the debt on the property. Restructuring could be a potential outcome for HSVK but it is a very unlikely outcome because, as we have discussed, HSVK needs substantial additional capital to resolve construction issues, establish required reserves, etc. and the existing bondholders are unlikely to provide that capital themselves.

Nothing has changed with the bonds at this point. We are continuing to speak with the bondholder representatives. Unpaid interest on the bonds is accruing.

There really is no realistic refinancing option that HSVK can accomplish on its own without new capital.

Moving back to the questions about operations, there is not a fixed amount of time before we must have resolution. We are managing cash carefully and working on increasing occupancy which gives us more flexibility. We do believe we have an adequate amount of cash to get us through a process concluding in a positive outcome for HSVK.

We are working on the 2021 operating budget now. Its completion was delayed because the previous forecast for 2021 did not anticipate continued disruption from Covid etc. The new head of finance and accounting, Jamie Spencer, is in place now and is working with senior leadership on completing the budget.

Chapter 11 Reorganization

What does Chapter 11 mean for staff? What steps have been taken to avoid the loss of additional management? And, has HSVK issued any "Intent to Protect" letters to better assure key management stays with Hillside. Will the Chapter 11 filing request continuation of employee wages/salaries.

Could you describe a likely scenario to illustrate at what point the decision will be made to file a Chapter 11?11 petition.... after an offer is made but rejected by the bondholders? Or based on some other factors involving our financial position vis-a-vis our debt obligation to our cash-on-hand/cash flow position?

Can the court, in our filing for Chapter 11 and the resolution for solvency, require the bondholders to make some concessions, and in doing so, also require us to do the same? For example: a percentage of refund no longer refunded if you have the 90% plan; reduction of services; the payment of the 2 additional meals at the health Center; payment for transportation; the meal plan going to a point system, etc.

The decision to file Chapter 11 is a significant one that involves many different factors, but the primary concerns are managing cash while doing whatever we can to increase the value of the property to a new buyer. That trade-off is one consideration that guides us in our thinking about timing.

We think it is very unlikely that a new owner would make changes to residents' contracts or fees because the key to growing and maintaining a high occupancy level is satisfied residents. Therefore, changes that would lead to unhappy residents is not in a new owner's best interests.

We understand that you have begun conversations with lawyers to potentially address residents' interests and we encourage you to have those conversations to complement the information you are receiving on these calls.

We concluded this week's call at 3:00 pm with a reminder of the next call scheduled for Thursday, March 4 at 2:00 pm.

Thanks to all for your consistent interest and engagement.



Recap of Hillside Village Resident Q&A with OnePoint Partners March 4, 2021

Hillside Village Residents met with Toby Shea and Tom Brod of OnePoint Partners from 2:00 pm to 3:00 pm on Thursday March 4, 2021. The purpose of these meetings over the last several weeks has been to answer questions submitted by the RAC Task Force prior to the meeting and then to open the meeting to questions from participants. Following last week's meeting, the RAC Task Force suggested that future meetings be modified to begin with a general update of any significant developments in the process of tackling Hillside's financial challenges followed by a "special guest" - for example, a member of the restructuring team such as the interim marketing manager Karen Hogan, interim finance manager Jamie Spencer or a member of the Board of Trustees. The meeting would then be opened for resident questions. The request was also made by the Task Force that the meetings now be held every two weeks instead of every week. The Task Force also submitted questions for this week.

The RAC Task Force's suggestions have been adopted and the meeting progressed with this week's guest speakers, Board Chair Nancy Crawford and Board Member Kendall Lane. Nothing herein constitutes legal advice and any resident seeking legal advice should speak with an attorney.

Restructuring Update

Tom Brod reported that in general all aspects of the process to deal with HSVK's financial challenges were moving forward on track. The broker, Grandbridge, is progressing with the preparation of the offering materials. Conversations with the bondholders' advisors are continuing. The Board task force and advisors meet each week. Toby continues to participate in senior leadership meetings.

Board Chair Nancy Crawford's Remarks

Today I am speaking to you directly and I am very happy to have this opportunity. We, the board are here, we are involved, and several of us are present on these calls each week, silent though we have been. We have not wanted to deprive you of any of the precious minutes hearing from OnePoint and getting your questions answered. So today, I am able to take some of those minutes because Toby and Tom have done such an outstanding job and this week, some of the questions are those which I and my fellow trustee Kendall Lane can address.

First and foremost, I care about Hillside and I care about each and every one of you. Hillside is personal to me. I and several of the trustees have been involved from the start, an idea that was formed in 2010, through all the planning steps to get to that first shovel in the ground in June 2017. Now, March 2021. We knew a startup involved hard work and challenges and we certainly have experienced those.

Now as we face those challenges together, I wanted to speak about one area in which I know you have concerns...departing employees. Let me back up a bit and ask your indulgence while you listen to me. I have given this much thought.

Speaking as a woman who has had and currently continues to have work that requires much in time and effort, I know that employees stitch together a fabric of supports that allow all responsibilities at work and home to be met. The COVID pandemic has been life altering... an unexpected, sudden change with no warning. Initially we all had to make adjustments. We had no choice. Life as we knew it changed overnight.

Now we are a year plus into this. Things look to be improving but still so much uncertainty. We are stressed, we are exhausted. Many people are looking at work/life balance and asking:

What does that mean for me and my family?

What do I do? How do I move toward a balance?

These are difficult decisions.

There are no clear answers and still much uncertainty. And now we add Hillside's struggles with its uncertainty. We have tried to be very direct with you as residents and with our employees. But as each of you know, there are still unanswered questions. What I can tell you with certainty is that we as an organization do not let anyone leave without a conversation on Why? What can we do to keep you? How do we do better? In the end, each decision is a personal one, and in many cases, it is wrenching. Sometimes the answer is to move forward, a valued employee must leave us. Knowing their choice is our loss, I can commit to you that we must and will actively pursue how we can do better. We will remedy barriers to a strong supportive workplace.

Board Member Kendall Lane's Remarks

Sorry I can't be there in person. Covid has made that impossible but I look forward to the opportunity to be part of the Hillside community.

First, I would like to make a few comments about the Board's responsibility for Hillside Village and the residents there. As members of the Board, we have an obligation for the stakeholders involved in Hillside Village – That includes the Bondholders who provided the financing that made this possible, other creditors, residents and employees – everyone – but the residents are first

among equals. Without the residents there is no Hillside Village. This was created for you and without residents HSVK has no value. It is vital that the residents be successful. There is an old saying that if Mama is not happy no one is happy. In this case if the residents are not happy, no one will be happy.

Now let me go a little deeper into this. This is your home today. For 20 years this was my home. I bought the farm and 70 acres in 1997. My wife and family lived there for 20 years. We raised our family there; I performed the marriage ceremony for my daughter in the back yard. I also performed the marriage for my best friend there. My office was there and was well known in Keene. We designed and built the new barn there in 2000 and my daughter trained there before she won the U.S. Amateur Dressage Championship. That property is very personal to me and to my family.

When we were approached about selling it, we had to think long and hard. We were selling a farmhouse built in 1780 which we had restored. The old barn was there built in the 1760's. It was our home and we loved it there. By agreeing to sell it we became part of the commitment for the success of HSVK. When the sale became public, I took a lot of heat for selling. I was Mayor and had appointed the members of the Zoning Board and the Planning Board who had to pass judgement on the project. I was in the middle of a reelection campaign and was attacked by the press and by my opponent for selling. My commitment to HSVK is very personal and I care deeply about its success.

Everyone on the Board has their own backstory for their commitment to HSVK and the residents. Every decision we make reflects that. The success of HSVK, the satisfaction of the residents, is important to us and to the community. We are all part of that community.

Thank you for listening.

Questions and Answers

What effect, if any, does the board and ONEPOINT PARTNERS think that our lack of skilled nursing has had on occupancy in IL and AL?

Nancy addressed this question. First a clarification of terms. "Skilled" has a very particular definition and relates to nursing care services that are reimbursable through Medicare. We do not and will not provide skilled nursing care. That is in-patient care that is provided in acute rehabilitative facilities, of which we have several in Keene.

Once those special nursing care and rehabilitative services no longer require in-patient care, folks can return to a nursing care bed or to their assisted living or memory care apartment. And sometimes they even return to independent living. Outpatient rehabilitative care may be

prescribed by your physician which we do provide through our onsite partners (Health Pro Heritage).

We have not opened our nursing care beds yet. Truly, we have been able to provide most nursing care to our health center residents in their own AL/MC apartments. We will open the nursing beds in the future when the need arises and cannot be met in our other levels of care. But again, skilled care is a level of care that requires admission to a facility that provides that level of care and the Hillside nursing beds are not certified for Medicare skilled nursing.

A discussion followed regarding life care and the continuum of care at Hillside Village. A separate meeting will be scheduled to focus on these topics.

How Residents Can Assist with Marketing HSVK through Social Media

Interim Sales and Marketing Manager Karen Hogan provided the following information:

There is great value in resident testimonials – particularly video testimonials wherein residents share what they enjoy or appreciate about living at HSVK. Joy added that residents can go to the Facebook pages of Hillside Village – Keene and Prospect-Woodward Health Center at Hillside Village Keene and “like” the page and/or comment on the postings. In social media, transparent and sincere comments are extremely valuable and have the most influence on prospective residents and even their family members who may be assisting their older relative with the decision to join a senior living community. Many of you speak enthusiastically about what you like about living here and why it was the right choice for you. Sharing your experiences is very helpful to encouraging a prospective resident to join our community.

As marketing plans ramp up and a more robust digital strategy launches, marketing will be back in touch with residents with updated information about our digital strategies and how you might consider supporting our efforts.

What is the status of the construction dispute?

As has been reported previously, the dispute with the general contractor is scheduled for an arbitration hearing in December. The timing of a decision following an arbitration hearing ranges greatly from weeks to months depending upon the complexity of the case. We need additional capital for construction related issues, including construction repairs and mitigation.

The meeting concluded at approximately 3:00 pm with a word of appreciation to Nancy Crawford and Kendall Lane for their participation. The next Zoom Resident Meeting will take place in two weeks on March 18 at 2:00 pm.



Recap of Hillside Village Resident Q&A with OnePoint Partners March 18, 2021

Hillside Village Residents met with Toby Shea and Tom Brod of OnePoint Partners (OPP) from 2:00 pm to 3:00 pm on Thursday March 18, 2021. The purpose of these meetings continues to be the regular exchange of information from One Point Partners and other speakers to the residents of Hillside Village. The RAC Task Force submitted questions on behalf of residents, and this meeting's special guest speaker was Karen Hogan who serves as Sales and Marketing Consultant. The meeting opened at 2:04 pm with 79 participant Zoom boxes.

