Case 22-30659-mvl11 Doc 965 Filed 12/23/22 Entered 12/23/22 17:22:01 Docket #0965 Date Filed: 12/23/2022

IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

In re:	Chapter 11
NORTHWEST SENIOR HOUSING CORPORATION, et al. (1)	Case No. 22-30659 (MVL)
Debtors.	(Jointly Administered)

NOTICE OF INTERCITY INVESTMENT PROPERTIES, INC.'S STATEMENT REGARDING LEASE CURE AMOUNT

Intercity Investment Properties, Inc., (the "Landlord") a creditor and party in interest in the above-captioned chapter 11 cases (the "Cases"), submits this statement (the "Statement") regarding its current and ongoing calculation of amounts due and owing under that certain Ground Lease (the "Lease") between the Landlord and Northwest Senior Housing Corporation (the "Edgemere") effective as of November 1999. In support of this Statement, the Landlord attaches a true and correct copy of the Lease here as **Exhibit A**, and further states:

The Edgemere operates its business under the Lease at premises located at 8523 Thackery Street, Dallas, Texas 75225 (as more particularly described in the Lease, the "Property"). A summary of the amounts due and payable for the Edgemere to cure the Lease (the "Cure Amount") upon its assumption or the effective date of a plan of reorganization in these Cases (whichever occurs first) is attached here as **Exhibit B** (the "Cure Schedule").

The Cure Amount includes only those monetary amounts currently outstanding under the Lease. As reflected in the Cure Schedule, the Landlord reserves all amounts that are incurred between December 1, 2022, and the effective date of the assumption of the Lease (the "Gap Period"). As set forth below, the Landlord reserves its rights to amend, supplement, or otherwise modify the total Cure Amount to include future amounts that arise during the Gap Period.

A. Lease Provisions Supporting Landlord's Calculation of Cure Amount

Under the terms of the Lease, the Landlord is entitled to collect various amounts from the Edgemere as tenant, each as set forth below.

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The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Northwest Senior Housing Corporation (1278) (the "Edgemere") and Senior Quality Lifestyles Corporation (2669) ("SQLC"). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

(1) Rent

Article 4 of the Lease sets forth the annual rent amounts under the Lease, including agreed-upon adjustments to the annual rent amount under the Lease. Under Section 5.1 of the Lease, the Edgemere is obligated to pay all rent amounts due to the Landlord under the Lease.

(2) Taxes

Section 5.2 of the Lease obligates the Edgemere to pay all real and personal property taxes and fees, as well as assessments against the Property, regardless of whether such amounts are assessed to or payable by the Landlord, prior to their becoming delinquent. As of the date hereof, the 2022 Real Estate Taxes have not been paid. If the Edgemere does not timely pay the 2022 Real Estate Taxes, Landlord reserves the right to pay such taxes and seek reimbursement of the full amount paid plus any fines, penalties, and interest that would otherwise be payable to the Dallas County Tax Assessor/Collector as a result of the Edgemere's failure to pay such taxes on or before January 31, 2023 between the date the Landlord pays the taxes and the date the Edgemere reimburses the Landlord for such taxes.

(3) Delinquent Rent Penalties and Interest

Section 5.3 of the Lease imposes a 5% penalty for any rent under the Lease which is delinquent for more than five days after the expiration of any applicable grace period, unless the delinquency lasts longer than ten days, in which case the Landlord is entitled to charge a 10% penalty for any delinquent rent amounts under the Lease.

(4) Compliance with Applicable Laws

Section 5.7 of the Lease requires that the Edgemere, at all times during the term of the Lease "keep the Premises in a strictly safe, clean, orderly and sanitary condition, and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any Governmental Authority and applicable to Lessee's use of the Premises . . . and will indemnify and hold harmless [Landlord] against all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance by Lessee of said laws, ordinances, rules and regulations or of this covenant."

(5) Repair, Maintenance, and Restoration of Property

Section 5.8 of the Lease requires that the Edgemere, at its own expense and at all times during the term of the Lease to "substantially restore, repair, maintain, amend and keep all Improvements on the Land with all necessary reparations and amendments whatsoever in good and safe repair, order and condition, reasonable

wear and tear and destruction by unavoidable casualty not herein required to be insured against excepted"

(6) Landlord's Expenses

Section 5.16(a) of the Lease obligates the Edgemere to reimburse the Landlord for:

All reasonable costs and expenses paid or incurred by [Landlord], but required to be paid by [Edgemere] under any provision hereof or paid or incurred by [Landlord] in enforcing any of [Edgemere]'s covenants herein contained, in remedying any breach thereof, in recovering possession of the Premises or any part thereof pursuant hereto, in collecting or causing to be paid any delinquent Rent, taxes or other charges hereunder payable by [Edgemere], or in connection with any action or proceeding (other than condemnation proceedings) commenced by or against [Edgemere] to which [Landlord] shall without fault be made a party. All of [Landlord's] expenses provided in this Section 5.16(a) shall constitute additional Rent and, if not paid when due, shall bear interest at the Default Interest Rate from the date due until paid in full.

(7) Landlord's Enforcement Expenses

Section 5.16(b) of the Lease also obligates the Edgemere to reimburse the Landlord for all of its costs and expenses in enforcing the Lease:

Should Lessor or Lessee reasonably retain counsel for the purpose of enforcing or preventing the breach of any provision of this Lease, including but not limited to instituting any action or proceeding to enforce any provision hereof for damages by reason of any alleged breach of any provision of this Lease, for a declaration of such party's rights or obligations hereunder or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the other party for all costs and expenses reasonably incurred in connection therewith, including but not limited to reasonable attorney's fees for the services rendered to such prevailing party.

In addition to the amounts set forth in the Cure Schedule, the Landlord reserves all rights to payment from the Edgemere upon the Court entering a final order awarding the Landlord damages on account of the counterclaims it has asserted against the Edgemere in the adversary proceeding styled *Northwest Senior Housing Corporation v. Intercity Investment Properties, Inc., et al.*, Case No. 22-03040, including damages for (i) fraudulent inducement; (ii) slander of title; and (iii) breach of the Lease, along with an award of the Landlord's reasonable attorneys' fees and costs in the Adversary Proceeding.

B. Amounts Included in Cure Amount

Pursuant to the terms of the Lease, the Landlord has included in the Cure Amount (i) all amounts presently due under the Lease, including late fees and outstanding unpaid real estate taxes; (ii) the Landlord's costs and expenses associated with seeking to enforce the terms of the Lease, both prepetition and postpetition; (iii) the Landlord's costs and expenses associated with defending and bringing counterclaims in the adversary proceeding brought by the Debtors against the Landlord and Kong Capital LLC, styled *Northwest Senior Housing Corp. v. Intercity Investment Properties Inc.*, et al., Case No. 22-03040-mvl (the "Adversary Proceeding").

In total, the monetary Cure Amount (before accounting for future amounts reserved as noted in the Cure Schedule) is approximately \$63,447,338.51.

For professional fees and expenses reflected in the Cure Schedule, the Landlord has itemized these amounts according to the category of services performed by each professional firm (e.g., amounts attributable to the Adversary Proceeding are stated separately from those attributable to services performed in these Cases).

The Cure Schedule also includes amounts attributable to costs shared by the Landlord with other parties in the Adversary Proceeding (discovery cost-sharing agreements with third parties as reflected in the Cure Schedule). The Cure Schedule only includes amounts attributable to the Landlord's portion of these shared costs.

The Cure Schedule also lists monetary amounts associated with curing nonmonetary defaults under the Lease. For example, by letter dated November 29, 2022, from the Texas Department of Licensing and Regulation ("TDLR"), the Landlord was notified of certain alleged violations of Texas law related to the Edgemere's failure to maintain the Property as required by Texas law. In addition to the nonmonetary aspect of this default, the TDLR is asserting fines for such violations in addition to requiring an accessibility inspection be conducted at the property. On information and belief, there exist other nonmonetary defaults at the Property that violate applicable laws, ordinances, rules, or regulations for which monetary penalties are or may be asserted, and are included in the Cure Schedule as amounts reserved for inclusion in the Cure Amount.

Additionally, the Edgemere has failed to address many basic maintenance, repair, and related capital needs at the Property including maintenance and repairs that must be made to the Debtor's facility including the roof, HVAC systems, room renovations grounds beautification, and other necessary capital needs as required by the Lease. The Landlord's estimate of amounts necessary to cure these existing nonmonetary defaults is included in the Cure Schedule.

Further, on December 16, 2023, the Landlord provided the notice attached hereto as **Exhibit C** to the Debtors and UMB.

C. Reservation of Rights

Nothing contained in this Statement shall constitute a waiver of any rights or remedies of the Landlord under the Bankruptcy Code, the Lease, or applicable law, including, without limitation, the right to: (i) amend, supplement, or otherwise modify this Statement or the Cure Amount; (ii) include any additional amounts appropriately included in the Cure Amount; (iii) seek the establishment of a reserve account to ensure payment of any disputed or unaccrued amounts included in the Cure Amount; (iv) seek the cure of any and all nonmonetary defaults under the Lease not reflected in the Cure Amount or this Statement; (iv) seek adequate assurance of future performance under the Lease by the Debtors, or their successors and assigns; and (v) require the Edgemere to issue an estoppel certificate pursuant to § 9.14 of the Lease.

December 23, 2022

/s/ Michael S. Held

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Counsel for Intercity Investment Properties, Inc.

Certificate of Service

I certify that on December 23, 2022, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas.

/s/ Michael S. Held Michael S. Held

Landlord Cure Statement Exhibit A

Ground Lease

GROUND LEASE

Between

Intercity Investment Properties, Inc., a Texas corporation "Lessor"

and

Northwest Senior Housing Corporation, a Texas not-for-profit corporation "Lessee"

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GROUND LEASE

THIS GROUND LEASE (the "Lease") is made and entered into as of the _____ day of November, 1999, by and between INTERCITY INVESTMENT PROPERTIES, INC., a Texas corporation, whose principal place of business and office address is 4301 Westside Drive, Suite 100, Dallas, Texas 75209-6546, Attention: Edwin B. Jordan, Jr. ("Lessor") and Northwest Senior Housing Corporation, a Texas not-for-profit corporation, whose principal place of business and post office address is Attention: Charles B. Brewer, 2711 LBJ Freeway, Suite 950, Dallas, Texas 75234 ("Lessee").

PREAMBLE AND STATEMENT OF PURPOSE

Lessor is the owner of a fee simple absolute interest in certain real property (the "Land") containing approximately 16.25 acres and located at the Northwest Corner of the intersection of Thackery Road and Northwest Highway in the City of Dallas, Dallas County, Texas, which is further and legally described on Exhibit "A," attached hereto and by this reference incorporated herein and made a part hereof.