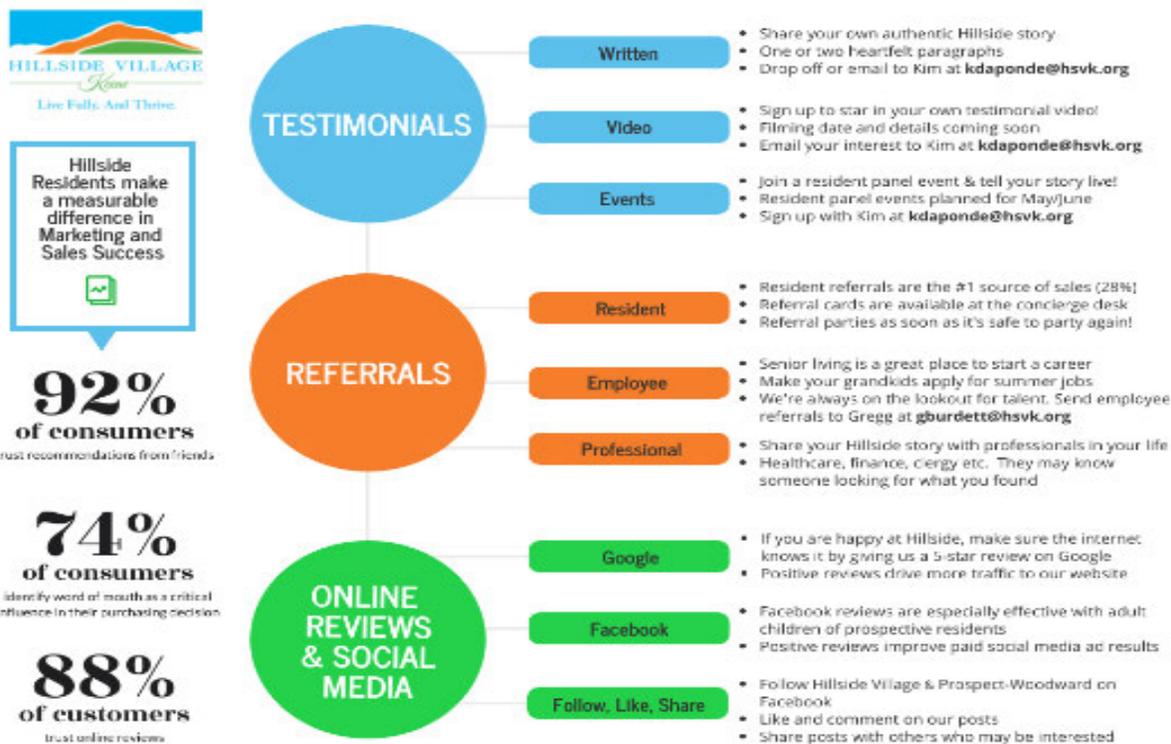
Nothing herein constitutes legal advice and any resident seeking legal advice should speak with an attorney.

Restructuring Update

Tom Brod reported that in general the restructuring team is continuing to make progress with the sale/affiliation process which should be fully launched by the end of March or the first of April. Before long, residents are likely to observe visitors to the property who are engaged in the sale process. We are also continuing to receive unsolicited calls of inquiry by parties who are interested in Hillside Village.

Sales and Marketing Consultant Karen Hogan

Karen started her presentation by sharing some information about herself, including 20 years of experience in Senior Living marketing and sales. She expressed much appreciation for the support from residents who have been interested in learning how they can support the work of the sales and marketing team. Using a series of PowerPoint slides, Karen illustrated the significant contribution residents can add to Hillside's sales effectiveness. The three categories of participation she outlined were: (1) testimonials; (2) referrals; and (3) engagement with on-line and social media. She then ran through a series of examples of types of activities that are open to residents if they wish to engage. A summary of her points is presented in the following graphics from the sheets that all residents received in their mailboxes. Additional printed copies are available at the concierge desk upon request.



Karen emphasized that the most persuasive information a resident can convey is to share their own authentic story. The more sincerely you convey your feelings about HSVK, the more persuasive your opinions will be with a prospective resident. Marketing can help you capture your story or your endorsement. But they will be your words because your words are extremely important to a prospective resident – one or two paragraphs are enough. Even if you have posted something previously on the HSVK Facebook page or other social media, feel free to post something else that is more current. Current content shows the community is active. Adult children and grandchildren of residents (who are already very comfortable and active online) may also post on anything they have observed or experienced concerning their parent’s or grandparents’ experience at Hillside Village.

Karen also indicated that when it is safe to do so, there will be sales events scheduled in which residents will be invited to participate. More information on events will be forthcoming.

In response to a question about what other things marketing and sales are doing, Karen referenced virtual open houses, email blasts to targeted prospects, and digital advertising.

In response to another resident question, Karen indicated Hillside Village receives lots of data about the digital activities of people who visit the HSVK site. Some of that information feeds right into the HSVK Customer Relationship Management system where they track sales leads. Through HSVK’s advertising agency, they receive sizeable sets of data through a system called Google

Analytics. That info helps us get smarter about what information on our site people spend time with and what they don't. They use that information to make adjustments to or build on the content on the site.

It was also noted that Toby plays a role in closing sales by speaking to prospects who have questions about HSVK's financial challenges and the process underway to address them. Finally, Karen reported that last week they received one 10% deposit and two HOLDS giving all a sense of progress.

Resident Questions and Answers

There's considerable concern about the quality of care associated with for-profit health care facilities. The articles below focus on nursing homes specifically, but how are you evaluating a potential buyer's competence and integrity as you vet interested parties?

The organizations referenced in those articles will not, nor do we want them to be bidding on HSVK. The life care community is a small industry. Among the members of our team there is a tremendous amount of collective knowledge about who the high-quality players are and are not. We are seeking an owner or sponsor who delivers high quality care.

Will the residents' attorney be present at negotiations with potential buyers in order to ensure that our priorities are considered?

The residents' attorney has been in contact already with Polsinelli, and they are continuing to share information.

What effect, if any, does OPP sense our lack of skilled nursing has on occupancy in IL and AL? What are potential buyers looking for in a facility like ours?

Buyers are looking for much the same as residents are:

- High quality community
- Services and amenities
- Vibrant community
- Happy residents
- In a market that will support full occupancy

The health center setup is not an issue for prospective buyers or sponsors.

What, if anything, are OPP and the board doing to address the continuing exodus of key employees?

A number of factors, including family circumstances, have led to the departure of a few key employees. We also want to know if there are things we can be doing better. Gregg Burdett has been our very skilled Human Resources Director since the beginning of Hillside. Our community

requires special staff, and we are very particular. Today's unemployment rate is also very low, so we are looking at many factors including wages, benefits, etc. that we may adjust. Like residents, uncertainty affects employees.

In addition to resident endorsements and the other things addressed earlier by Karen Hogan, what else is sales and marketing doing to attract prospective residents to Hillside?

Hillside Marketing utilizes a mix of traditional and digital marketing strategies. While we do many tactics in-house such as virtual open houses, virtual events, email blasts, etc., we also partner with an advertising agency specializing in senior living to do the heavy lifting with digital marketing and creative design.

Traditional Marketing

Referral marketing

- Residents
- Professionals
- Families and friends

Direct mail

- Over 15,000 households
- Age and income qualified
- Demographic data of existing leads & residents informs target demographics for mail list

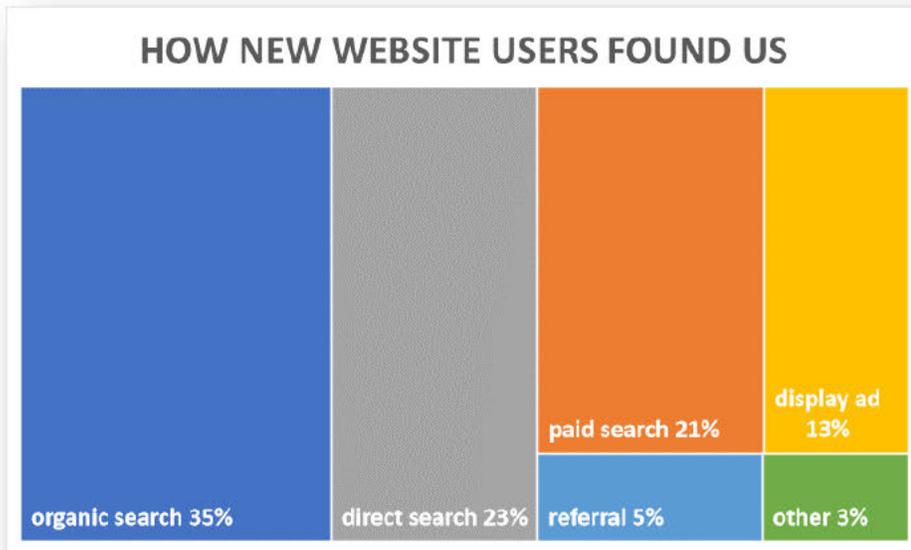
Event marketing

Local ads / sponsorships

Community outreach

Website/Digital Marketing: Results YTD

- 260,556 impressions (the number of times HSVK website or digital ads appeared in online searches)
- 4,184 new website users (unique visitors viewing HSVK website for the first time)
- 5,931 sessions (indicates repeat visitors)
- Current conversion rate = 1.66% (consistent with industry norms)



Would you please explain the specifics of skilled nursing care and why it is not available at HSVK? We were under the impression that we could access the full range of care on-site.

We are a life care community committed to taking care of you with all aspects of care except for Medicare-reimbursed skilled care. This question has come up a few times now, and we believe we need a meeting to discuss healthcare at Hillside. We recognize there is some confusion about the difference between the regular nursing care we have here at Hillside and short-term, *skilled Medicare-reimbursed* nursing care. We will notify you of the date and time of that meeting as soon as possible.

The next regular Town Hall meeting will take place in two weeks on Thursday, April 1, at 2:00 pm. We look forward to continuing our conversations then. Thank you.



Recap of Hillside Village Resident Q&A with OnePoint Partners March 25, 2021

Hillside Village Residents met with Tom Brod of OnePoint Partners (OPP) from 2:00 pm to 3:00 pm on Thursday March 25, 2021. The purpose of these meetings continues to be the regular exchange of information from OPP and other speakers to the residents of Hillside Village. This particular meeting was organized to be dedicated primarily to providing an overview of information on the topic of resident health care services. To that end, the primary speakers were Nancy Crawford, Chair of the Board of Trustees and Jennifer McCalley, Health and Wellness Navigator. The meeting opened at 2:04 pm with 65 participant Zoom boxes.

Nothing herein constitutes legal advice and any resident seeking legal advice should speak with an attorney.

Restructuring Update

Tom Brod reported that the sale process started last week with "teaser" emails sent to a broad range of potential buyers. The email indicated that an unnamed community was soliciting interest from prospective buyers/sponsors with a nondisclosure agreement (NDA) to be executed by any party requesting more information. Tom also reported that the Offering Memorandum had been completed and as of this morning had been sent to 38 groups that had returned a signed NDA. Interest from more parties is expected. OPP is pleased with the expressions of interest to date and with both the offering memorandum and the compilation of information in the property's data room.

Through the Resident Task Force the question was asked whether **other life care communities in New Hampshire are experiencing the financial distress that Hillside is experiencing and, if so, are they working with the New Hampshire Insurance Department?** Tom Brod answered by saying that there are no other lifecare communities in NH who experienced the consequences of COVID and new construction as they were opening as Hillside did. Hillside's experience in NH is unique.

The next question was **is going through Chapter 11 seen as a positive or negative for a prospective buyer?** Chapter 11 is generally not seen as a detriment; some buyers see it as a benefit since the process cleanses the property of claims and liabilities. In doing so, a buyer is generally assured that it will not face any surprises in terms of unexpected liabilities.

Health Care for Hillside Village Residents

History and the Vision for Health Care at Hillside – Nancy Crawford

The Prospect-Woodward Home has a 145-year history of caring for seniors in the Keene area. On August 8, 2019 12 residents of our Court St assisted living home woke up, ate breakfast, and then climbed into our new Hillside Village van and were transported to the new Prospect-Woodward Health Center on Wyman Road.

Families and friends and staff had spent days and weeks, sorting belongings, moving what they could beforehand and training on new systems to deliver care. What a day as these pioneers stepped across the threshold into a brand-new building! The rest of the day was filled with getting everyone settled. Supper that evening was in the dining room. Then each resident tucked into a two-room suite with a private bathroom and shower and slept soundly. The next morning a return to the dining room for a cooked to order breakfast by the chef and served by the dining staff!! I visited each table, such joy and thankfulness that the long-awaited move had happened.

Over the next few months, we opened our doors to visitors and guests for them to see what was in place but also what was to come. The memory care unit opened in December. Many of you that were here toured the center, sampled the delicious buffet snacks and saw things firsthand.

Then COVID hit and the open doors slammed shut. To keep our most vulnerable safe we had to isolate the health center and the health center staff. What a terrible way to build community in a startup but we had to do it. Despite a connecting underground passageway and an over land pleasant walk on a sunny day, we were separated. When COVID did enter the health center in late Fall, we clamped down even harder. Do not let it get in the big building! And it did not! We were not without consequences; several were sickened, and one person died. But we were not ravaged as some places were.

Then vaccinations for everyone!! Celebration, a light at the end of this tough year.

Now we are rebuilding community. The health center is an integral part of this life care community. Reestablishing the connection and understanding its place in our plan is now the goal. Hopefully today's program will be the beginning of that process. This will be a continuing conversation because in health and wellness there are always unique variables.

How Hillside Health Care is Delivered Today – Jenn McCauley, Health and Wellness Navigator

Jenn opened her remarks by sharing that today's goal is to share with residents an overview of how health services are delivered to residents and then follow up in May with small group seminars where residents may ask specific questions related to their personal concerns and circumstances. She indicated the small group seminars would be announced in upcoming editions of The Ripple. She also called residents' attention to the information she provided about services in the March 12 edition of The Ripple.

She began by stating that residents will always have a home at Hillside Village and its levels of care will meet almost every need for day-to-day care. Hillside Village's independent living, assisted living, memory care and nursing beds provide different levels of support depending on a resident's needs. Her role is to serve as residents' "navigator" and to assist them in accessing the most appropriate health services that meet their needs. She has a passion for providing residents such assistance and takes seriously her role in being by your side in times of need.

While most day-to-day long-term care services are available on the Hillside Village campus, there are times when a resident may require the services of a hospital or intensive rehabilitation therapies after a health event or hospitalization. Jenn can help you and your family manage all the transitions that occur in those scenarios, minimizing the confusion that could otherwise occur in dealing with various therapists and social workers at hospitals and acute care rehab facilities. And then she will manage your return to your home at Hillside.

There are also circumstances when a resident can receive services from a certified home health agency in their Hillside apartment. For example, if you were to break your hip, you would need to be hospitalized and then receive intensive rehab. That rehab might be provided in an outside facility. In some cases, it could be provided in your Hillside home. Jenn can assist in coordinating these services as well. Circumstances are very variable, and Jenn stressed that the May small group seminars would provide plenty of opportunity to ask specific questions and explore possible health care scenarios.

She stressed that Hillside Village will always be your home, but there may be days when you need to leave your home for acute care or planned surgery that one of the great hospitals nearby can provide with the expertise you need. When you are discharged from that care, once again, Jenn will coordinate your transition back to Hillside.

On campus, Jenn is seeking to bring additional services by outside providers to the Health Center. They include a dermatology clinic, digital x-ray and, possibly, a podiatry clinic.

Resident Questions and Answers

Are health services as they are organized at Hillside Village seen as a negative by prospective residents?

No – in NH, most other lifecare communities are organized similarly with few or no nursing beds. This is a trend across the country.

In the Health Center there is a floor named "Nursing". What services are envisioned for that floor?

The original vision was for 20 nursing beds, but that space will be reconfigured and the number of beds reduced since our community does not need 20 beds for that level of care.

Are any of the staff in the Health Center available to assist a resident in their home with simple needs such as changing an oxygen line or wound care?

To provide nursing care in your apartment, Hillside Village must have a special home health license which it currently does not have. Hillside Village is licensed to provide assisted living care (including memory care) and nursing care in their respective licensed areas. As we are presently organized, a resident cannot drop into the Health Center for those services. As the Hillside community grows, we need to consider how we can meet changing needs. In the meantime, that is a very good example of how a conversation with Jenn can lead you to a solution for that care.

If we are in independent living, what would cause us to move to assisted living?

The move from independent to assisted living is a big decision that can be made with Jenn's assistance. As your care needs increase, we work with you to plan for your success in independent living and coordinate a move to the right level of care to meet your needs as part of the continuum of care that you have at Hillside Village.

What happens at the Health Center? I've never even been in there.

The Health Center was always envisioned to be an integrated facility within the Hillside Village community. When COVID hit, however, we were forced to isolate the Health Center to keep people safe. As we are all vaccinated now and the future is more known, we will invite residents to tour the building, learn more about what is happening there, and see and learn about all that is available to them. The marketing department also has short video tours of the Health Center that are available to view.

We also want to be able to socialize more perhaps at the Health Center and also the Activities Center. As you all probably know, there is an underground connector to the Health Center. It is a light and bright passageway where we hope to have displays highlighting the history of our organization from founding to today. We have a long history of caring for elders in Keene and believe we will care for them long into the future.

Why is there not "skilled nursing" at Hillside?

Medicare provides reimbursement for skilled nursing up to a maximum of 100 days, and the cost to Hillside Village for participating in Medicare and providing high-quality skilled nursing care would be high, particularly considering the small number of patients we might be serving at any given time. Since this kind of specialized Medicare-reimbursable care is available in other high-quality skilled care facilities in the area, and following the practice of other life care communities in New Hampshire, the Board of Trustees decided not to participate in Medicare or to provide Medicare-reimbursable care. Skilled nursing services are one of the areas that the Health and Wellness Navigator can explain when discussing your health needs.

Could home healthcare nurses come into our homes from outside the community?

Yes – absolutely. When a Hillside resident is discharged from the hospital, orders are written by a hospital physician and organized by a hospital case manager to get you the follow-up care you need. They may say you are good to come back to Hillside with in-home services or they may feel you need more intensive rehab support to regain strength and function before you return to your Hillside home. In either case, the Navigator at Hillside will be in touch with the hospital team to facilitate your transition and services. The system can be complex, and we will help to make it simpler for you. We are always keeping a close watch if you must spend time outside Hillside Village and are ready to help when you return home. Thankfully, we have the benefit of a peaceful rural setting and the proximity to several world-class hospitals when the need for their care arises. Should you have that need, you want to have access to the best hospitals.

Is the Hillside Village marketing office adequately staffed?

We are working very hard to replace the open positions in marketing. In the meantime, Karen Hogan is providing expert leadership and the remaining staff is working diligently to mine sales leads and nurture them once they are identified. Toby Shea also speaks to interested buyers.

Do you have any idea when interested potential owners/sponsors will be visiting the community?

Our best estimate is mid to late May. This is an estimate because we are required to comply with State mandates regarding any COVID travel restrictions etc. When a group does arrive, they will be accompanied and not just roaming around on their own. We will do our best to give you notice when the property visits start.

How many inquiries have you received thus far from non-profit organizations?

We have received multiple inquiries from non-profit organizations.

We have accepted guidance from the Resident Task Force who said we do not need to continue holding regularly scheduled meetings until there is news to report. So, there will not be another Resident Town Hall meeting until that time. Thank you all so much for your continued interest, attention, and engagement.



Recap of Hillside Village Resident Advisory Council Meeting with OnePoint Partners July 22, 2021

The Resident Advisory Council met with Toby Shea and Tom Brod of OnePoint Partners (OnePoint) on July 22, 2021. OnePoint was asked to provide an update to this group on the progress being made to identify a new sponsor/owner of Hillside Village. The discussion commenced at approximately 2:00 pm and lasted 45 minutes and was organized around the following topics. A question-and-answer period followed.

Nothing herein constitutes legal advice and any resident seeking legal advice should speak with an attorney.

Tom Brod opened the conversation by reminding the group that, despite the desire to be transparent, we are obligated to exercise caution in sharing information because of a confidentiality agreement and because the Hillside bonds are publicly traded and, therefore, subject to securities regulations regarding the dissemination of information.

Where We've Been

We initiated a two-step sale process that began in March. The first step required hiring a broker, compiling an offering book, and setting up a virtual data room. Access to the offering book and granting access to the data room required the execution of non-disclosure agreements. Initial offers from bidders were due by May 11.

Several bids were received and reviewed, and the strongest bidders were invited to submit a second bid. The second-round bidders were allowed site visits which took place in late May and early June. Second bids were due the second week of June, and those bidders were interviewed by members of the board of trustees. A winner was then selected unanimously by the board, and Hillside moved forward with a confidential diligence process with the winning bidder.

Where we are

The board, OnePoint, and Hillside's counsels are very pleased with the outcome of the process to this point. It has yielded a strong prospective buyer, and we have maintained a schedule originally established in March. Cash management also has been good and ahead of our projections.

Although we cannot reveal the name of the prospective buyer or the terms of the bid, we can say that the proposed stalking horse bidder has committed to honor resident contracts, including refund provisions of prior and current Hillside residents.

We are now engaged in a mutual due diligence process which should conclude with the signing of an Asset Purchase Agreement (“APA”). We anticipate being able to share the identity of the prospective buyer in 6-8 weeks.

What’s Ahead

After signing the APA, we expect to go through a restructuring using a Chapter 11 filing. We will notify you when and if we file in court and will hold an all-resident meeting as soon as possible immediately thereafter. If there is a court process, we hope it will require only 8-10 weeks before settling on a final purchaser. In New Hampshire, any resident is afforded the opportunity to call-in to listen to all court hearings in this process.

In a Chapter 11 restructuring bankruptcy process, the prospective owner we have selected is known as the stalking horse. Although Hillside has already run a competitive bid process, we will be submitting the bid to another marketing process in the Chapter 11 process. If qualified bids are received, an auction will take place. If no bids are received, there will likely be no auction. We won’t know for sure who the new owner is until after the auction, if there is one. Once the new owner is determined, we will need to obtain New Hampshire regulatory approval. This is the last step in the process, and the time span over which it will take place may take as long as 60-90 days.

Committee Member Questions & Answers

How would an auction work – would it be brokered or overseen/conducted by the court?

The auction would not be conducted by the bankruptcy court, but it would be held pursuant to court-approved bid procedures. The bankruptcy court would also approve the successful bidder after any auction. If you have questions about the Chapter 11 process, please speak with your attorney.

Who is the auctioneer – an attorney or Toby and Tom?

The auction is typically conducted by the broker or the attorneys and is typically an open process.

Is it still the case in an auction that the “highest and best” offer must be selected?

Any bidder must be a “qualified bidder” which means that a new bidder must provide substantially similar terms to the stalking horse’s purchase agreement – which was the basis of selection in the process that preceded the court filing. In other words, in court, the floor for offers is set by the stalking horse’s bid. And the board still has the duty to recommend to the court who they believe should be the winning bidder.

Tom concluded by saying that he appreciated the opportunity to speak with the RAC and promised to be in touch soon when he can provide more information.

APPENDIX T
Keene Sentinel Article, February 2021
and
Union Leader Article, March 2021

Buyer sought for Hillside Village Keene, owner may file for Chapter 11 bankruptcy

By Caleb Symons Sentinel Staff | Feb 26, 2021 Updated Apr 4, 2021



The nonprofit that runs Hillside Village Keene may sell the Wyman Road retirement community and declare bankruptcy as it navigates a financial crunch, its board members say.