Lessee desires to lease the Land from Lessor for the term described herein and on the other terms and conditions hereinafter set forth in order to develop and construct a residential retirement Project thereon as provided herein.

Lessor agrees to lease the Land to Lessee on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual agreements and covenants hereinafter set forth and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Lessor and Lessee, intending to be legally bound, hereby agree as follows:

ARTICLE I DEFINITIONS

For purposes of this Lease, the terms defined in this Article and throughout the remainder of this Lease, when written with initial capital letters, shall have the meanings given to them in this Article or in such definitions throughout this Lease and no other meaning. Such terms may be used in the singular or plural or in varying tenses, but such variations shall not affect their meanings so long as such terms are written with initial capital letters. When such terms are used in this Lease but are written without initial capital letters, such terms shall have the meaning they have in common usage.

1.1 "CPI Adjustment" means each adjustment to each amount set forth in this Lease as subject to CPI Adjustment, as the same may have been previously adjusted (the "Base Amount") effective as provided herein and calculated by comparing the CPI last published prior to the initial date specified for each such amount (the "Base Index"), with the CPI last published

prior to the current date on which such amount is due to be adjusted hereunder (the "Current Index") to calculate the CPI Factor, hereinafter defined. The amount of any adjustment shall be set by multiplying the Base Amount by the CPI Factor; provided, however, that no such CPI Adjustment shall be less than two and one-half percent (2.5%) per year nor more than five percent (5%) per year. Lessor shall give written notice of any adjusted amount to Lessee within thirty (30) days after its calculation.

- 1.2 <u>"Annual Rent"</u> has the meaning set forth in Section 4.1 hereof.
- 1.3 <u>"Bond Indenture"</u> means collectively, the documents evidencing and securing the indebtedness incurred by or on behalf of the Lessee in connection with the acquisition, construction, improving and equipping of the Project or refinancing thereof.
- 1.4 "CPI" means the Consumer Price Index for All Urban Consumers (Base Year 1986 = 100) for the Dallas/Fort Worth Standard Metropolitan Statistical Area, published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI is changed so that the base year differs from that used above, the index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the index is discontinued or revised during the Term, such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index had not been discontinued or revised.
- 1.5 <u>"CPI Factor"</u> is a fraction (carried to 4 decimal places), the numerator of which is the Current Index and the denominator of which is the Base Index.
- 1.6 <u>"Commencement Date"</u> means the date first above written and is the date on which this Lease becomes effective.
- 1.7 <u>"Default Interest Rate"</u> means an interest rate of eighteen percent (18%) per year; provided, however, that in no event shall the interest charged hereunder exceed the maximum lawful rate of interest then allowed by law.
- 1.8 <u>"Existing Improvements"</u> means a portion of the Preston Village apartment complex and all other Improvements to the Land existing as of the date hereof.
- 1.9 <u>"Force Majeure Event"</u> means and refers to all acts wholly beyond the control of Lessor and Lessee, including, without limitation, acts of God, war, riots, earthquakes, floods, hurricanes and windstorms.
- 1.10 <u>"Governmental Authority"</u> or "<u>Governmental Authorities"</u> means any federal, state, city, county, administrative or other governmental authority which now or hereafter has jurisdiction, review, approval or consent rights relating to the construction, development, ownership, control or operation of the Project on the Property or the use of the Premises for any purpose in connection with its current use, use for the Project or any other use.
- 1.11 <u>"Hazardous Materials" and "Hazardous Materials Laws"</u> have the meanings set forth in Section 5.25 hereof.

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- 1.12 <u>"Improvements"</u> means and includes all buildings and other improvements, including without limitation, the Existing Improvements, and any replacement improvements, by whomsoever made, now existing or at any time hereafter during the Term placed on the Land.
- 1.13 <u>"Insurance Trustee"</u> means the trust company with principal offices in Dallas, Texas, selected by Lessor and Lessee pursuant to Section 5.13 below.
- 1.14 "Land" means and includes all of that certain parcel of real property described in Exhibit "A" attached hereto and incorporated herein by this reference, having a gross area of 16.25 acres, more or less and, if abandonment thereof is successful, including alleyways and that portion of Beauregard Street surrounded by the remainder of the Land.
- 1.15 <u>"Lease"</u> means this Lease and all Exhibits hereto, as the same may from time to time hereafter be amended in accordance with its terms.
- 1.16 <u>"Leasehold Estate"</u> means the leasehold estate created by the execution and delivery of this Lease.
- 1.17 "Lender" has the meaning provided in Section 7.1 hereof.
- 1.18 <u>"Lessee"</u> means Northwest Senior Housing Corporation, a Texas not-for-profit corporation, and includes any pronoun used in place thereof, the singular or plural number and its successors and permitted assigns.
- 1.19 <u>"Lessor"</u> means Intercity Investment Properties, Inc., a Texas corporation, and shall include any pronoun used in place thereof, the masculine or feminine, the singular or plural number, and its successors and assigns, according to the context thereof.
- 1.20 <u>"Option Date"</u> means the Effective Date, as defined therein, of that certain Ground lease Option Agreement (the "Option Agreement") executed by and between Lessor, as Optionor, and Lessee, as Optionee, granting Lessee the option to enter into this Lease as provided therein, which date is September 9, 1997.
- 1.21 <u>"Permitted Title Exceptions"</u> means those encumbrances and other matters listed on <u>Exhibit "B"</u> attached hereto and made a part hereof and any and all additional encumbrances approved in writing by Lessee.
- 1.22 <u>"Person"</u> means any natural person, corporation, limited liability company, limited partnership, limited liability partnership, general partnership, tenancy in common, joint venture, association, business trust, real estate investment trust or other entity or organization, and any combination of any of them.
- 1.23 <u>"Premises"</u> shall be deemed or taken to include (except where such meaning would be clearly repugnant to the context) the Land and all Improvements.

- 1.24 "Project" means the continuing care retirement center life care concept project to be developed on the Land by Lessee, which is anticipated to provide a range of living options for elderly Residents varying along a continuum from independent living through increasing health care needs; the Project is currently anticipated to be a first class three (3) story retirement center containing approximately 220 independent living units (the "Independent Living Center"), an assisted living center consisting of approximately 77 assisted living units (the "Assisted Living Center"), a health center consisting of approximately 60 skilled nursing beds (the "Health Center") and an approximately 25,000 square foot Commons Building.
- 1.25 <u>"Resident"</u> means a resident or prospective resident in the Project.
- 1.26 <u>"Space Leases"</u> means any and all subleases of space in the Project to be made between Lessee and any subtenants of Lessee upon completion of construction of the Project.
- 1.27 <u>"Term"</u> has the meaning set forth in Article III hereof.

ARTICLE II DEMISE

- 2.1 Grant of Lease. Lessor, in consideration of the rent herein reserved and of the covenants and conditions herein contained and on the part of Lessee to be observed and performed and upon and subject to the terms and conditions hereinafter set forth, does hereby demise and lease unto Lessee, and Lessee does hereby lease from Lessor, the Premises, including all of the Land and the Existing Improvements, together with any and all appurtenances, rights and benefits relating thereto and to the use and occupancy thereof.
- 2.2 Disclaimer. IT IS UNDERSTOOD AND AGREED THAT, OTHER THAN ITS OWNERSHIP OF THE PREMISES AND ITS RIGHT TO LEASE THE PREMISES TO LESSEE, LESSOR IS NOT MAKING AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR REPRESENTATIONS AS TO MATTERS OF ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITIONS, AVAILABILITY OF ACCESS (SPECIFICALLY MAKING NO WARRANTY OF COMPLIANCE WITH THE REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT OF 1990) INGRESS OR EGRESS, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, GOVERNMENTAL REGULATIONS OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING THE PREMISES INCLUDING, WITHOUT LIMITATION: (1) THE VALUE, CONDITION, MERCHANTABILITY, MARKETABILITY, PROFITABILITY. SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE OF THE PREMISES AND PARTICULARLY WITH REGARD TO THE PROJECT; (2) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO ANY OF THE PREMISES; AND (3) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PREMISES. LESSEE AGREES THAT, WITH RESPECT TO THE PREMISES, LESSEE HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY

REPRESENTATION OR WARRANTY OF LESSOR OR ANY AGENT OF LESSOR. LESSEE REPRESENTS THAT IT IS KNOWLEDGEABLE WITH RESPECT TO REAL ESTATE AND THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE AND THAT OF LESSEE'S CONSULTANTS AND THAT LESSEE WILL CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS OF THE PREMISES, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AND SHALL RELY UPON SAID INSPECTIONS BY LESSEE, AND, UPON CLOSING. SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY LESSEE'S INSPECTIONS INVESTIGATIONS. LESSEE FURTHER ACKNOWLEDGES THAT LESSOR HAS NOT MADE AND DOES NOT MAKE ANY WARRANTIES OR REPRESENTATIONS REGARDING: (1) THE TRUTH OR ACCURACY OF ANY SURVEY OR STUDY AND/OR (2) THE QUALIFICATIONS OR EXPERTISE OF THE RESPECTIVE PARTIES CONDUCTING SAME AND THAT LESSOR HAS NOT UNDERTAKEN ANY INDEPENDENT INVESTIGATION WITH RESPECT THERETO. ACKNOWLEDGES AND AGREES THAT LESSOR IS LEASING TO LESSEE, AND LESSEE IS ACCEPTING THE PREMISES "AS IS, WHERE IS" WITH ALL FAULTS, AND LESSEE FURTHER ACKNOWLEDGES AND AGREES THAT THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE PREMISES BY LESSOR, ANY AGENT OF LESSOR OR ANY THIRD PARTY. LESSOR IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO THE PREMISES FURNISHED BY ANY REAL ESTATE BROKER. AGENT, EMPLOYEE, SERVANT OR OTHER PERSON, UNLESS THE SAME ARE SPECIFICALLY SET FORTH OR REFERRED TO HEREIN.

- 2.3 **Quiet Enjoyment.** Subject to the Permitted Title Exceptions and the terms and provisions of this Lease, Lessor covenants, as against the claims of all Persons whomsoever claiming by, through or under the Lessor, that Lessee shall have and enjoy throughout the Term the exclusive and undisturbed possession of the Property, without hindrance, ejection or molestation by any Person.
- 2.4 <u>Possession of the Property.</u> Actual possession of the Property under this Lease will be delivered to Lessee upon the Commencement Date, subject only to the Permitted Title Exceptions.
- 2.5 <u>Other Leases</u>. Except for leases of portions of the Existing Improvements to residential leasehold tenants and as provided herein, Lessor has not leased or granted any other similar leasehold rights in the Property to others.

ARTICLE III TERM

The term ("Term") of this Lease shall be a term of Fifty-five (55) years, commencing on the Commencement Date and continuing thereafter until the fifty-fifth (55th) anniversary of the Commencement Date unless extended by agreement of the parties or sooner terminated as herein provided.