Caleb Symons / Sentinel Staff

Facing a financial squeeze caused largely by the COVID-19 pandemic, the nonprofit that runs Hillside Village Keene is searching for someone to buy the retirement community and may declare bankruptcy, its officials say.

The cash crunch caused the organization, the Prospect-Woodward Home, to miss a bond payment worth nearly \$2 million on the 95 Wyman Road facility last month.

The sprawling retirement community, which opened in 2019, is home to 195 seniors and offers a full continuum of health care — from rehabilitative services to 24-hour nursing care. It employs nearly 150 staff members across the various facilities on site.

In a conference call with a Sentinel reporter Wednesday, members of the Prospect-Woodward board of trustees said they have hired OnePoint Partners, a consultant to senior-care operations nationwide, to help navigate the financial situation.

After determining late last year that Hillside Village needs a cash infusion to remain viable, OnePoint Managing Director Tom Brod said on the same call that the company is actively searching for a buyer. Measures to rejuvenate Prospect-Woodward's finances may also include filing for bankruptcy, he said.

However, the nonprofit's officials pledged that even if it declares bankruptcy, Hillside Village residents will remain at the facility and retain their current health care services.

Despite the financial challenges, Prospect-Woodward remains focused on providing a quality residential experience and health care to its residents, according to board Chairwoman Nancy Crawford.

"Our goals, first and foremost, are to create a community that's both financially healthy and sustainable for the long term, to continue ... providing the highest level of care, [and] to protect the interests of residents and employees with minimal disruption," she said.

Under capacity

Opened in 2019, Hillside Village was first envisioned more than a decade ago by trustees of two local assisted-living facilities, Prospect Place and The Woodward Assisted Living Home, Crawford said. The trustees, she explained, wanted to turn those small facilities into a larger operation with on-site health services available for the rest of residents' lives — known as a “lifecare community.”

“Many of us knew retired folks who had left Keene because such a community did not exist here,” she said. “We wanted seniors to stay and continue to be actively involved in this very vibrant city.”

The nonprofits merged in 2016 to create the Prospect-Woodward Home. Later that year, Keene officials approved the group's plan to build Hillside Village at a site on Wyman Road that included two properties, measuring a combined 50 acres, owned by then-Mayor Kendall W. Lane.

Construction on the facility broke ground the following year, and the first residents moved there in early 2019 as part of a “phased opening” that continued in the following months.

Hillside Village has 140 units for independent living, the majority of them at a large community center and a smaller number at the Woodside Apartments on site. It also operates a facility across the street, known as the Prospect-Woodward Health Center, where residents can receive more intensive care while staying in suites designated for assisted living, nursing or memory care.

Those amenities come at a steep cost: Hillside Village residents pay an entrance fee that ranges from about \$217,000 to \$665,000, depending on the size of their apartment and their eligibility for a refund if they leave, according to Brod. They also pay a monthly fee that averages \$4,500, he said. (The cost of having a second resident in the same unit is much lower.)

Crawford said the community opened “to great excitement,” noting her fond memories of mingling with residents at a holiday party later that year.

But that momentum stalled early in the pandemic, when, before reaching full occupancy, Prospect-Woodward suspended move-ins and site visits by potential residents to comply with guidance from public health officials, she said. Other measures included barring visitors and congregate activities at the health center, conducting wellness checks with residents and providing groceries on site.

“The fun things that people were moving to the community to do, those were the things that suddenly we had to stop,” Crawford said.

Some of the restrictions remain in place — the dining room, for example, has not yet reopened — though Brod said it has resumed accepting new residents.

Like many senior-living facilities, Hillside Village also dealt with a COVID-19 outbreak when at least 23 residents and staff contracted the virus, and one person died, in November and December, according to the N.H. Department of Health and Human Services. (Nearly all of the residents are now vaccinated, and 80 percent of Hillside Village employees had received at least one dose as of Wednesday, with an on-site vaccination clinic scheduled for later that day, according to Brod.)

The pandemic has been particularly damaging to Hillside Village, he explained, because public-health protocols prevented it from reaching a sustainable occupancy.

“Communities similar to Hillside have been hit hard, even if they were already fully occupied,” he said. “... Hillside’s been a victim of unfortunate timing, in the sense that [it] got hit before it had ever filled.”

Nearly a quarter of the facility’s 140 independent-living units are vacant, Brod told The Sentinel in an email Wednesday afternoon. The occupied apartments have 170 total residents, and 25 other people live in units designated for assisted living or memory care, he said.

The occupancy issues at Hillside Village have created a revenue shortfall that Brod said is among the primary causes of its financial crunch.

Unexpected spending related to the pandemic, on items like personal protective equipment, has also eaten at the organization’s coffers, Brod explained, though Hillside Village received government relief that he said helped offset some of those expenses. And construction costs ran higher than expected, he said, adding that a \$5.7 million lawsuit a contractor brought against the nonprofit in August 2019 is “a further complicating issue.” (An arbitration hearing for the case, in which the Keene-based MacMillin Co. claims Prospect-Woodward never fully paid for its construction work, is scheduled for later this year. Prospect-Woodward, in a court filing, said its architect suggested withholding a large payment due to “incomplete and defective work” by MacMillin.)

The nonprofit has not yet repaid approximately \$60 million of the tax-exempt bonds that financed Hillside Village’s construction, according to Brod.

“We don’t have the reserves that we had planned on because we didn’t get the entrance fees,” he said. “And now we don’t have the ongoing revenue that we had planned on because we don’t have a high enough occupancy.”

Examining options

Prospect-Woodward’s board of trustees became aware of the financial issues at Hillside Village late last spring, said Lane, the former mayor, who is a board member. The board hired OnePoint in August, he said, after realizing that “we needed some expertise that we couldn’t provide.”

Following a review of the nonprofit’s finances, OnePoint recommended that Prospect-Woodward notify its bondholders — a combination of mutual funds, financial institutions and individuals — of the situation, according to Brod.

The board had told bondholders last summer that the pandemic was hurting its resources, he said. When COVID-19 cases in the region spiked in November, OnePoint again initiated contact with the bondholders to keep them informed ahead of Prospect-Woodward’s semi-annual bond payment due Jan. 1.

The nonprofit missed that \$1.8 million payment, which Brod compared to a mortgage bill for homeowners.

“We had enough dialogue with the bondholders that we told them in advance that we were not going to make the payment,” he said.

During those conversations, Brod explained, Prospect-Woodward and bond trustees — bank officials who manage the bondholders' investments — agreed that Hillside Village needs more cashflow to remain financially viable. The solution, he said, will be to find a new owner or investor for the facility.

OnePoint is working with a broker to identify possible buyers, which include organizations operating similar retirement communities in New England and beyond, according to Brod. Some have already expressed interest in Hillside Village, having noticed that Prospect-Woodward missed the Jan. 1 payment, he said. (That information is publicly available, since the bonds are traded on the open market.)

Prospect-Woodward may also explore restructuring its bond obligations, but Brod said that move could be complicated by a requirement that it first get approval from each individual bondholder.

Instead, the nonprofit is more likely to file for bankruptcy, he said.

That process, known formally as Chapter 11, would allow the organization to restructure its bond obligations with court approval, rather than permission from every bondholder. Prospect-Woodward has not yet initiated Chapter 11 proceedings and does not have a timeline for when that might happen, though Brod said it could occur in conjunction with a sale of Hillside Village.

The organization has already notified Hillside Village residents of the possibility that it, or a new owner, will declare bankruptcy. Even if it takes that step, Lane said, residents will not be asked to move and will continue to receive all of the services that are currently offered.

"Chapter 11 does not mean we're shutting down," he said. "... Hillside Village will remain in business, and the residents will be protected as we go through this process."

Brod added that Prospect-Woodward officials do not believe residents will "experience any change in their day-to-day lives at Hillside."

In a pre-emptive move, the organization has told state regulators that reshuffling its finances may include adjusting insurance guarantees to future residents, which would need approval from the N.H. Insurance Department, according to Crawford. However, it has not changed any insurance obligations to current residents.

"That's all part of us keeping them informed," she said. "Nobody's trying to keep something under wraps here. We have a responsibility to be transparent about all of these things."

Prospect-Woodward officials do not know whether the current board of trustees would remain in place under new ownership, though Brod said "it's very possible that the board would continue."

For now, Crawford said, the organization is committed to ensuring that Hillside Village realizes its original purpose as a home for active community members.

"We want to continue to be the place that when people think about staying for the rest of their years in Keene, Hillside is the place that they choose," she said.

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https://www.unionleader.com/news/business/keene-retirement-community-facing-difficult-future/article_ae4d4a35-7b04-501d-a528-8a0ddfe8df1e.html

Keene retirement community facing difficult future

By Damien Fisher Union Leader Correspondent
Mar 4, 2021



The Hillside Village retirement community is in a financial crisis brought on by the COVID-19 pandemic. The non-profit missed a \$2 million interest payment on its bond and is now seeking a sale.

After missing a \$2 million bond payment in January, and with about \$63 million in total debt, the nonprofit Hillside Village retirement community is facing a critical juncture.

"We're now going about a process of identifying a new owner, or a new not-for-profit sponsor," said Tom Brod, a consultant brought in by Hillside to help with the financial crisis. "In identifying them, we're looking for someone who can bring additional capital."

Nancy Crawford, chair of the Hillside board of trustees, said the facility is another victim of the COVID-19 pandemic.

"It changed everything," Crawford said.

Hillside got its start when members of the Keene community realized people were moving out of town because Keene lacked an assisted living facility. At Hillside, people can move in and live in an independent apartment in the retirement community, and as their needs change, move into one of the assisted living units, such as the nursing facility and the memory care facility on site.

Hillside broke ground on its Wyman Road property in 2017, and it completed in 2019, with people starting to move in. The plans for the facility being viable require a certain level of occupancy. Hillside was making strides in getting to the needed 92% occupancy rate when the pandemic hit.

When the pandemic hit in March of 2020, that meant the residents in the facility were largely locked down, unable to pursue activities, and prospective tenants were effectively shut out.

"Our doors are still open, but we haven't been able to move people in," Crawford said. "Now a year beyond that. We're looking at how we move forward."

The facility has 140 apartments, 42 assisted living units, 18 memory care units, and 20 nursing home units. Hillside currently had 170 residents for an occupancy rate of about 70%, according to Crawford.

Crawford said the board moved to bring in Brod and his OnePoint Partners consulting firm to sort out what to do next when it became clear they needed help.

Brod said Hillside was able to pay down much of the debt it had and has the \$63 million outstanding. The January interest payment of \$2 million is now about eight weeks late, but Brod said he is working with the bond holders.

"We don't have the cash reserves we planned," Brod said.

Brod said there are many retirement communities organized as nonprofit companies, like Hillside, and he is working to find another operation that could step in. The other option is to find a for-profit partner to buy the facility. Brod said he's working with a broker to find a match.

"There's no real deadline, we're working with the bond holder so we are in sync with them on a schedule," Brod said. "We don't want to rush it."

Another option for Hillside would be to restructure the nonprofit debt through a Chapter 11 bankruptcy proceeding. Brod said that is something Hillside and OnePoint is considering.

Crawford wants to see the retirement community find a way to remain a viable part of the Monadnock region.

"Our first and foremost goal is to create a community that is both financially healthy and sustainable in the long term," she said. "Our folks that have joined us love this community. Our common purpose is to find our way."

Damien Fisher

APPENDIX U
Resident Questions and Covenant Living Presentation to Residents
09/13/21 Materials

Hillside Village – Resident Questions for Covenant Living

Enclosed are over 30 questions in 10 areas. These were condensed and compiled from over 80 questions submitted by Hillside Village residents. Acting on behalf of the Resident Advisory Council, Judy Palmer and Jim Hinds prepared these questions. We feel that this list covers the essence of resident concerns.

We residents are so appreciative that the restructuring journey has led to this point. Many persons have offered positive comments about Covenant Living and your communities. We look forward to meeting with you on Monday September 13.

Hillside Village Resident Advisory Council

Don Hart, President

Judy Palmer, Vice-President

Rick Hashagen, Treasurer

Barbara Summers, Secretary

Rufus Frost

Carol Greenberg

Jim Hinds

Hillside Village – Resident Questions for Covenant Living

1] Why Hillside Village

- 1) How does Hillside Village fit into the elder services strategy of Covenant Living? In other words, why are you interested in us? Or what aspects of Hillside Village attracted the Covenant Living board?
- 2) What were the reactions of the Covenant Living Board to Hillside's building and legal issues?
- 3) What do you see as opportunities for improvement at Hillside Village?

2] Faith Based Living & Diversity

- 1) Your website describes Covenant Living as a "faith-based" senior living organization. Covenant Living (motto "live with promise") is an affiliate of the Evangelical Covenant Church. How will day-to-day living at Hillside Village be impacted by a faith-based ethos or mission focus?
- 2) Is it customary for Covenant Living communities to have a chaplain on staff? Is the chaplain expected to be of the Evangelical Covenant faith? What would his/her role be here?
- 3) We have heard that Covenant Living campuses have an aggregate average of about 30% Evangelical Covenant church members as residents. Do you have figures on the ethnic diversity of the CL campuses? Do you know percentages of EC membership among staff? Do you have numbers on the religious diversity of residents on CL campuses?
- 4) In independent living, can 2 unrelated males or 2 unrelated females live in one unit?

Hillside Village – Resident Questions for Covenant Living

3] Operations: Local Leeway vs Centralized Control

- 1) Could you offer some examples of how “profit” is used among Covenant Living communities?. Of course local profit will hopefully be used to enhance the local property and services, but will there be any subsidized units at Hillside Village. Do any Covenant Living communities offer this option?
- 2) Describe the staff leadership hierarchy at Covenant Living campuses. How much latitude for decision making does a local Executive Director have? What engagement do residents have with regard to local vs home office leadership?
- 3) Are the various communities of Covenant Living treated as individual revenue & cost centers? If so, will Hillside Village have its own CFO and CEO (or equivalent)? Will any profits generated by Hillside Village be reinvested here or would excess funds be absorbed by Covenant Living?
- 4) Across the Covenant Living campuses there seems to be a ratio of 2/3 of a staff member per resident. Even with Hillside’s current staffing difficulty and low occupancy levels we have approximately one staff member per unit. How do staffing levels and staff/resident ratios work at CL campuses? Might Covenant Living outsource functions like security, maintenance, housekeeping, food service?

Hillside Village – Resident Questions for Covenant Living

4] Health Care at Hillside Village

- 1) Currently Hillside Village is not licensed for Skilled Nursing. Not having such health service is often a crucial issue for residents who came here attracted by the promise of LifeCare, but are not always receiving it. Many of the Covenant Living campuses offer Skilled Nursing for their residents. To reassure current residents of “true” LifeCare at Hillside Village, please speak to some possible scenarios here regarding the broad scope of elder health care, addressing assisted living, in-unit health aid, rehab care, respite care, nursing care, and memory care.
- 2) How do your campuses handle resident transport for medical care beyond the local community? Would there be consideration of medical transport of residents from the Hillside campus to regional health care sites? (Examples: Concord or Manchester – 55 miles; Lebanon – 65 miles; Boston – 100 miles)
- 3) To our knowledge, here at Hillside Village we have a 100% resident and about 75% staff vaccination rates, and are leaning towards requiring 100% for staff in accordance with some federal guidance for nursing homes. In the news we read that some faith-based organizations are against vaccination. Does Covenant Living have an explicit (or implicit) policy on COVID-19 vaccination for staff and residents? If so, what are these policies?
- 4) Can you share the number of COVID-19 cases and COVID-19 attributed deaths that occurred within your facilities, and what mitigation procedures were put in place?

Hillside Village – Resident Questions for Covenant Living

5] Relations with Evangelical Covenant Church

- 1) Are finances of Covenant Living completely separate from the Evangelical Covenant Church? Does any of the money from Covenant Living go to support the Evangelical Covenant Church? Would any funds generated by Hillside Village be used to support the EC Church?

6] Resident Input and RAC

- 1) Hillside Village residents have found much value in having a Resident Advisory Council and liaison committees. The Prospect-Woodard Board and senior management at Hillside have worked well with the RAC for the wellbeing of the community. In the future, how welcoming can we expect the local Covenant Living management to be regarding resident input, such as via the RAC?
- 2) We've heard that a resident from each Covenant Living campus is a non-voting member of the CL Board. How is this implemented and how does it foster community and communication?

Hillside Village – Resident Questions for Covenant Living

7] Monthly Fees

- 1) We expect you are aware that exclusive of Bond Debt, Hillside Village may still be financially challenged. With regard to other recently acquired distressed properties, have you had any fee increases of over 5%? Either on a one time or annual basis?
- 2) Can you share what the annual fee increase (monthly fees) have averaged on the Covenant Living campuses over the last 3 years?

8] Food & Beverage Operations

- 1) The founders and pioneers of Hillside Village focused on having a 1st class, elite, in-house food & beverage service including having a liquor license. Many residents feel this quality been achieved with our current Food & Beverage staff and leadership. How does the Covenant Living VP of Dining Operations administer and enhance local F/B operations?
- 2) What sort of meal plans are found among the Covenant Living campuses? Are there meal plans for residents living off campus for months?
- 3) At Hillside Village, the space for dining will be a challenge when occupancy percentage numbers are in the 90's. How might meal operations change to accommodate more residents in our current dining spaces?

9] Name Changes

- 1) We note that many of your communities have 'covenant' pre-pended to the name. Will "Covenant" be added to our current name: "Hillside Village Keene"? If so, please explain why? Do you expect that such a name change would have any influence on marketing?

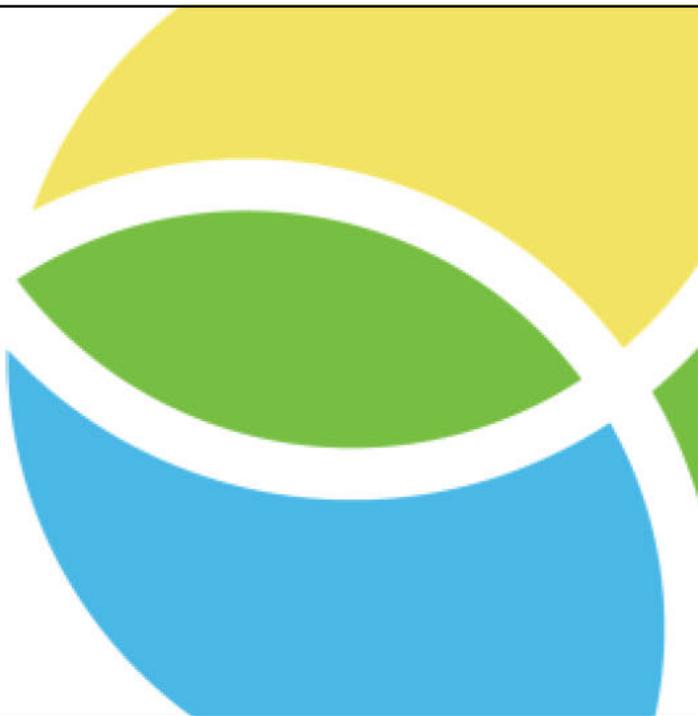
Hillside Village – Resident Questions for Covenant Living

10] Future of Hillside Village

- 1) In her letter to residents, Nancy Crawford, the current Board Chair, spoke of the commitment of Covenant Living to “maintain and enhance” the residents' experience at Hillside. Could you preview what such "enhancements" might be?
- 2) For future residents, might there be changes regarding LifeCare services?
- 3) Does Covenant Living have any plans or ideas to address the staffing needs in Housekeeping, Health Care, or Food & Beverage?
- 4) Regarding TV, Phone, Wi-Fi, Touchtown, are there any technical service changes that might occur? Any expected fee increases/savings for these services?
- 5) Does Covenant Living have a policy regarding green energy? If so, please offer some insights regarding ecological practices on CL campuses?
- 6) Are there other agreements (legal, financial, civic, licensure) that need or may need to be re-negotiated? For example, will this transaction allow the “payment in lieu of taxes” agreement for Keene real estate taxes to continue?
- 7) It’s been reported that Covenant Living has invested around \$2 million in improvements at the recently acquired Inverness facility in Tulsa, OK. Do you foresee a similarly substantial investment at Hillside?
- 8) When might we expect more in-person or Zoom meetings with leaders of Covenant Living?

covenant  living

Welcome.

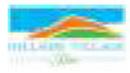


Presented September 13, 2021

1

Who is Covenant Living?



covenant  living | 

2

Today, Covenant Living is home to more than 5,500 residents and 3,500 employees across 18 communities in 9 states.



3



4



East Coast

- Covenant Living of Cromwell
- Covenant Living of Florida



5

Chicagoland (North)

- Covenant Living of Northbrook
- Covenant Home of Chicago
- Three Crowns Park



6



Chicagoland

- Covenant Living at the Holmstad
- Covenant Living of Geneva
- Covenant Living at Windsor Park



7

Midwest

- Covenant Living of the Great Lakes
- Covenant Living of Golden Valley



8



Central

- Covenant Living of Colorado
- Covenant Living of Bixby
- Covenant Living at Inverness



9

West Coast

- Covenant Living at the Shores
- Covenant Living of Turlock
- Covenant Living at the Samarkand
- Covenant Living at Mount Miguel
- Brandel Manor



10

Recent Acquisitions/Affiliations



11

Covenant Living at Inverness

Tulsa, OK



12



Three Crowns Park

Evanston, IL



13

Our Ethos

- Relational
- Transparent
- Interactive
- Accessible
- Collaborative
- Communicative



14

Faith-Based

- Affiliate of the Covenant Church
- Operated by Covenant Living board and management
- Do not discriminate
- Live with Promise
 - New Life
 - Safe Space
 - Community



15

Diversity

- Ethnic diversity reflective of local market
- Religious diversity reflective of local market
 - Primary denominations:
 - Covenant 25-30%
 - Catholic
 - Presbyterian
 - Baptist
 - Episcopalian



16

Key Strategic Pillars

- Optimize the Business
- Resident and Employee Experience
- Growth via expansion of senior-related communities and services



17

Key Growth Priorities

- Economic diversity
- Launch affordable housing
- Build out vacant land on existing campuses
- Expand rental communities
- Targeted acquisitions
- Private duty home care services



18

The Employee Experience



19

inspired to serve



20

Our Common Purpose is to create joy and peace of mind for residents, employees, and families by providing a better way of life.