ARTICLE IV RENTAL

- 4.1 <u>Annual Rent</u>. Lessee shall pay over to Lessor for each and every year during the Term, net over and above all taxes, assessments and other charges hereunder payable by Lessee, Annual Rent (the "Annual Rent") as hereinafter set forth.
 - (a) From the Commencement Date through that date (the "Rent Escalation Date") which is the first to occur of: six (6) months after the date (the "Occupancy Date") on which a certificate of occupancy for the Improvements constituting the Project is issued by the City of Dallas, or thirty (30) months after the Commencement Date, the Annual Rent (the "Initial Annual Rent") shall be \$1,200,000.00, subject to adjustment and payment in installments as hereinafter provided.
 - (b) Commencing on the Rent Escalation Date and continuing through that date (the "Stabilized Rent Date") which is the first to occur of: thirteen (13) months after the Occupancy Date, or thirty-seven (37) months after the Commencement Date, the Annual Rent (the "Escalated Annual Rent") shall be \$1,600,000.00, subject to adjustment and payment in installments as herein after provided.
 - (c) Commencing on the Stabilized Rent Date and continuing through the Term of this Lease, the Annual Rent (the "Stabilized Annual Rent") shall be \$2,000,000.00, subject to adjustment and payment in installments as hereinafter provided.
- 4.2 **Rent Adjustment.** The Annual Rent shall be increased as hereinafter provided:
 - (a) The Initial Annual Rent shall be increased on the Commencement Date by the CPI Factor, provided that the per annum increase shall not be less than two and one-half percent (2.5%) nor more than five percent (5%).
 - (b) The Escalated Annual Rent shall be increased on the Rent Escalation Date by the CPI Factor from the Option Date to the Rent Escalation Date, provided that the per annum increase shall not be less than two and one-half percent (2.5%) nor more than five percent (5%).
 - (c) The Stabilized Annual Rent shall be increased on the Stabilized Rent Date by the CPI Factor from the Option Date to the Stabilized Rent Date, provided that the per annum increase shall not be less than two and one-half percent (2.5%) nor more than five percent (5%).

- (d) Commencing on the Stabilized Rent Date and continuing for the entire Term of this Lease the Stabilized Annual Rent shall be increased for each next succeeding year of the term (a "Rent Year") on each anniversary of the Stabilized Rent Date (the "Rent Adjustment Date") based upon the lesser of: (i) five percent (5%) per year or (ii) the CPI Factor determined by comparing the CPI in effect for the previous Rent Adjustment Date to the CPI in effect on the current Rent Adjustment Date, multiplied by the Annual Rent in effect on the previous Rent Adjustment Date.
- 4.3 <u>Installment Payment of Rent.</u> Lessee shall pay the Annual Rent in monthly installments equal to one-twelfth (1/12) of the Annual Rent amount then in effect due and payable on or before the first (1st) day of each month during the Term, with all payments of Annual Rent pro-rated for the periods during which differing Annual Rents may apply; provided, however, that Lessee shall have a grace period for the payment of such installments of Annual Rent of five (5) business days for any two (2) monthly payments due during any calendar year, as further provided in Section 8.1(a) hereof.
- 4.4 No Rent Reduction. Except as provided elsewhere under those provisions of this Lease which specifically refer to rent reduction, Lessee shall not be entitled to any suspension, abatement or reduction of rent, nor to the recovery of any sums for any loss or damage by reason of noise, dust, or general inconvenience caused by construction or operations on other property owned by Lessor in the immediate area of the Property.

ARTICLE V LESSEE'S COVENANTS

Lessee hereby covenants with Lessor as follows:

- Rent. Lessee will pay all Annual Rent and all other and additional payments due hereunder as payments of rent (collectively, the "Rent") hereunder to Lessor in lawful money of the United States of America at the times and in the manner aforesaid, without deduction and without any notice or demand, except as provided for herein, at the principal office of Lessor provided in the preamble hereto or at such other address as Lessor shall designate in writing from time to time.
- 5.2 <u>Taxes And Assessments.</u> Lessee will pay to each and every taxing authority before the same become delinquent all real and personal property taxes and fees in lieu thereof and assessments of every description to which the Premises or any part thereof is now or may during the Term be assessed or become liable, whether assessed to or payable by Lessor or Lessee; provided, however, that:
 - (a) With respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only such installments, together with interest on unpaid balances thereof as shall become due and payable during the Term.
 - (b) Such taxes and fees shall be prorated as of the Commencement Date and the date of expiration of the Term.

- Any proceeding or proceedings for contesting the validity or amount of taxes, assessments, or other public charges or impositions, or to recover back from any levying authority any tax, assessment, charge or other imposition paid by Lessee as hereinabove provided may be brought by Lessee, at Lessee's own cost and expense, in the name of Lessor or in the name of Lessee, or both of them, as Lessee may deem advisable; provided, however, that (i) any such proceeding shall be brought by Lessee only after payment by Lessee as hereinabove provided of such taxes, assessments or other charges or impositions if required by law as a condition to bringing such proceeding, (ii) prior to any such proceedings, Lessee shall provide written notice thereof to Lessor, and (iii) Lessee shall provide Lessor with copies of all documents associated with all proceedings involving Lessors' name.
- (d) If any such proceeding to contest taxes is brought by Lessee, Lessee shall indemnify and save harmless Lessor against any and all loss, costs or expenses of any kind that may be incurred by or imposed upon Lessor in connection therewith.
- (e) If Lessee elects to contest any such tax, assessment, charge or other imposition as herein set forth, then and in such event Lessor agrees to reasonably cooperate and assist Lessee in contesting the same, provided that all reasonable costs and expenses of Lessor incurred in connection therewith shall be promptly paid by Lessee upon demand, as additional Rent.
- 5.3 <u>Delinquent Rent.</u> If Lessee shall become delinquent in the payment of any Rent and the delinquency shall continue for more than five (5) days after the expiration of any grace period provided herein, Lessee shall also pay to Lessor, as additional Rent, an amount equal to five percent (5%) of the Rent that has become delinquent; provided that if the Rent continues to be delinquent and the delinquency extends beyond ten (10) days after written demand for payment of the rent, the Lessee shall pay to Lessor, as additional Rent, an additional amount equal to ten percent (10%) of the delinquent Rent.
- 5.4 <u>Utility and Other Governmental and Quasi Governmental Charges.</u> Except as otherwise provided in this Lease, Lessee will pay, before the same become delinquent, all governmental and quasi-governmental utility charges, including, without limitation, water and sewer charges, garbage collection charges and other charges and outgoings of every description to which the Premises or any part thereof, or Lesser or Lessee in respect thereof, may during the Term be assessed or become liable, whether assessed to or payable by Lessor or Lessee.
- 5.5 <u>Use of the Land.</u> Lessee will use the Land only for the development, construction and ownership of the Project, generally described herein, and specifically only for retirement housing or a senior living community.
- Improvements Required by Law. Except as otherwise provided herein, Lessee will at Lessee's own expense during the whole of the Term make, build, maintain and repair all fences, sewers, drains, roads, curbs, sidewalks and parking areas which may be required by law to be made, built, maintained and repaired upon, or on public property adjoining or in

connection with or for the use of, the Premises or any part thereof. Attached hereto as Exhibit "C" is a proposed ordinance ("Ordinance") for the abandonment of Beauregard Drive. Lessee agrees to complete the requirements of the Ordinance, if adopted by the City of Dallas, in a timely manner and pay all costs related thereto. To the extent the Ordinance requires an indemnification of the City of Dallas, Lessee assumes the obligations of the Lessor arising during the term of this Lease. The Lessor will reasonably cooperate with the Lessee, as requested by the Lessee, in the replat, including the platting of the private drive and the street right-of-way called for in the Ordinance, provided however that the Lessee shall bear all expenses including the expenses reasonably incurred by the Lessor.

- 5.7 Observance of Laws. Lessee will at all times during the Term keep the Premises in a strictly safe, clean, orderly and sanitary condition, and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any Governmental Authority and applicable to Lessee's use of the Premises and said adjacent land or any improvement thereon or use thereof, and will indemnify and hold harmless Lessor against all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance by Lessee of said laws, ordinances, rules and regulations or of this covenant.
- Repair, Maintenance and Restoration. Except as otherwise provided for herein with respect to Lessee's rights to demolish the Existing Improvements or otherwise, Lessee will at Lessee's own expense from time to time and at all times during the Term well and substantially restore, repair, maintain, amend and keep all Improvements on the Land with all necessary reparations and amendments whatsoever in good and safe repair, order and condition, reasonable wear and tear and destruction by unavoidable casualty not herein required to be insured against excepted, provided, however, that Lessee's obligation to restore, maintain and repair the Improvements is limited to demolishing the Existing Improvements and constructing on the Land Improvements which comply with the use restriction contained in Section 5.5 hereof and maintaining such Improvements.
- 5.9 <u>Inspection.</u> Upon reasonable notice, Lessee will permit Lessor and its agents at all reasonable times during the Term to enter the Premises and examine the state of repair and condition of the Premises.
- 5.10 Construction and Alteration of Buildings. Lessee will not construct or place any buildings or structures, including fences and walls, or other Improvements on the Land, nor make or suffer any material additions to or structural alterations of the basic structure of any buildings thereon, nor change the grading or drainage thereof, except under the supervision of a licensed architect or structural engineer and in accordance with complete plans, specifications and detailed plot plans thereof prepared by such an architect or structural engineer and approved, as may be required, by appropriate Governmental Authorities.
 - (a) Prior to commencement of construction, Lessee will provide Lessor with copies of all plans and specifications for construction of the Improvements to be constructed by Lessor, solely for Lessor's information and not for Lessor's approval.
 - (b) Lessee shall commence demolition of the Existing Improvements within the first to occur of (i) sixty (60) days after the Effective Date of this Lease or (ii) thirty (30)

days after the date on which all necessary approvals have been obtained from all applicable Governmental Authorities and any and all court or administrative actions blocking any such demolition are fully resolved in Lessee's favor and not subject to appeal, provided that Lessee shall promptly and diligently pursue all actions necessary to obtain such approvals and such favorable court action.