21

The Resident Experience



22

Programs

- SAIDO – Memory Program
- Legacy of Welcome
- Dining Experience
- LifeConnect



23

Why Hillside

- Location & Quality of Amenities
- Ability to continue the Hillside vision to serve seniors
- Experience with bankruptcy process
- Potential for revenue
- Financially accretive for both organizations



24

Operations

- Operating profits allow for reinvestment
- Benevolent care / Medicaid
- Management Team
 - Local executive director
 - Centralized finance
- Staffing
- Purchased services



25

Governance

- Local Resident Advisory Council remains as is
- National vs. Local Board
 - 15-17 members
 - 2 voting residents
 - Finance, Quality/Safety committees
 - Resident Representative position
- Quarterly meetings



26

Healthcare

- Explore Medicare certification in Skilled
- Open Skilled nursing
- Explore respite care



27

COVID-19

- Vaccination:
 - Nearly all residents vaccinated
 - 70+% employees
- COVID-19 cases since March 2020
 - Residents: 841
 - Employees: 883
 - Deaths: 139



28

What's Next

1. Bankruptcy Process/Auction - Nov 3rd
2. Senior Leadership visit – November TBD
3. Sale Closing – Jan-March 2022 TBD
4. Integration Phase – 1 year from closing



29



**To learn more about
Covenant Living,
visit CovLiving.org.**

Thank you.



30

APPENDIX V
Prospect-Woodward Board Minutes re Formation of Task Force
11/18/20

**Certain Information Contained in this Appendix has been
Redacted Because it is Confidential, Proprietary Information
Excluded from Public Disclosure Under NH RSA 91-A:5(IV)**

The Prospect-Woodward Home
Minutes of Board of Trustees Meeting

November 18, 2020

Attending (all via teleconference because of the Covid-19 pandemic): Nancy Crawford, Kimball Temple, Jane Warner, Anne Meddaugh, Rand Burnett, Gary Shapiro, Belinda Oster, Kendall Lane, Greg McConahey, Jeanie Sy, Nancy Thompson, David Doll and Jay Eason.

Absent: Rob Harris.

Also Attending: Jolynn Whitten, Judy Franseen, Neil Ackley, Rob Perry, and Toby Shea and Tom Brod from OnePoint Partners.

The meeting was called to order at 5:19 p.m. by Chair Nancy Crawford.

Nancy Crawford opened the meeting by asking if there were any questions or comments about her written remarks which were submitted in advance of the meeting. There were none.

The next order of business was consideration of the minutes from October's meeting which had been distributed in advance of the meeting. A MOTION was made and seconded to approve the minutes as submitted. The motion passed unanimously.

The next order of business was a report by Neil Ackley, who had also submitted a written report in advance of the meeting. [REDACTED]

[REDACTED]

The next order of business was a report from the Finance Committee. Greg McConahey reported that the November 17 Finance Committee meeting passed 4 recommendations for consideration by the Board. The first recommendation was that the Board approve entering into an agreement with Continuing Care Actuaries to provide the actuarial study requested by the bondholders. Nancy Crawford stated that there were two options set forth in the proposed agreement. The

Finance Committee approved agreeing to Option #1 at a cost of [REDACTED] for the single study for the fiscal year ending 12/31/20. Nancy Crawford advised us that if we decided later on that Option #2, with studies for 3 fiscal years, would have been the better choice, then we could switch to Option #2 with credit given for the payment made for Option #1. A MOTION was made and seconded to approve entering into the agreement with Continuing Care Actuaries for Option #1. The motion passed unanimously.

The second recommendation passed by the Finance Committee was to approve hazard pay for the employees based on the hazard pay proposal which was prepared by HR Director Gregg Burdett and distributed in advance of the meeting. [REDACTED]

[REDACTED]

[REDACTED] The motion passed unanimously.

The third recommendation passed by the Finance Committee was to increase the ILU fee and the second person fee by 4% effective February 1, 2021, with the 60-day notice to be given on December 1, 2020. [REDACTED]

[REDACTED]

[REDACTED] Kendall Lane made a MOTION to increase the ILU resident fees and second person fees by 4%. Rand Burnett seconded the motion. [REDACTED]

[REDACTED]

Also it was noted that last year's increase was 4%. Jeanie Sy stated it was important that residents be reminded of that fact. A vote was then taken on the motion, which passed unanimously.

The fourth recommendation passed by the Finance Committee was to appoint a task force to deal with the ongoing negotiations with the bondholders as now led by OnePoint. The task force was requested by OnePoint. A MOTION was made to appoint Nancy Crawford, Kimball Temple, Kendall Lane and Rand Burnett to the Task Force. The motion was seconded. Rand Burnett asked what sort of authority the Task Force would have. The Finance Committee recommendation was worded so that the authority would be to make decisions concerning the dealings with the bondholders. Rand Burnett suggested that the Task Force shouldn't really have the authority to bind the Board, but rather should have the authority to negotiate with the bondholders, with the final authority for binding decisions to rest with the Board. The MOTION was therefore revised to read as follows: **A MOTION was made to form a Task Force to include, Nancy Crawford, Rand Burnett, Kimball Temple and Kendall Lane and to give the Task Force the authority to make decisions on behalf of the Prospect-Woodward Board**

when related to the negotiation of restructuring and forbearance agreements. The bondholder term sheet is the endpoint and the full Board will have final say. The Finance Committee will be kept apprised of the Task Force activities. The revised motion was seconded and then passed unanimously.

Greg McConahey then stated that the review of the operating budget would be done “offline”.

[REDACTED]

[REDACTED]

Nancy Crawford then advised the Board that Mark McCue had had a conversation with the Insurance Department to give them a heads-up about our financial problems. She said that as a result of that conversation the Insurance Department will begin investigating our situation.

Toby Shea then stated that OnePoint will put together a list of talking points for the trustees to use so that we can all be on the same page when it comes to answering questions from third parties such as the residents and the public and the newspaper.

The next order of business was consideration of the written staff reports which were submitted in advance of the meeting. Per the marketing report, 107 of the Independent Living Units are occupied and there are 26 residents in the Health Center. [REDACTED]

[REDACTED]

The next order of business was consideration of the written committee reports which were distributed in advance of the meeting. Jolynn Whitten reported that at the Health Center, which is in a COVID-19 outbreak status, everything is “stable” at this point.

Nancy Crawford asked if anybody had any questions about any of the written committee reports. There were no questions.

[REDACTED]

[REDACTED]

Nancy Thompson then pointed out that we should be prepared to respond to any inquiries from The Keene Sentinel if and when it calls. [REDACTED] Toby Shea repeated that he would give us a list of talking points in case we receive inquiries.

The regular meeting adjourned at 6:50 p.m. We then went into executive session.

Respectfully submitted,
Rand S. Burnett, Secretary

APPENDIX W
Grandbridge Second Round Bid Summary

**The Information Contained in This Appendix is Confidential, and
Excluded from Public Disclosure Under NH RSA 91-A:5(IV)**

APPENDIX X
Minutes of Prospect-Woodward Board Meeting June 17, 2021

**The Information Contained in This Appendix is Confidential, and
Excluded from Public Disclosure Under NH RSA 91-A:5(IV)**

APPENDIX Y
Presentation Materials for Prospect-Woodward Board Meeting
August 17, 2021

**The Information Contained in This Appendix is Confidential, and
Excluded from Public Disclosure Under NH RSA 91-A:5(IV)**

APPENDIX Z

Minutes of Prospect-Woodward Board Meeting August 17, 2021

**Certain Information Contained in This Appendix is Confidential,
and Excluded from Public Disclosure Under NH RSA 91-A:5(IV).
The Attached Information is Subject to Public Disclosure.**

Exhibit A to Minutes of 8/17/21 Board Meeting

**THE PROSPECT-WOODWARD HOME
BOARD OF TRUSTEES**

PROPOSED RESOLUTIONS

August 17, 2021

WHEREAS, as a result of the discovery of significant construction defects upon the opening of its new facility coupled with the governmental emergency orders resulting from the COVID-19 global pandemic, The Prospect-Woodward Home (the “Corporation”) has been unable to achieve its marketing goals and generate sufficient revenue from the sale of life care contracts to fulfill its obligations under its long-term tax-exempt bond indebtedness issued through the New Hampshire Health and Education Facilities Authority (the “Bonds”); and

WHEREAS, the Corporation’s Board of Trustees has engaged the services of consultants and professionals familiar with challenges faced by financially-distressed nonprofit senior living communities, and upon the advice and guidance of such experts has concluded that Hillside Village requires additional capital to maintain its long-term viability; and

WHEREAS, the Corporation’s Board of Trustees, following numerous meetings with Hillside Village residents and their Resident Council and legal counsel, regulatory authorities, Bondholder representatives and the Board’s professional advisors, determined that it was in the best interests of Hillside Village’s constituents and its charitable mission to solicit a purchaser of the Hillside Village facility; and

WHEREAS, the Corporation engaged Grandbridge Real Estate Capital to conduct a sealed bidding process which resulted in the Corporation entering into a nonbinding letter of intent with the highest and best bidder, Covenant Living Services (“Covenant”); and

WHEREAS, through legal counsel, the Corporation has negotiated with Covenant an Asset Purchase Agreement (the “Asset Purchase Agreement”) which contemplates that the Corporation will file for protection under Chapter 11 of the federal bankruptcy code, and that

Covenant will be the stalking horse bidder in a Section 363 sale process in bankruptcy court;
and

WHEREAS, with the guidance of its professional advisors, the Corporation has determined that the execution of the Asset Purchase Agreement with Covenant will be in the best interests of Hillside Village, and is the best available method by which the Corporation's charitable mission can be furthered and the senior living and health care needs of its constituents met;

WHEREAS, the Corporation's Board of Trustees desires to approve the Asset Purchase Agreement and commence the necessary bankruptcy filings upon the satisfactory conclusion of the due diligence period;

THEREFORE, the Board of Trustees of the Corporation adopts the following resolutions:

VOTED: That the transfer of charitable assets and operating control of Hillside Village in accordance with the terms of the Asset Purchase Agreement is in the best interest of the Corporation and in furtherance of its charitable mission, including without limitation the promotion of access to quality physical and mental health care and senior living services.

FURTHER VOTED: That the Asset Purchase Agreement in the form presented to the Board of Trustees is approved and accepted.

FURTHER VOTED: That the resolutions of the Board of Trustees on February 24, 2021, and the authority of the Corporation's Chief Restructuring Officer to sign and file all bankruptcy petitions, motions and other documents as contemplated by the Asset Purchase Agreement, are confirmed and remain in full force and effect.

FURTHER VOTED: That each of the Chair of the Board of Trustees and the Chief Restructuring Officer of the Corporation, acting individually on behalf of the Corporation, is authorized to execute and deliver the Asset Purchase Agreement, regulatory filings, and such other documentation, and take such actions, as are necessary or desirable, in his or her sole discretion, to consummate the transaction contemplated by the Asset Purchase Agreement and to effect the foregoing resolutions.

APPENDIX AA
Prospect-Woodward Trustee Certification

**THE PROSPECT-WOODWARD HOME D/B/A HILLSIDE VILLAGE
BOARD OF TRUSTEES**

RSA 7:19-b (II) Standards Certification

We, the members of the Board of Trustees of **The Prospect-Woodward Home d/b/a Hillside Village** (the "**Corporation**"), certify to the New Hampshire Director of Charitable Trusts that in approving the terms of the Asset Purchase Agreement (the "**Transaction**") between the **Corporation** and **Covenant Living Services**, as assigned to **Covenant Living of Keene** ("**Covenant-Keene**") (Covenant Living Services and Covenant-Keene sometimes are collectively referred to as "**Covenant**"), we have considered in good faith and complied with all of the requirements of New Hampshire RSA 7:19-b (II), which statutory requirements are itemized as follows:

1. We have determined, upon advice of our legal counsel, that the proposed Transaction is permitted by applicable law, including, but not limited to, RSA 7:19-32, RSA 292, and other applicable statutes and common law.