- (c) During the initial construction of the Improvements, Lessor and any architect, engineer and other representative whom it may select to act for it, may, upon reasonable notice and at reasonable times, inspect the Improvements in the course of such construction and upon completion, and all work and materials as rendered and installed. Lessee shall keep copies of all plans, shop drawings and specifications relating to such construction on the building site and permit Lessor, its architects. engineers and other representatives to examine them at all reasonable times. In the event that during the construction of the Improvements, Lessor, or its architects. engineers and other representatives, shall reasonably determine that the materials do not substantially conform to the specifications or that the Improvements are not being constructed substantially in accordance with the approved plans, prompt notice in writing shall be given to Lessee, specifying in detail the particular deficiency, omission or other respect in which it is claimed that the construction does not conform with the plans and specifications. Upon the receipt of any such notice and confirmation by Lessee of such non-conformance, Lessee shall take such steps as shall be necessary to cause corrections to be made as to any deficiencies, omissions or otherwise, and shall immediately remove such materials and replace such construction and materials in accordance with said plans and specifications.
- Liens. Lessee will not commit or suffer any act or neglect by which the Premises or estate of Lessee therein shall at any time during the Term become subject to any attachment, judgment, lien, charge or encumbrance whatsoever, including mechanics' and materialmen's liens, except as herein expressly provided, and will indemnify, defend, save and hold Lessor harmless from and against all loss, cost and expense with respect thereto (including reasonable attorneys' fees). If any lien for work, labor, services or materials done for or supplied to the Premises, regardless of who contracted therefor, is filed against the Premises, Lessee shall, within sixty (60) days from the date of filing thereof, cause such lien to be discharged of record, bonded off of the Land or otherwise stayed to the reasonable satisfaction of Lessor.
- 5.12 <u>Setback Lines.</u> Lessee will observe any setback lines affecting the Premises as now or hereafter established by any Governmental Authority having jurisdiction.
- Insurance. At all times during the term, Lessee shall purchase and maintain, at Lessee's expense, the following insurance, in amounts not less than those specified below or such other amounts as may be required by the Bond Indenture as Lessor, Lessee and Lender may from time to time agree upon, with insurance companies and on forms reasonably satisfactory to Lessor and Lender:
 - (a) <u>Commercial Property Insurance</u>. Commercial property insurance covering the Premises and all furniture, fixtures, machinery, equipment, supplies, inventory and

any other personal property owned and/or used in Lessee's use and occupancy of the Premises, whether made or acquired at Lessee's or another's expense, in an amount equal to their full replacement cost at time of loss, without deduction for depreciation, exclusive only of the replacement cost of excavation, foundations and footings, and shall contain an Agreed Value Endorsement. All policies and certificates of insurance required hereunder shall:

- (i) contain a provision specifically naming the Lessor and Lessee's Lender as additional insureds, as their interests may appear; and
- (ii) be specifically endorsed to provide that any proceeds of any policy in excess of \$500,000.00, subject to annual CPI Adjustment as of each anniversary of the Commencement Date of this Lease, shall be payable to a trustee as required by the Bond Indenture or, if no such payment to a trustee is required by the Bond Indenture, to a trust company, qualified under the laws of the State of Texas, as shall be designated by Lessee, subject to the approval of Lessor (which approval shall not be unreasonably withheld or delayed) as trustee and escrow agent for the custody and distribution as herein provided of all proceeds of such insurance ("Insurance Trustee"); Lessee shall pay all fees and expenses of such Insurance Trustee in connection with its services.
- (b) <u>Builders and Installation Risk</u>. Builders and installation "all risk" insurance while the Premises or any part thereof are under demolition and construction and the aggregate estimated cost of construction exceeds \$100,000.00, written on the Builders Risk Completed Value form (nonreporting full coverage), including coverage on equipment, machinery, materials, etc. not yet installed but to become a permanent part of the Improvements.
- (c) <u>Commercial General Liability.</u> Commercial general liability or commercial general liability and excess or umbrella liability insurance written on an "occurrence" form covering the use, occupancy and maintenance of the Premises and all operations of Lessee, including: Premises Operations; Independent Contractors; Products Completed Operations; Blanket Contractual Liability; Personal Injury; Fire Legal Liability; elevator; and incidental medical malpractice liability, all pursuant to a Commercial General Liability Policy form or its equivalent. Each policy and certificate of insurance shall specifically:
 - (i) contain limits for such coverage which are not less than the following for the specified categories: Bodily Injury and Property Damage Combined Single Limit \$3,000,000 per occurrence, subject to \$3,000,000 general aggregate per policy year; \$3,000,000 products and completed operations aggregate per policy year; Personal Injury \$1,000,000 per person/organization per policy year, subject to \$3,000,000 general aggregate per policy year; Fire Legal Liability \$250,000 per fire, subject to \$3,000,000 general aggregate per policy year; no policy shall have a deductible amount in excess of \$10,000 for any one occurrence; and

- (ii) provide the following: "This policy shall be considered to be primary liability insurance which shall apply to any loss or claim before any contribution by any insurance which Lessor, its employees and agents may have in force;" and
- (iii) contain a provision specifically naming Lessor and Lessor's employees as additional insureds, which additional insureds shall be protected as if they were separately insured under a separate policy; provided, however, that such policy shall not require the insurer to pay any amounts in excess of the maximum limits stated herein.
- (d) <u>Worker's Compensation Insurance</u>. Worker's Compensation Insurance as required by Texas State Law.
- (e) <u>Umbrella Liability</u>. To the extent not covered by the other policies required hereunder, Umbrella Liability Insurance providing excess coverage over Commercial General Liability, Employer's Liability, and Automobile Liability Insurance. The Umbrella Liability policy shall be written on an "occurrence" form with a limit of liability of not less than \$10,000,000 per policy year, which may include coverage of multiple projects, shall provide for a self-insured retention and/or deductible no greater than \$10,000, adjusted annually based upon the CPI Adjustment for the Lease year then ending, and shall provide as follows:
 - (i) The policy and certificate of insurance shall contain a provision specifically naming Lessor, and Lessor's employees and Lender as additional insureds, which additional insureds shall be protected as if they were separately insured under a separate policy; provided, however, that such policy shall not require the insurer to pay any amounts in excess of the maximum limits stated herein.
 - (ii) If and to the extent such coverage is available at commercially reasonable cost, the policy shall; (1) not specifically exclude coverage for punitive damages or claims arising out of discrimination other than employment related discrimination; (2) provide for defense expenses in addition to the limit of liability stated in the policy; and (3) provide coverage for claims resulting from alleged damage to the environment and damage or injury caused by hazardous conditions, materials or substances.
 - (iii) All exclusions endorsed on the policy are to be shown on the certificate of insurance and a copy of the exclusions attached thereto.
- (f) <u>Payment and Performance Bonds</u>. Payments and Performance Bonds in the full amount of the work to be done, as required by the Bond Indenture, for the benefit of Lessee, Lender and Lessor.
- (g) <u>Flood Insurance</u>. Flood insurance as may be required by the Bond Indenture or otherwise.

(h) General Requirements for Insurance.

- (i) Each policy is to be written by an insurer licensed in the State of Texas with a rating by A. M. Best Company, Inc. of A-VII or better and as otherwise required by the Bond Indenture. In the event that such rating system is altered or eliminated, then the insurer shall have a rating from a comparable rating service, comparable to such A-VII rating.
- (ii) If the limits of available liability coverage required herein become substantially reduced as a result of claim payments, Lessee immediately, at its own expense, shall purchase additional liability insurance to increase the amount of available coverage to the limits of liability coverage required by this Lease.
- (iii) If the Improvements are destroyed or damaged by a risk covered by insurance required by this Lease and the amount of the loss does not exceed FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) (subject to annual CPI Adjustment), Lessee, with the consent of Lender, may make the loss adjustment with the insurance company insuring the loss. If the loss exceeds FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00), Lessee will not settle the loss without the express prior written consent of Lessor and Lender, which consent of Lessor shall not be unreasonably withheld or delayed.
- (iv) All policies are to be specifically endorsed to provide thirty (30) days' written notice of cancellation for any reason [or ten (10) days' in the case of nonpayment of premium], coverage reduction, termination, non-renewal or material change in the coverage, scope or amount of the policy, and ten (10) days' written notice prior to lapse, which notice shall be delivered to Lessor.
- (v) All Certificates of Insurance shall specifically state that "the issuing company will mail thirty (30) days' written notice of cancellation to the certificate holder."
- (vi) At Lessor's written request, not more often than one time per year, Lessee shall deliver to Lessor current copies of the insurance policies required by this Section 5.13.
- (vii) To the extent that Lessee shall be unable, at a commercially reasonable cost and with commercially reasonable exclusions and restrictions, to obtain any insurance required by this Section 5.13, it promptly shall inform Lessor in writing of that fact and of all relevant facts and circumstances and, unless Lessor shall be able either (1) to locate or obtain such insurance for Lessee at a commercially reasonable cost or (2) to devise a commercially reasonable alternative form of assurance mutually acceptable to the parties acting in good faith and with due regard for then-prevailing business practice among prudent business persons with respect to similar risks, then Lessee shall not

be required to obtain such insurance. Lessee shall continue to make reasonable, good faith efforts to obtain such insurance in connection with each policy renewal period and shall keep Lessor reasonably informed of its efforts.

- (viii) Lessee shall add as additional insureds to the insurance policies required by this Section 5.13 such other Persons as Lessor may from time to time reasonably require, if such Persons may be so added at no additional cost.
- (i) <u>Certificates of Insurance</u>. Lessee will deposit promptly with Lessor and maintain current certificates of all insurance required to be maintained by Lessee under this Lease in Accord Form 27, or such other form as may be reasonably acceptable to Lessor.
- (j) <u>Waiver of Subrogation.</u> Each of Lessor and Lessee hereby waives, on each party's behalf and on behalf of its insurance carrier, any claim for loss or damage to tangible and intangible property which one party might otherwise have against the other party or its affiliates, arising out of any loss, injury or damage whatsoever, including loss of income or other consequential loss or damage.
- (k) Adjustment and Adequacy of Coverage. Pursuant to the requirements of the Bond Indenture, or, if the Bond Indenture does not so provide or provides for a less frequent review, all insurance coverages required hereunder will be reviewed, adjusted and revised at least each three (3) years during the term hereof, based upon an insurance appraisal and update completed by a qualified insurance appraiser selected or approved by Lender as provided in the Bond Indenture, or, if not so provided, as may be selected by mutual agreement of Lessor and Lessee. Lessor, its agents and employees make no representation that the limits of liability required to be carried by Lessee pursuant to this Section 5.13 are adequate to protect Lessee. If Lessee believes that any of such insurance coverage is inadequate, Lessee will obtain and maintain in force such additional insurance coverage as Lessee deems adequate, at Lessee's sole expense.

5.14 Loss or Damage to Improvements

(a) <u>Use of Insurance Proceeds.</u> Subject to the provisions of this Section 5.14 and the reasonable requirements of Lessee's Lender, in every case of loss or damage to the Improvements, other than the Existing Improvements, (i) Lessee shall provide Lessor with prompt written notice thereof and periodic updates as to the status of insurance settlements and repairs, and (ii) all proceeds of any property casualty insurance (excluding the proceeds of any rental value or use and occupancy insurance of Lessee) shall be used with all reasonable speed by Lessee for rebuilding, repairing or otherwise reinstating the Improvements in a good and workmanlike manner substantially according with the original plans and elevations thereof or to a modified plan conforming to laws and regulations then in effect.

- (b) <u>Disbursement of Insurance Proceeds.</u> The Insurance Trustee shall hold any insurance proceeds payable to it, as provided in Section 5.13(a) hereof, to be applied to the cost of repair and restoration in accordance with the following:
 - (i) Lessee shall furnish to the Insurance Trustee and Lessor copies of any contract or contracts which Lessee shall enter into for the making of such restoration; or, if the restoration is to be done by Lessee, a copy of all subcontracts made by Lessee in connection with such restoration and an estimate of the cost thereof, both in stages and upon completion, which shall be certified by the Lessee's architect as being reasonably accurate.
 - (ii) At the end of each month or from time to time as may be agreed upon during the progress of restoration, and upon the written request of Lessee after compliance with the conditions set forth hereinbelow, the Insurance Trustee shall pay to Lessee (or at the option of Lessee to the contractors and materialmen of Lessee for the account of Lessee) out of such award, ninety percent (90%) of the amount stated to be due. Until completion of the restoration in full, an amount equal to ten percent (10%) of the amount stated to be due shall be withheld by the Insurance Trustee unless Lessor, Lessee and Lessee's Lender jointly agree to a reduction in the retention. The amount so withheld (the "Retention") shall be paid upon the completion of the restoration.
 - (iii) At the time of each request for advance by Lessee, and as a condition precedent thereto, Lessee shall submit to the Insurance Trustee and Lessor copies of a certificate signed by Lessee and Lessee's architect not more than thirty (30) days prior to such request, in the form of AIA form G706, Certificate for Payment, or such other form as may be agreed upon by Lessee and Lessor.
 - (iv) At the completion of the restoration and following disbursement of the final advance to Lessee required to complete the payment of restoration costs, any portion of the award remaining shall be paid by the Insurance Trustee to Lessee, subject to Lessor's rights pursuant hereto and Lender's rights pursuant to the Bond Indenture. In no event, however, shall the Insurance Trustee be liable for any amount in excess of the amounts so received and held in trust.
- (c) <u>Lessor's Inspections.</u> During any restoration, Lessor and any architect, engineer and other representative whom it may select to act for it, may, upon reasonable notice and at reasonable times, inspect the Improvements in the course of such restoration and upon completion, and all work and materials as rendered and installed. Lessee shall keep copies of all plans, shop drawings and specifications relating to such restoration on the building site and permit Lessor, its architects, engineers and other representatives to examine them at all reasonable times. In the event that during the restoration of the Improvements, Lessor, or its architects, engineers and other representatives, shall determine that the materials do not substantially conform to the specifications or that the Improvements are not being restored substantially in

accordance with the approved plans, prompt notice in writing shall be given to Lessee, specifying in detail the particular deficiency, omission or other respect in which it is claimed that the restoration does not conform with the plans and specifications. Upon the receipt of any such notice, Lessee shall take such steps as shall be necessary to cause corrections to be made as to any deficiencies, omissions or otherwise, and shall immediately remove such materials and replace such construction and materials in accordance with said plans and specifications.

5.15 Indemnity. Lessee will indemnify and hold Lessor harmless from and against any and all claims and demands for loss or damage, including property damage, personal injury and wrongful death, arising out of or in connection with the use or occupancy of the Premises by Lessee or any other person under Lessee, or any accident or fire on the Premises or any nuisance made or suffered thereon (except to the extent caused by the negligence or willful misconduct of Lessor or its agents, employees, or licensees), or any failure by Lessee to keep the Premises in a safe condition, and will reimburse Lessor for all Lessor's costs and expenses, including reasonable attorneys' fees incurred in connection with the defense of any such claims, provided, however, Lessor shall indemnify and hold Lessee harmless from and against any and all claims and demands for loss or damage, including property damage, personal injury and wrongful death, or any accident or fire on the Premises or any nuisance made or suffered thereon, arising out of or in connection with or caused by the negligence or willful misconduct of Lessor or its agents, employees, or licensees and will reimburse Lessee for all Lessee's costs and expenses, including reasonable attorneys' fees incurred in connection with the defense of any such claims.

5.16 Reimbursable Expenses

- (a) Lessor's Expenses. Lessee will pay to Lessor, within thirty (30) days after the date of the giving of notice to Lessee containing statements therefor, all reasonable costs and expenses paid or incurred by Lessor, but required to be paid by Lessee under any provision hereof or paid or incurred by Lessor in enforcing any of Lessee's covenants herein contained, in remedying any breach thereof, in recovering possession of the Premises or any part thereof pursuant hereto, in collecting or causing to be paid any delinquent Rent, taxes or other charges hereunder payable by Lessee, or in connection with any action or proceeding (other than condemnation proceedings) commenced by or against Lessee to which Lessor shall without fault be made a party. All of Lessor's expenses provided in this Section 5.16(a) shall constitute additional Rent and, if not paid when due, shall bear interest at the Default Interest Rate from the date due until paid in full.
- (b) Enforcement Expenses. Should Lessor or Lessee reasonably retain counsel for the purpose of enforcing or preventing the breach of any provision of this Lease, including but not limited to instituting any action or proceeding to enforce any provision hereof for damages by reason of any alleged breach of any provision of this Lease, for a declaration of such party's rights or obligations hereunder or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by

the other party for all costs and expenses reasonably incurred in connection therewith, including but not limited to reasonable attorney's fees for the services rendered to such prevailing party.

- 5.17 <u>Assignment.</u> Except as in this Lease expressly provided, Lessee shall not assign or mortgage this Lease without the prior written consent of Lessor. Any assignment without Lessor's prior express written consent, including Lessor's consent contained herein, shall be void.
 - (a) Consent to Assignment. Lessor shall respond to any request for its consent to an assignment of this Lease within thirty (30) days following Lessor's receipt of all financial statements, documents or other information reasonably necessary for Lessor to make its determination. If Lessor shall fail to approve or disapprove a request for consent within such thirty (30) day period, Lessor's disapproval shall be conclusively presumed. Lessor hereby consents to the assignment by the Lessee of its rights under this Lease to any institutional trustee who is serving as mortgagee under the Bond Indenture as the same relates to the original financing of the Project, which institutional trustee will initially be Chase Bank of Texas, N.A.
 - (b) Assumption of Lease. Any permitted assignment of this Lease shall be specifically made and therein expressly stated to be made subject to all terms, covenants and conditions of this Lease, and the assignee therein shall expressly assume and agree to all such terms, covenants and conditions.
 - (c) "Assignment" Defined. The term "assignment" as used in this Lease shall mean and include (i) one or more sales or transfers by operation of law or otherwise by which an aggregate of more than fifty percent (50%) of (A) the total capital stock of a corporate lessee, (B) the total partnership interests of a general partnership lessee, (C) the total beneficial interests of a trust lessee, (D) the interest in the general partner of a limited partnership lessee or, if there is more than one general partner, fifty percent (50%) of the interests in all such general partners in the aggregate, shall become vested in one or more Persons who or which are not stockholders, partners or beneficiaries thereof, either legally or equitably, as of the Commencement Date or as of the date of Lessee's subsequent acquisition of this Lease by assignment, or (ii) a transfer of the membership of a nonprofit corporation, or the creation of membership potential or units in a nonprofit corporation previously not having membership, or the issuance of stock or other certificates, units or other intangible contractual rights which provide for any type of voting power to the holders in which voting rights allow the election of all or any member of the board of directors or trustees, or allow the control of all or any part of the management or the policies of the nonprofit corporation; provided that ownership of such capital stock, partnership interests and beneficial interests shall be determined in accordance with the principles enunciated in Section 544 of the Internal Revenue Code of 1986; further provided that the foregoing definition shall not apply with respect to a corporate lessee whose capital stock is listed on a recognized stock exchange.

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- (d) Assignment In Violation Of Section Is Void. Except as otherwise expressly provided in this Lease, no assignment or other transfer of this Lease other than in accordance with this Section 5.17, whether voluntary or involuntary, by operation of law, under legal process, through receivership or bankruptcy or otherwise, shall be valid or effective. Should Lessee attempt to make or suffer to be made any assignment or other transfer of this Lease or any interest herein except as permitted by this Section 5.17, or in Article VII herein, or should any right or interest of Lessee under this Lease be attached, levied upon or seized under legal process and the same shall not be released within sixty (60) days thereafter, or, if incapable of being released within said sixty (60) day period, action for the release thereof commence within said sixty (60) day period and thereafter diligently prosecuted, then any of the foregoing events shall be deemed a default under this Lease. Lessor's consent to an assignment or other transfer of this Lease shall not constitute a waiver or release by it of any of the provisions of this Section, all of which shall apply to each successive assignment or other transfer, if any, and be binding upon each and every encumbrancer, assignee, transferee, subtenant and other successor in interest of Lessee.
- Subletting. Lessee will not, except as provided herein or without the prior written consent of Lessor, rent, sublet or part with possession of the Land or any part thereof. Notwithstanding the foregoing, Lessee may, without the consent of Lessor and without the payment of additional rent, enter into life care contracts or sublet, rent or license residential apartments, rooms, living spaces in the Improvements and ancillary commercial uses reasonably related to the occupancy thereof, provided that the purpose of any such agreement is consistent with Section 5.5 of this Lease and the form of the sublease, license, life care contract, concession or rental agreement shall be commercially reasonable and consistent in all material respects with the terms and provisions of this Lease. Lessee upon request therefor promptly shall deliver a true copy of any such sublease or rental agreement to Lessor. The fees charged from time to time to Residents of the Project in connection with the issuance of life care contracts and any maintenance fees and other periodic charges shall be reasonably calculated to be sufficient to cover Lessee's monetary obligations to the Residents, to Lessee's Lender and to Lessor.
- 5.19 <u>Utilities.</u> Lessee shall be solely responsible for obtaining all necessary electricity, sewer, water and other utility services. Lessor will, at Lessee's request and without payment of additional consideration, grant easements for the construction and installation of all necessary utility services and for drainage to the providers of such services over, across or under the Land.
- 5.20 <u>Surrender</u>. Except as otherwise provided herein, upon the expiration of the Term or earlier termination of this Lease, Lessee will peaceably deliver up to Lessor possession of the Premises, including all Improvements on or above the surface of the Land, by whomsoever made, in good and safe repair, order and condition, ordinary wear and tear excepted. Lessor may, at Lessor's option, require Lessee to remove any Improvements not in good and substantial condition and repair all damage to the Land resulting from such removal. Lessee shall leave the Premises in a clean and orderly condition free of all debris and of any Hazardous Materials at termination. Upon the expiration of the Term or earlier termination

of this Lease, Lessor shall have the first right of refusal to acquire all or any part of the movable furniture, furnishings, trade fixtures and equipment for a price equal to the fair market value of any such items. In the event that Lessor and Lessee cannot agree upon the fair market value of any such item, then, they shall each select an appraiser. The two appraisers shall select a third appraiser and the fair market value shall be determined by averaging the valuations obtained from the three appraisers. Lessee may remove or cause to be removed all of the movable furniture, furnishings, trade fixtures and equipment installed in or on the Premises, or any other items the removal of which would not result in substantial and permanent damage to the Premises if Lessor has not acquired such items in accordance with the prior sentences. Any such property or Improvements that are not removed from the Premises within thirty (30) days after the termination or expiration of this Lease shall thereafter belong to Lessor without the payment of any consideration therefor. Upon the expiration of the Term or earlier termination of this Lease, Lessee shall execute. acknowledge and deliver to Lessor (if requested) a proper instrument in writing, releasing and quitclaiming to Lessor all right, title and interest of Lessee in and to the Premises. The foregoing covenants of Lessee shall survive the expiration of the Term.