2. Due diligence has been exercised in selecting Covenant as the other party to the Transaction, structuring the Transaction, engaging and considering the advice of expert assistance, negotiating the terms and conditions of the proposed Transaction, and determining that the Transaction is in the best interest of the Corporation and the communities which it serves, including the communities' need for accessible and quality physical and mental health care and related senior services.

3. Any conflict of interest has been disclosed and has not affected the decision to enter into the Transaction, and the Transaction does not constitute or establish any pecuniary benefit transaction as defined in RSA Chapter 7.

4. Under the circumstances faced by the Corporation, the proceeds of \$33 Million to be paid on account of this Transaction constitute fair market value for the charitable assets being conveyed and the liabilities being assumed.

5. Upon the Cheshire County Probate Court's approval of the transfer of assets contemplated by the Transaction, the assets of the Corporation will continue to be devoted to charitable purposes consistent with the charitable objects and mission of the Corporation and the needs of the communities which it serves, including the communities' need for accessible and quality physical and mental health care and related senior services.

6. Each of the parties to the Transaction is a New Hampshire health care charitable trust.

7. Reasonable notice of the proposed Transaction and its terms has been provided to the communities served by the Corporation, including but not limited to transaction documents and an analysis of how the Transaction will meet the communities' need accessible and quality physical and mental health care and related senior services, along with reasonable and timely opportunity for such communities to inform our deliberations regarding the proposed Transaction through well-noticed constituent meetings and other similar methods. We considered carefully all constituent input during our deliberations to approve the Asset Purchase Agreement, and we will meet following the public hearing required by New Hampshire RSA 7:19-b (III) to consider public testimony and to modify and/or ratify, as appropriate, the Asset Purchase Agreement.

[Signature Page to Follow]

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: Anne Meddaugh

[Please print name]: Anne Meddaugh

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: Belinda S Oster

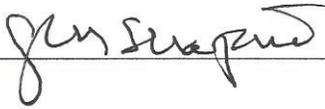
[Please print name]: Belinda S. Oster

The following are the qualified and elected Trustees of The Prospect-Woodward Home
d/b/a Hillside Village who approved the Transaction, and have signed this Certification
effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: David Doll

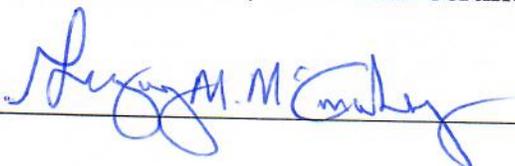
[Please print name]: David Doll

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: 

[Please print name]: Gary M. Shapiro

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: 

[Please print name]: Gregory M. McConahay

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: Jane A. Warner

[Please print name]: Jane A. Warner

We the members of the Board of Trustees of The Prospect-Woodward Home d/b/a Hillside Village (the "Corporation"), certify to the New Hampshire Director of Charitable Trusts that in approving the terms of the Asset Purchase Agreement (the "Transaction") between the Corporation and Covenant Living Services, we have considered in good faith and complied with all applicable laws, rules and regulations, including the provisions of RSA 719-B (II), which statutory requirements are included as follows:

1. We have determined, upon advice of our legal counsel, that the proposed Transaction is permitted by applicable law, including, but not limited to, RSA 719-B, RSA 321, and other applicable statutes and common law.

2. The proposed Transaction has been reviewed in a meeting of the Board of Trustees of the Corporation, and the Board of Trustees has considered the advice of expert advisors, including the financial, legal, and other advisors, and has determined that the Transaction is in the best interest of the Corporation and the community, which it serves, including the community's need for accessible and quality health care and related senior services.

3. Any conflict of interest has been disclosed and has not affected the decision to enter into the Transaction and the Transaction does not constitute or establish any pecuniary benefit transaction as defined in RSA Chapter 719-B.

4. Under the circumstances stated by the Corporation, the proceeds of \$33 million to be paid on account of the Transaction constitute fair market value for the charitable assets being conveyed and the liabilities being assumed.

5. Upon the Charitable County Probate Court's approval of the transfer of assets contemplated by the Transaction, the assets of the Corporation will continue to be devoted to charitable purposes consistent with the charitable objects and mission of the Corporation and the needs of the community, which it serves, including the community's need for accessible and quality physical and mental health care and related senior services.

6. Each of the parties to the Transaction is a New Hampshire health care charitable trust.

7. Reasonable notice of the proposed Transaction and its terms has been provided to the community served by the Corporation, including but not limited to various documents and an analysis of how the Transaction will meet the community's need for accessible and quality physical and mental health care and related senior services, along with reasonable and timely opportunity for such community to inform our deliberations regarding the proposed Transaction through well-publicized community meetings and other similar methods. We considered carefully all comments input during our deliberations to approve the Asset Purchase Agreement, and we will most certainly follow the public hearing required by New Hampshire RSA 719-B (III) to consider public testimony and to modify and/or make an appropriate, the Asset Purchase Agreement.

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: Edward J Eason

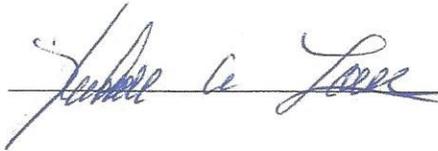
[Please print name]: EDWARD J EASON

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: Jeanie M. Sy

[Please print name]: Jeanie M. Sy

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed:  _____

[Please print name]: Kendall W. Lane

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: Kimball B Temple 11/18/21

[Please print name]: KIMBALL B. TEMPLE

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: Nancy Crawford

[Please print name]: Nancy Crawford

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: Nancy P Thompson

[Please print name]: Nancy P Thompson

The following are the qualified and elected Trustees of The Prospect-Woodward Home d/b/a Hillside Village who approved the Transaction, and have signed this Certification effective as of November 24, 2021. This Certification may be signed in counterparts.

Signed: Robert E Harris

[Please print name]: ROBERT E HARRIS

APPENDIX BB
Statement of Covenant Living of Keene re Furtherance of Charitable
Purposes

STATEMENT OF ACQUIRER PURSUANT TO NEW HAMPSHIRE RSA 7:19-b, III

This statement (the "Statement") is being made as of the 24th day of November, 2021, by Covenant Living of Keene, a New Hampshire nonprofit corporation ("Acquirer"), in accordance with the requirements of New Hampshire RSA 7:19-b, III and in connection with the Change of Control Notice being filed herewith with the New Hampshire Director of Charitable Trusts by The Prospect-Woodward Home, d/b/a Hillside Village ("Seller").

1. Covenant Living Services, an Illinois not for profit corporation ("CLS"), entered into that certain Asset Purchase Agreement dated as of August 17, 2021 (the "APA") whereby CLS or its assignee agreed to purchase substantially all of the assets of and assume certain liabilities of the Seller in accordance with the terms of the APA and subject to approval by the United States Bankruptcy Court for the District of New Hampshire, in that certain Chapter 11 bankruptcy filing by Seller known as *In re: The Prospect-Woodward Home, d/b/a Hillside Village*, Chapter 11, Case No. 21-10523-BAH, Re: Docket No. 10 (the "Bankruptcy Case"), and thereafter to own and operate that certain continuing care retirement community located at or about 95 Wyman Road, Keene, New Hampshire, otherwise known as Hillside Village (the "Facility"), after the Closing, as described in the APA.

2. Acquirer was formed as a New Hampshire nonprofit corporation on October 4, 2021, by the filing of Articles of Agreement with the Secretary of State of New Hampshire, which Articles of Agreement were subsequently amended November 19, 2021, with the filing of an Affidavit of Amendment with the Secretary of State of New Hampshire, is an organization exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provisions of any future federal tax code (the "Code"), and was organized for the purpose of owning and operating the Facility and to specifically be operated, exclusively for charitable, religious, educational and scientific purposes within the meaning of Section 501(c)(3) of the Code, specifically, to establish and maintain housing, care and related services for seniors in the greater Keene, New Hampshire area, including the ownership and operation of a continuing care retirement community offering a continuum of residential life care through independent, assisted living, protective and/or nursing units designed to address the housing, health care and related needs of seniors on behalf of the Board of Benevolence of The Evangelical Covenant Church ("ECC") and CLCS (defined below). In addition, Acquirer will be supported by one or more organizations (i) within the meaning of Section 509(a)(3) of the Code; (ii) which are exempt from taxation under Section 501(a) of the Code, and (iii) which qualify for exclusion from private foundation status under Sections 509(a)(1) or 509(a)(2) of the Code.

3. Acquirer intends to operate the Facility in furtherance of Acquirer's purpose set forth above and in accordance with applicable federal and state nonprofit laws and regulations.

4. CLS' rights and obligations to and under the APA have been assigned to Acquirer, and as a result of such assignment and assumption, Acquirer is obligated to perform CLS' obligations as Purchaser under the APA. Acquirer intends to continue the operation of the Facility as a nonprofit continuing care retirement community in Keene, New Hampshire, after Acquirer acquires the Assets under the APA. As part of that operation, Acquirer also intends to commence operation of the nursing care component of the Facility, the operation of which has not yet commenced during Seller's ownership of the Facility.

5. Pursuant to Section 5.10 of the APA and the Order (A) Approving Asset Purchase Agreement Between Debtor and the Successful Bidder; (B) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of Liens, Claims, Encumbrances, and Interests; (C) Authorizing the Assumption and Assignment of Contracts, and (D) Granting Related Relief (the "Sales Order") entered by the Court in the Bankruptcy Case, Acquirer is assuming all residency agreements of the Facility identified in the APA (the

"Residency Agreements"), whereby Acquirer will be bound by the terms of such Residency Agreements, including those provisions of such Residency Agreements relating to benevolent care, and will continue to provide the care and services to the residents of the Facility under and in accordance with the terms of the specific Residency Agreements, all in furtherance of Acquirer's charitable purposes set forth above and in accordance with the Benevolent Care Policy, defined below.

6. Acquirer has a policy relating to benevolent care (the "Benevolent Care Policy"), which is the same Benevolent Care Policy utilized by all communities owned and operated by CLCS itself or by or through any subsidiaries of CLCS. This Benevolent Care Policy provides assistance to residents who are unable for various circumstances to pay for such resident's residency and needed services provided by the various retirement facilities from time to time, and is consistent with Acquirer's charitable purposes. A copy of Acquirer's current Benevolent Care Policy is attached for reference as Exhibit A, and is otherwise incorporated herein as though fully set forth.

7. To the extent Acquirer (i) receives the Endowment, as defined in the APA; or (ii) receives any trust funds or any deposits of any Residents, as defined in the APA, of the Facility, Acquirer will, as required under Section 5.11 of the APA, comply with all restrictions and requirements on the use and maintenance of such funds. Further, Acquirer will comply with the obligations of the Option Agreements, as defined in the APA, relating to the Option Deposits, as defined in the APA, as required under Section 5.11 of the APA.

Acquirer has caused this Statement to be executed by its duly authorized representative as of the date first set forth above.