- Holdover. If Lessee, with the permission of the Lessor, remains in possession of the Premises after the expiration of the Term, Lessee shall be deemed to occupy the Premises only as a tenant from month-to-month, subject to all of the terms, covenants, conditions and provisions of this Lease, including rent, which are not inconsistent with a month-to-month tenancy. For any period during which Lessee may retain possession of the Premises without the permission of the Lessor or after receipt of notice of the cancellation of this Lease, the Rent payable by Lessee to Lessor for each month (or fraction thereof in excess of ten (10) days during such period), shall be equal to one hundred and fifty percent (150%) of the monthly Rent then in effect for the last full Rent Year prior to termination of this Lease.
- 5.22 Waste or Unlawful Use. The Lessee will not make or suffer any waste or any unlawful. improper or offensive use of the Premises or any act or gross negligence by which the Premises or any interest therein shall become liable to seizure, attachment or unpermitted lien. Upon Lessor's receipt of reasonably reliable information that the Premises have suffered waste not remedied by Lessee or are being used for any unlawful or illegal purposes or acts that Lessor reasonably determines could result in criminal or civil forfeiture of all or any portion of the Premises to the United States or the State of Texas, Lessor shall have the right to give notice of Lessor's demand on Lessee to cure such condition, and Lessor's intent to act if Lessee does not cure such condition, to Lessee and, if Lessee does not cure such condition within thirty (30) days after the date of such notice to Lessee, or commence to cure such condition within thirty (30) days after the date of such notice to Lessee and thereafter diligently pursue such cure to completion, Lessor may elect by a written notice delivered to Lessee and Lessee's Lender as provided herein, either (a) to take all such action as it reasonably shall deem necessary and appropriate to stop such waste or such illegal activity and secure the Premises against forfeiture, in which event all reasonable costs and expenses of Lessor's actions shall be payable by Lessee hereunder as additional Rent, or (b) to declare this Lease in default.

5.23 Environmental Protection.

- (a) <u>Hazardous Materials.</u> As used in this Lease, the term "Hazardous Materials" means any substance which:
 - (i) is flammable, explosive, radioactive, toxic, corrosive, infectious, carcinogenic, mutagenic, or otherwise hazardous and is regulated by any Governmental Authority, or,
 - (ii) contains asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, or petroleum, including crude oil or any fraction thereof, or
 - (iii) contains medical waste, including syringes, controlled substances, blood and blood products, urine and urine samples, fecal matter and other toxic, infectious, polluted or contaminated substances; or
 - is classified as a pollutant, contaminant, hazardous waste, hazardous substance, hazardous material, or toxic substance under the Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. app. §§ 1801 et seq.; the Clean Water Act, 33 U.S.C. §§ 1251 et seq.; the Clean Air Act, 42 U.S.C. H 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 to 2655; the Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j; the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. §§ 11001 to 11050; and any similar federal, state and local laws, statutes, ordinances, codes, rules, regulations, orders or decrees relating to environmental conditions, industrial hygiene or Hazardous Materials in, on, under or upon the Premises, now in effect or hereafter adopted, published and/or promulgated (collectively, the "Hazardous Materials Laws").
- (b) Restriction on Use of Hazardous Materials. The Lessee shall not cause or permit any Hazardous Material to be processed, used, stored in or about, or disposed of or upon, or transported to or from, the Premises unless (i) such material is used in the ordinary course of Lessee's operations on the Premises, or (ii) the Lessee has obtained the prior written consent of the Lessor, including such consents as may be contained herein, and (iii) the processing, use, storage, disposal or transporting is strictly in accordance with Hazardous Materials Laws.
- (c) Remediation of Release of Hazardous Materials. If any spill, leak or release of any Hazardous Materials occurs on the Premises as a result of acts or omissions of Lessee, its employees, agents, contractors or Residents which either (i) is a violation of applicable Hazardous Materials Laws or (ii) is required to be reported to Governmental Authorities having jurisdiction over Hazardous Materials releases, Lessee promptly shall notify all appropriate Governmental Authorities and Lessor, and, at no cost to Lessor, shall fully and promptly comply with all governmental

orders, requirements, rules and regulations with respect thereto. Within ten (10) days after any such spill, leak or release, Lessee shall provide Lessor with a reasonably detailed written description of the event and of Lessee's investigation and remediation efforts to date. Within ten (10) days after receipt, Lessee shall provide Lessor with a copy of any report or analytical results relating to any such spill, leak or release. Should Lessee be required to remove any portion of the Premises as having become contaminated, then, whether or not so required by Governmental Authorities, Lessee shall either replace the removed portion of the Premises (such as soil) with uncontaminated material of substantially the same character as existed prior to contamination or otherwise accommodate such removal. Lessee shall operate the Premises in a manner designed to prevent the occurrence of any such spill, leak or release. Notwithstanding the foregoing, the obligation of Lessee hereunder shall in no case apply to any Hazardous Materials spilled, leaked, released or discharged by Lessor or any agent, employee or contractor of Lessor. In the event that a discharge or release of Hazardous Materials is not discovered until after (or is to be remediated following) expiration or termination of the Term, Lessee shall coordinate, supervise and pay for all investigation and remediation efforts and shall be granted reasonable access at reasonable times to conduct such investigations, testing and remediation efforts as are required by this Section.

- (d) <u>Underground Storage Tanks.</u> Lessee shall not install or operate on the Premises, any underground storage tank, as defined by 42 U.S.C. § 6991 or any rule or regulation issued pursuant to such statute or other rules or regulations of any applicable Governmental Authority, without the prior written consent of Lessor.
- (e) <u>Compliance with Governmental Requirements</u>. Lessee shall comply with all requirements of all Governmental Authorities from time to time applicable to the handling by Lessee of any Hazardous Materials on the Premises. If any of said requirements shall be inconsistent with each other, Lessee shall comply with the most stringent requirement.
- (f) Permits and Approvals. Lessee shall obtain in advance and maintain without interruption, all governmental permits or approvals required for the use, storage or handling of any Hazardous Materials permitted by this Lease for Lessee's use in connection with its permitted business, use and occupation of the Premises. Within ten (10) days after receipt, Lessee shall provide Lessor with a copy of each such permit or approval. Where a plan for remediation is required, Lessee shall not commence operations or construction of any Improvements relating thereto until such remediation plan has been approved by appropriate Governmental Authorities and Lessee has provided evidence reasonably satisfactory to Lessor of its ability to fund the estimated cost of implementing such plan. Lessee shall comply with the terms and conditions of each permit or approval.
- (g) Notice of Actions. Lessee shall promptly advise Lessor in writing of (i) any and all enforcement, cleanup, removal, mitigation or other governmental or regulatory action of which Lessee receives written notice and which is instituted, contemplated or threatened pursuant to any Hazardous Materials Laws affecting the Premises; and

- (ii) all claims made or threatened by any third party against Lessee or the Premises of which Lessee receives written notice and which relate to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials; and (iii) Lessee's discovery of any occurrence or condition on the Premises which reasonably could subject Lessee or the Premises to any restrictions on ownership, occupancy, transferability or use of the Premises under any Hazardous Materials Laws. (As used in the preceding sentence, "discovery" shall mean actual knowledge of Lessee, its agents or employees.) Within ten (1 0) days after receipt, Lessee shall provide to Lessor a copy of any written notice of actual violation, complaint or other communication initiating any governmental enforcement action against Lessee for any alleged violation of law or other governmental requirement relating to the use, handling or storage of Hazardous Materials. Thereafter, within ten (1 0) days of receipt or transmission, Lessee shall provide Lessor with a copy of all material communications received by Lessee from, or sent by Lessee to, any Governmental Authority relating to such enforcement action.
- (h) Access to Records and the Premises. At reasonable times and after reasonable notice (i) Lessor may inspect any records maintained by Lessee relating to Lessee's compliance or noncompliance with the provisions of this Section 5.23 of this Lease, and (ii) if, and only if, Lessor has reasonable cause to believe Lessee has breached this Section 5.23, and provides written notice of such reasonable cause to Lessee as provided herein and Lessee does not respond in writing within thirty (30) days thereafter, Lessor may enter the Premises to conduct any reasonable test, inspection or environmental audit of the Premises or Lessee's operation or use of the Premises to determine Lessee's compliance or noncompliance with the provisions of this Section 5.23. If Lessor's test, inspection or environmental audit determines that Lessee has breached this Section 5.23, Lessee will pay the cost of any such inspection, as additional Rent.
- (i) **Pre-Surrender.** Not less than two (2) years, nor more than three (3) years prior to the end of the Term, Lessor, at Lessor's cost, may have the Premises inspected and tested as described below. Such inspection and testing shall not include tests that would cause any material damage to the Improvements or materially interfere with Lessee's conduct of its business on the Premises. Such inspection and testing shall be conducted by a qualified and experienced independent inspector "Independent Inspector") selected by Lessor and approved by Lessee, which approval shall not be unreasonably withheld or delayed. The Independent Inspector shall report its professional opinion concerning whether the Premises satisfies all Hazardous Materials Laws. The Independent Inspector's report shall be prepared at Lessor's expense and shall be addressed and delivered to both Lessor and Lessee. In the event that the Independent Inspector reports that the Premises does not satisfy all Hazardous Materials Laws, Lessor shall develop and submit to Lessee prior to the end of the Term a proposed written plan for any further testing desired by Lessor and for any cleanup of the Premises which Lessor believes to be required, together with a schedule for accomplishing such testing and cleanup before the end of the Term. Lessee may then retain its own independent inspector, who shall work with Lessor's Independent Inspector and any and all applicable Governmental Authorities to arrive

at an agreed upon plan of remediation. Upon such agreement, Lessee, at its cost shall take such actions as are reasonably necessary to bring the Premises into material compliance with all applicable Hazardous Materials Laws, and the Independent Inspector shall report the results of the cleanup to Lessor and Lessee. If Lessee fails to fully and timely perform or cause to be performed such cleanup, Lessor may do so at Lessee's expense. The Independent Inspector's report shall be an informed professional opinion and not a warranty or guarantee on the part of the Independent Inspector.