COVENANT LIVING OF KEENE, a New Hampshire
nonprofit corporation

By: David G. Erickson
Name: David G. Erickson
Its: Senior Vice President

EXHIBIT A

BENEVOLENT CARE POLICY

[ATTACHED]

Date of initial implement: 09.01.2000

Date of last revision 02.01.2014

THE ETHICS, ADMINISTRATION AND ACCOUNTABILITIES OF MONTHLY FEE
BENEVOLENT ASSISTANCE

See also CRC No. 23 - Monthly Service Fees

The purpose of this policy is to define and declare the ethics, administration, and accountabilities of monthly benevolent assistance.

- I. Foundation: The provision of benevolent financial care by a Covenant retirement community to its residents arises from the deepest historical, missional and theological roots of the Evangelical Covenant Church (ECC).

The very formation of the denomination was coincident with the establishing of the Home of Mercy in Chicago. From those beginnings in 1886 to the present, the denomination has provided compassionate and dignified care to the acutely ill, the orphaned and the aging. Today, Covenant Retirement Communities (CRC) continues that legacy through that dimension of our mission that implores us “. . . to follow the Great Commandment to love and serve God and one another as taught by Jesus Christ . . .”

This commitment to care for those in need brought CRC into existence. Today, we welcome residents with widely varying financial resources into CRC.

Benevolent care is a central aspect of the CRC mission. It is intentional, professionally administered Christian compassion. In a secular world that holds high the value of meeting all financial obligations, benevolent care is a pure manifestation of God’s grace in the lives of people who lack the financial resources to sustain their own dignity and well-being.

- II. Values: From that foundation arise values that guide the administration of benevolent care. The guiding values are:

- Grace: Benevolent financial care is grace that extends from the roots of the CRC mission. Provision of financial benevolence is not an entitlement, a guarantee or a contractual commitment. Therefore, eligibility for benevolent care may not be assumed.
- Culture: CRC actively promotes a benevolent culture on each campus. This occurs through frequent publicity, fund-raising, and promotion of a spirit of Christian stewardship and mission accountability on the parts of the facility and all current and future residents.
- Integrity through accountability and education: There are lasting financial accountabilities for all residents. The meeting of these accountabilities, in both spirit and letter, determines eligibility for benevolent care. Ineligibility for benevolence is possible but entirely avoidable. Education of residents is central to maintaining the integrity of the program.

Date of initial implement: 09.01.2000

Date of last revision 02.01.2014

- Stewardship of limited resource: Benevolent care relies on the limited resources of the campus benevolent care fund and certain designated campus funds. Because of this, every need may not qualify for benevolent care. From a broader financial stewardship perspective, CRC campuses grant benevolent care in the context of long-term fiscal health.
- Independence: The practical goal of granting benevolent financial care is to support a resident's modest and dignified lifestyle. Further, it is CRC's objective to preserve every recipient's independent decision-making, even as that individual's financial solvency is inextricably linked to benevolent assistance.
- Consistency of administration: The creation of and adherence to relevant policy is a central ethic in the management of benevolent care. CRC strives to achieve consistency of its benevolent decisions with the principles stated in this policy and others promulgated by CRC.
- Confidentiality: Because a desired outcome of benevolent care is the preservation of dignity, it will be administered with high confidentiality. Only those administrators, campus leaders and corporate staff who need to know will be involved in its administration.

III. Policy: Benevolent financial assistance will be guided by the following policy points.

- A. Definition: Monthly benevolent financial assistance, also known as benevolent care, is a program that provides financial assistance to eligible residents who have outlived their financial resources by no improper cause. It is directed by the administrative team of each Covenant retirement community and supported by the corporate infrastructure of CRC. Benevolent care is highly consistent with the tenets of LifeConnect®, as it promotes all dimensions of wellness.
- B. Resident application: Any resident who holds an entrance-fee continuing care residency agreement may apply for benevolent care. Holders of non-entrance fee based contracts are not eligible.
- C. Periodic financial updates: Periodically, and at least annually, personal financial updates will be requested by the administration of all community residents. (See G2 in this document) This update and the analyses to which it leads will be used:
 1. to forecast the total uncompensated care (Medicaid write-off and benevolent care) for the entire campus;
 2. to affirm that each household's financial status is consistent with that presented at the time of application and initial residency;
 3. to identify situations where accommodation types may be incompatible with the financial condition of the household.

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- D. Proactive reporting: Irrespective of periodic financial updates, each community resident is required to report financial distress to the executive director as soon as it is detected. Financial distress is defined as first knowledge of current or anticipated negative cash flow at the current level of care or in the context of higher levels of care.

Routine household cash flow assessment and determination of potential financial distress must consider the possibility of one or both persons living at higher levels of care. Monthly service fees for the entire campus are published annually to facilitate this awareness and proactive reporting.

- E. Access to entitlement: Any resident who anticipates or who is receiving benevolent financial care is required to apply to all relevant entitlement programs in a timely manner. A resident and/or the resident's family will remain fully responsible for the payment of monthly service fees until approval has been received from the entitlement program. These include but are not limited to veteran's benefits, State-based Medicare Savings Program, Rental Rebate Program, Medicaid, and state-based Prescription Assistance. The resident is further required to maintain enrollment into those programs that he/she has been accepted. The amount of entitlement assistance is to be disclosed on annual financial updates. It is recommended that the campus become the representative payee for all residents participating in an entitlement program.
- F. Relationship of care model to financial condition: CRC encourages care at the most beneficial level within the continuum. This aging with choice philosophy creates multiple options for residents and forestalls entry into more institutionalized settings. However, within this less structured approach lie many more financial permutations and risks which may impact eligibility as further described.
- G. Ineligibility: Several conditions can result in ineligibility for benevolent financial care. They are:
1. Managing cost of care and services: As residents age and require greater health or home care services, the broad stewardship of personal assets must remain a top priority. When the aggregate cost of care at one traditional level of care exceeds the base rate of the next level of care, a resident will be encouraged to seek the more financially efficient location in order to preserve assets. While the physical transition is not required, a pattern of financially inefficient care that materially affects a resident's ability to pay will result in ineligibility for benevolent care.

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2. Non-participation in financial update: Although responses to periodic financial updates are not required by all residency agreements, a decision by any competent resident to not participate in a periodic financial update will render that resident ineligible for benevolent financial care.

3. Unified assessment of resident finance: Each Covenant retirement community views each household's financial condition in its totality. That is, all classes of assets (real estate, cash, securities, collectables, etc.) and all sources and timing of assets (unanticipated estate settlements, major gifts, insurance settlements, gaming fortunes, etc.) are considered the basis for financially sustaining the resident to the end of his/her life.

This approach categorically discourages segmenting personal assets into two classes: a) one which is covered by an ethic of prudent preservation of assets for future care needs, and b) another that is allocated for costly non-essential purposes. Eligibility for benevolent care will depend upon the degree to which the resident has managed his/her finances in this unified approach.

4. Lifestyle consistent with finances: Similarly, each resident is expected to manage lifestyle expenses and assets in a manner that is consistent with his/her total financial condition. This must take into account future health care needs.

This applies to the full range of household expense, accommodation type, travel, personal benevolence, support of non-resident family members and other disposition of assets. A lifestyle, accommodation type, extensive travel, gifting or disposition of assets that materially affects a resident's capacity to pay will result in ineligibility for benevolent care.

5. Inadequate liability insurance: Each resident is expected to carry adequate liability insurance coverage. If financial distress arises primarily because of inadequate liability insurance coverage, the resident will be ineligible for benevolent care. Adequate liability insurance can be assured by holding conventional automobile insurance and standard renter's insurance.

6. Long-term care insurance: Many residents initially qualified for admission to the community based, in part, on their ownership of long-term care insurance policy(s). The cancellation of such insurance represents a material change in financial status. A resident who cancels such a policy without consultation with the executive director will be ineligible for benevolent care.

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7. Failure to access available supplemental entitlements: See III.E. above. Benevolent assistance may be denied if the resident does not in a timely manner apply for and receive available supplemental entitlements. Benevolent assistance may be denied if the resident applies and is denied because of personal mismanagement of financial affairs, such as giving gifts to others.
 8. Examination of financial condition: In the process of applying for benevolent assistance, the aforementioned issues will be examined. A determination of ineligibility based on factors described in this section will be confirmed by the executive vice president of CRC.
- H. Consequence of ineligibility: The consequence of ineligibility is potentially life-changing. Should any ineligible resident subsequently exhaust personal assets, lack sufficient income to pay contractual and ancillary fees and lack external sources of financial support, his/her residency will terminate due to non-payment. To the extent possible, each Covenant retirement community will provide relocation counseling to any resident whose residency ends under this circumstance.
- I. Resident education: The aforementioned benevolent care ineligibility and subsequent termination of residency represent missional failures of the highest order. Therefore, it shall be a goal of each Covenant retirement community to educate residents in the matters of financial accountability in a manner that consistently prevents benevolent care ineligibility.
- J. Acceptance: The executive director will typically be the first point of contact for a resident applying for benevolent care. Following an initial conference, financial analysis, determination of eligibility and acceptance, a first determination of benevolent amount will be made by the executive director and approved by the supervising vice president. A resident will be formally notified of his/her acceptance into benevolent care.
- K. Promissory note: A promissory note is required at the onset of benevolence. The amount of benevolent care given is a continuing obligation of the resident with interest according to this promissory note for benevolent care. This note can be activated pending a change in the resident's financial condition.
- L. Determination of amount: For any resident whose benevolent care application is accepted, the administration will analyze his/her financial needs and recommend a level of benevolent assistance. The goal of the determination is to stabilize cash flow.
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Living expenses including monthly care fees, property taxes, medical and renters' insurances, if applicable - long-term care insurance, local telephone service, prescriptions, and other medical expenses are included in an allowable expense category.

All other expenses such as cable television, food, clothing, recreation, automobile, contributions and other personal expenses are covered by a discretionary monthly allowance. This allowance is determined by two factors: the status as a single or married benevolent care applicant, and the individual's or couple's level of care.

- M. Case management: Upon acceptance, the executive director will assign the resident to a case manager. Case managers may be the executive director, administrator of health care, campus accountant, campus social worker, campus billing coordinator or other campus employee selected by the executive director.
- N. Family assistance: Because the combination of allowable expense and discretionary allowance does not always cover a resident's financial needs, assistance from family members is strongly encouraged. The broad goal of this process is to establish a combined level of financial assistance that supports a modest and dignified lifestyle at a CRC campus.
- O. Extraordinary financial needs: An eligible resident may apply for special financial assistance for extraordinary needs such as hearing aids or extensive dental work. The expectation of family assistance is high in these situations; it may be necessary.
- P. Accounting and billing: Benevolent financial care is not a discount. Residents who receive benevolent care are charged and pay the full amount of their monthly service fees and ancillary charges. Consistent with the underlying basis of benevolence, the assistance appears as a separate discretionary credit on the monthly bill.
- Q. Annual update: For any resident accepted into benevolent care, an annual financial update will be required. It is also required for any resident who is knowingly in an asset decline leading to benevolent assistance.

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- V. CRC recognizes that a resident's decline of assets, anticipation and commencement of benevolent care are often distressing events. For many, they signal the end of a lifetime of financial independence and are accompanied by an unprecedented mixture of wounded pride and deep gratitude.

Through this policy, CRC reaffirms our missional commitment to benevolence care, declares the ethics and details of the supporting process and clarifies personal accountability. The end goal is that community-wide financial accountability will assure the environment in which the grace and dignity of benevolent care will flourish.

Rick K. Fisk

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President