- (j) <u>Vacating the Premises</u>. Upon Lessee vacating the Premises: (i) Lessee shall have removed and disposed of all Hazardous Materials present on the Premises (except for reasonable quantities of ordinary and lawful supplies referred to above); All such removals, repairs and remediation shall be at Lessee's sole cost and expense; and (ii) until the Independent Inspector renders its opinion that the Premises materially satisfies all Hazardous Materials Laws and all costs therefor have been paid or reimbursed by Lessee, together with interest thereon, if any, the Premises and this Lease shall not be deemed surrendered and Lessee shall continue to pay Annual Rent on the Premises as set forth in Section 5.21 hereof for occupancy of the Premises without the permission of Lessor.
- Environmental Indemnification. Lessee shall defend with counsel reasonably (k) approved by Lessor, indemnify and hold harmless Lessor, its agents and employees, from and against any and all claims, charges, actions, suits, liabilities, obligations, fines and penalties (including, without limitation, claims for property damage, personal injury and wrongful death, foreseeable and unforeseeable consequential damages, punitive damages to the extent permitted by law, costs of investigation, removal, response and remediation, natural and environmental resource damage, governmental administrative actions, and reasonable attorneys' and consultants' fees and expenses), by whomsoever made and howsoever asserted which arise out of, whether directly or indirectly, or relate, whether in whole or in part, to any of the following: (i) any release or discharge of Hazardous Materials on the Premises for which Lessee is responsible under the provisions of this Lease; or (ii) any violation by Lessee, its employees, agents or contractors, of Hazardous Materials Laws on the Premises; or (iii) any release or discharge, including without limitation any migration or emanation, of any Hazardous Materials from the Premises into the surrounding lands, air and water. (Collectively, "Environmental Claims") provided however that Lessee's foregoing indemnification of Lessor against Environmental Claims shall not include any such release, discharge, violation, migration or emanation attributable to any act or omission of Lessor, its agents, employees, contractors and affiliates or not at the direction or behest of Lessee (collectively, "Non Contributory Environmental Claims"), and Lessor shall indemnify, defend with counsel reasonably approved by Lessee, and hold harmless Lessee from and against any and all such Non Contributory Environmental Claims.
- (1) <u>Survival</u>. The obligations of the parties under this Section 5.23 shall survive any termination or expiration of this Lease and any conveyance by Lessor or Lessee of their respective interests in the Premises. No release of Lessee in connection with

any such termination, expiration or conveyance shall effect a release of Lessee's obligations under this Section, unless such release makes specific reference to the obligations of Lessee under this Section.

ARTICLE VI CONDEMNATION

In case at any time or times during the Term, the Premises or any part thereof shall be required, taken or condemned, other than for failure of Lessee to comply with applicable codes, statutes and regulations, by any authority having the power of eminent domain, then and in every such case the parties hereby mutually agree as follows:

- 6.1 Termination of Lease and Rights to Compensation. The estate and interest of Lessee in the Premises so required, taken or condemned shall at once cease and terminate and (a) Lessee shall not by reason thereof be entitled to any claim against Lessor or others for compensation or indemnity for the Land, (b) all compensation and damages payable for or on account of the Land shall be payable to and be the sole property of Lessor, (c) all compensation and damages payable with respect to the Existing Improvements shall be payable to and be the sole property of Lessor, and (d) all compensation and damages payable for or on account of any Improvements constructed by Lessee on the Land shall be divided between Lessor and Lessee as of the date when Lessee loses the right to possession thereof, according to the ratio that the then expired and unexpired portions, respectively, of the entire Term (as though continued to its natural expiration) bear to the sum of said portions, except that Lessee's share of the award as to Improvements constructed by Lessee shall not be less than the lesser of: (i) the aggregate unpaid balances of all loans secured by authorized leasehold mortgages existing as of the date of such taking, or (ii) the total award attributable to the taking, provided that Lessee pays all such sums to Lessee's Lender, to the extent of amounts owed to such Lender.
- 6.2 <u>Rent Reduction</u>. If any portion of the Essential Area of the Premises, which shall mean those areas shown as the "Essential Areas" on <u>Exhibit "D"</u> attached hereto and made a part hereof, is taken or condemned and this Lease is not terminated, the Annual Rent payable for the remainder of the Term shall be reduced in the ratio that the fair market value of the Land so taken bears to the fair market value of the Land existing immediately prior to such event.
- Election to Terminate. If more than thirty percent (30%) of the area of the Land, or the usable area of the Improvements, is taken or condemned, or if the area so taken or condemned shall render the remaining Land unsuitable or economically impractical for the Lessee's purposes under this Lease, Lessee at its option, exercisable upon written notice to Lessor given within sixty (60) days after such taking, may surrender this Lease to Lessor, in which event (a) any and all condemnation proceeds from the condemnation of the Improvements shall be used to repay Lessee's Lender, to the extent of Lessee's obligations to such Lender, and thereafter the balance, if any, shall belong to Lessor, (b) all interest of Lessee and Lessee's Lender in the compensation and damages payable on account of any Improvements on the Land not taken or condemned shall belong to and be the sole property of Lessor, (c) Lessee may claim and recover from the condemning authority all compensation and damage to its business or property not subject to this Lease, and to any

inventory, furnishings, equipment and trade fixtures and the cost of restoration or removal of the foregoing property, (d) Lessor shall prepare and Lessee, Lessor and Lessee's Lender shall promptly execute and deliver such instruments as reasonably shall be deemed necessary by Lessor to evidence such surrender, (e) Lessee shall not be entitled to any other compensation or payment whatsoever by Lessor on account of such taking and surrender, and (f) upon such surrender of the Lease, Lessee shall be relieved of any further obligations hereunder.

- 6.4 Partial Condemnation. In all events of partial condemnation, the proceeds of any award for Improvements and/or severance damages for the Improvements, shall be allocated between Lessor and Lessee as of the date Lessee loses the right of possession to the portion of the Premises so taken or condemned. The allocation shall be according to the ratios that the then expired and unexpired portions, respectively, of the entire Term bear to the sum of such portions; provided, however, that in no event shall Lessee's share of the Improvements proceeds be less that the lesser of: (a) the amount which results from the sum of (i) the aggregate unpaid balance of all authorized leasehold mortgage loans as of the date of such partial taking multiplied by a fraction, (A) the numerator of which is the sum of (1) total value of the Improvements as of the date of such taking minus (2) the total value of the Improvements immediately following the taking, and (B) the denominator of which is the total value of the Improvements as of the date of such taking, provided that Lessee pays all such sums to Lessee's Lender, to the extent of amounts owed to such Lender; plus, (ii) the reasonable cost of any reasonable and necessary corrective work to the Improvements resulting from the taking; or (b) the total compensation or damages awarded for the Improvements and the Land.
- 6.5 Leasehold Condemnation. The condemnation of any leasehold interest in the Premises or any part thereof shall not terminate this Lease nor excuse Lessee from full performance of its covenants for the payment of money or any other obligations hereunder capable of performance by Lessee, but in such case Lessee may claim and recover from the condemning authority all compensation and damages payable on account of its leasehold interest, including such compensation and damages as may be separately awarded or recoverable by Lessee in its own right on account of any damage by reason of condemnation to its business, its business or property not subject to this Lease, any furniture, furnishings, equipment and trade fixtures on the condemned premises, and the cost of relocation or removal thereof. If the compensation payable to Lessee by the condemning authority in any such event is less than Lessee's payment obligations hereunder, such payment obligations hereunder shall be reduced to the amount of compensation payable to Lessee. In the event the condemning authority shall fail to keep the Premises in the state of repair required by this Lease, or to perform any other covenant not calling for the payment of money, Lessee shall have ninety (90) days after the restoration of possession to Lessee within which to carry out Lessee's obligations under such covenant or covenants or, if such performance cannot reasonably be completed within said ninety (90) day period, Lessee shall have a reasonable time to perform such obligations, provided that it commences promptly and diligently prosecutes such performance.

ARTICLE VII PERMITTED MORTGAGES

- 7.1 Lessee's Right to Mortgage Leasehold Estate. Lessee may from time to time, without further consent of Lessor, assign Lessee's leasehold estate and this Lease by way of mortgage, which mortgage shall be an "approved" or "authorized" mortgage for the purposes hereof, to secure any indebtedness of the Lessee incurred to acquire, construct, improve and equip the Project or to refinance the same, including the provision of working capital, the payment of costs of issuance and the cost of any credit or liquidity enhancement related to such indebtedness. The mortgage granted by the Lessee pursuant to the Bond Indenture is hereby deemed to be an "approved" or "authorized" mortgage. Any bank, insurance company, bondholder or other established lending institution or an institutional trustee who acts as mortgagee for the benefit of holders of, or providers of credit or liquidity enhancement with respect to, indebtedness issued in connection with the construction of the Project, any Improvements, additions to the Project, or the refinancing, advance refunding. defeasance or other satisfaction of the Bond Indenture or any other financing which complies herewith shall be deemed to be a "Lender." Any mortgage granted subsequent to the initial mortgage granted pursuant to the Bond Indenture shall require that: (a) Lessee notify Lessor in writing in advance as to each such proposed assignment, (b) the proceeds of such subsequent financing are used solely for investment in the Project or additions or improvements thereto, including the provision of working capital, the payment of costs of issuance and the payment of costs for any credit or liquidity enhancement related thereto, and for no other purpose whatsoever, (c) upon the execution of any such assignment or mortgage, a copy thereof shall be delivered promptly to Lessor, and (d) except as provided in this Article VII of this Lease, no other or further assignment of this Lease for which any provision hereof requires the written consent of Lessor shall be made without such consent.
- 7.2 Lender's Rights. Notwithstanding any provision of this Lease to the contrary and without the need to obtain any consent or approval from Lessor, the Lender or its assigns may enforce such an approved mortgage and acquire title to the Leasehold Estate created by this Lease in any lawful way, and pending foreclosure of an approved mortgage (or pending sale of this Lease in lieu of foreclosure of such mortgage), may take possession of and rent the Premises, and upon succeeding to the title of Lessee in the Leasehold Estate through foreclosure thereof (or upon assignment in lieu of foreclosure thereof), may without further consent of Lessor sell and assign the Leasehold Estate by assignment in which the assignee shall expressly assume and agree to observe and perform all the covenants of Lessee herein contained and such assignee may make a purchase money mortgage of this Lease to the assignor or to any bank, insurance company, other established lending institution or commercial trustee as fully as Lessee could do so hereunder, provided that upon execution of any such assignment, a copy thereof shall be delivered promptly to Lessor, that any purchase money mortgage meet the conditions contained in clauses (a)through (c) of Section 7.1 above and that except pursuant to this Article, no other or further assignment of this Lease for which any provision hereof requires the written consent of Lessor shall be made without such consent. The Lender or its assignee shall be liable to perform the obligations herein imposed on Lessee only during the period such person has possession or ownership of the Leasehold Estate. Nothing contained in any mortgage shall release or be deemed to relieve Lessee from the full and faithful observance and performance of its covenants herein

contained or from any liability for the nonobservance or nonperformance thereof, nor be deemed to constitute a waiver of any rights of Lessor hereunder, and the terms, covenants and conditions of this Lease shall control in case of any conflict with the provisions of any mortgage.

- 7.3 Protection of Lender. During the continuance in effect of any mortgage of this Lease authorized by Section 7.1 above, Lessor will not terminate this Lease because of any default on the part of Lessee to observe or perform any of the covenants or conditions herein contained if the Lender or its assigns, within one hundred twenty (120) days after Lessor has mailed (not earlier than the expiration of Lessee's right to cure the default under this Lease) to the Lender or its assigns at the last known address thereof a written notice of Lessor's intention to terminate this Lease for such cause, shall cure such default if the same can be cured by the payment of money, or, if such is not the case, shall undertake in writing to perform and shall thereafter pay all rent and other charges as and when due under this Lease and perform all other covenants of this Lease capable of performance by the Lender or its assigns until such time as this Lease shall be sold upon foreclosure of such mortgage commenced promptly and completed with due diligence. Any default (a) consisting of Lessee's failure promptly to discharge any lien, charge or encumbrance against the Premises junior in priority to such mortgage or (b) which is otherwise not susceptible to cure by Lender except upon obtaining possession of the Premises or foreclosure, shall be deemed to be duly cured if such mortgage shall be foreclosed by appropriate action instituted within said one hundred twenty (120) day period and thereafter prosecuted in a diligent and timely manner. Lessor agrees that, simultaneously with mailing or delivering any notice of default or breach under or with respect to this Lease to Lessee, Lessor will mail or deliver a copy thereof to each and every Lender at such address of which Lessor may be notified in writing.
- Assumption and Rejection. In consideration of Lessor's agreement to the "New Lease" provisions in favor of Lender contained in Section 7.5 below, each Lender shall, by accepting its mortgage, be deemed to undertake and agree for the benefit of Lessor that, if at any time a bankruptcy proceeding shall be commenced concerning Lessee and/or the Leasehold Estate, such Lender shall, within the statutory time period or any extension thereof provided under Section 365 of the Bankruptcy Code for the rejection or assumption of leases, use its reasonable efforts to diligently and in good faith obtain or cause Lessee/Lender and/or Lessee/Lender's trustee in bankruptcy to obtain: (a) an extension of the period during which this Lease may be assumed or rejected; or (b) an abandonment of the Leasehold Estate with the approval of the bankruptcy court pursuant to Section 554 of the Bankruptcy Code, as amended; or (c) an assumption of this Lease pursuant to Section 365 of the Bankruptcy Code, as amended.
- 7.5 Lender's Right to a New Lease. In the event that, notwithstanding the Lender's compliance with the provisions of Section 7.4 above, this Lease shall terminate prior to the natural expiration of the Term, as a result of an actual or deemed rejection of this Lease under any provision of the Bankruptcy Code (Title 11, United States Code) or any successor law having similar effect, then, and in any such event, such Lender (or the Lender holding a first mortgage if more than one) or its nominee or designee shall thereupon have the option to obtain a new lease ("New Lease") of the Premises in accordance with and upon the following terms and conditions:

- (a) Lessor's Obligation to Enter into New Lease. Within sixty (60) days after Lender has delivered to Lessor written request for a New Lease (such written request to be delivered to Lessor within sixty (60) days after Lender receives from Lessor written notice of the actual or deemed rejection of this Lease), Lessor shall enter into a New Lease of the Premises with such Lender, or its assignee or designee, as provided in Section 7.5(b) immediately below; provided, however, that if Lessor receives no such written request within said sixty (60) day period, then all of Lender's rights to a New Lease hereunder shall automatically terminate.
- (b) New Lease Terms. Such New Lease shall be effective as of the date of the actual or deemed rejection of this Lease and shall be for the remainder of the Term at the same Annual Rent, additional rent and other charges herein provided and otherwise upon the same agreements, terms, covenants and conditions contained herein, except that the New Lease shall also include an additional indemnity paragraph under the terms of which Lessee shall indemnify and hold Lessor harmless from and against all claims, demands or liability whatsoever by whomsoever made for loss or damage arising out of or in connection with the issuance of the New Lease and will promptly reimburse Lessor for its costs and expenses, including reasonable attorney's fees, incurred in connection with the defense of any such claims. The New Lease issued hereunder shall have the same relative priority in time and rights as this Lease and have the benefit of and vest in the Lender (or Lender holding a first mortgage if more than one) all of the same rights, title, interest, powers and privileges of Lessee under this Lease. The New Lease shall, subject to the same agreements, terms, covenants and conditions contained herein, also demise to Lender or its designee all Improvements and appurtenances situated on the Premises, together with all equipment, fixtures and machinery therein.
- New Lessee's Obligations. As a condition to and concurrently with delivery of such New Lease, the lessee named therein shall pay any and all sums which would at the time of the execution thereof be due under this Lease but for the rejection as aforesaid, shall otherwise fully remedy any existing defaults under this Lease susceptible of cure by such lessee, and shall pay to Lessor all amounts due to Lessor hereunder and all costs and expenses of Lessor incurred in connection with the enforcement of Lessor's rights hereunder, including, but not limited to, any insurance premiums paid or incurred by Lessor in order to maintain the insurance coverage required under the terms of this Lease, and the reasonable attorneys' fees, court costs and disbursements incurred by Lessor by reason of the actual or deemed rejection of this Lease and in connection with the preparation, execution and delivery of such New Lease. Any curable default which cannot be cured by such lessee until it obtains possession shall be cured by the lessee within a reasonable time, subject to extension for Force Majeure Events, after it obtains possession.
- (d) <u>Lender's Right to Assign New Lease.</u> Lender, or its affiliate, if it or its affiliate is the initial lessee under the New Lease, may assign such New Lease to any assignee of its choice which is approved by Lessor, which approval shall not be unreasonably withheld or delayed, and shall thereupon be released from all liability for the

performance or observance of the covenants and conditions in such New Lease contained and on the lessee's part to be performed and observed from and after the date of such assignment, provided that a certified copy of such assignment shall be promptly provided to Lessor and that the assignee therein shall expressly assume and agree to observe and perform all of the covenants of Lessee contained in said New Lease.

- No Merger. Ownership by or for the same person of both the fee and Leasehold Estate in the Premises shall not affect the merger thereof without the prior written consent of any mortgagee of either of such estates to such merger. There shall be no merger of the Leasehold Estate with the fee estate in the Premises by reason of the fact that one Leasehold Estate may be held directly or indirectly by or for the account of any person who shall also hold directly or indirectly the fee estate, or any interest therein, nor shall there be any such merger by reason of the fact that all or any part of the Leasehold Estate may be conveyed or mortgaged to a mortgagee who shall also hold directly or indirectly the fee estate in the Premises or any interest of Lessor under this Lease.
- 7.7 Surrender and Amendment. No surrender (except a surrender upon the natural expiration of the Term or upon termination of this Lease by Lessor pursuant to the provisions hereof) by Lessee to Lessor, of this Lease, the Leasehold Estate or any part thereof or interest therein shall be valid or effective without the prior written consent of any then-subsisting record Lender of whose interest Lessor shall have been given written notice in accordance with the terms of this Lease. This Lease shall not be amended or modified in any way that reasonably may be deemed or construed to affect the material rights and obligations of any Lender which is a then-subsisting record mortgagee of whose interest Lessor shall have been given written notice in accordance with the terms of this Lease unless such mortgagee shall give its written consent thereto.
- 7.8 Estoppel Certificate. Upon the written request of any Lender, Lessor shall provide an estoppel certificate to such Lender in such form as may be reasonably requested by such Lender or state in writing any basis Lessor may have for being unable to provide any such estoppel certificate; provided that, in the absence of an agreement between Lessor and any such Lender as to the form of any such estoppel certificate, such a certificate which addresses the items specified in Section 9.14 of this Lease shall be deemed to satisfy this requirement.

ARTICLE VIII DEFAULTS AND REMEDIES

- 8.1 <u>Events of Default</u>. Lessee shall be in default under this Lease upon the occurrence and continuance of any of the following events (each, an "Event of Default"):
 - (a) Payment of Rent. If Lessee shall fail to pay any Rent or any part thereof when due, provided that Lessor shall give Lessee written notices of non-payment of said Rent with respect to each of the first two (2) occasions of such non-payment in each calendar year of the term hereof, together with a period of five (5) business days after such notice to cure any such failure, prior to the existence of an Event of Default, or

- (b) Payments other than Rent. If Lessee shall fail to observe and perform faithfully any of Lessee's covenants or agreements herein contained performable by the payment of money to persons other than Lessor (other than the payment to Lessor of amounts paid by Lessor to others as provided herein, which payments shall be payments of Rent) and such default shall continue for thirty (30) days (or such other and longer applicable cure period as may be in this Lease expressly provided) after a statement therefor given by the obligee to Lessee, unless Lessee shall have taken steps in good faith in such period to remedy the same and is continuing to so act with respect thereto with diligence and continuity reasonably satisfactory to Lessor, or
- (c) <u>Breach of Other Agreement.</u> If Lessee shall fail to observe or perform faithfully any of Lessee's other covenants or agreements herein contained and such default shall continue for thirty (30) days (or such other applicable cure period as may be in this Lease expressly provided) after written notice thereof given by Lessor to Lessee unless Lessee shall have taken steps in good faith within such period to remedy the same and is continuing to act with respect thereto with diligence and continuity reasonably satisfactory to Lessor, or
- (d) Abandonment of Premises. If Lessee shall abandon the Premises, or
- (e) Attachment. If this Lease or any estate or interest of Lessee hereunder shall be sold under any attachment or execution, other than to a Lender or purchaser at foreclosure as provided herein.
- 8.2 Remedies. Upon the occurrence of any one or more of the Events of Default, Lessor may, at its election, subject to and conditioned upon the rights of any lender as provided in Article VII or any other provision hereof, terminate this Lease, or terminate Lessee's right to possession only, without terminating the Lease. Upon termination of the Lease, or upon any termination of the Lessee's right to possession without termination of the Lease, Lessee shall surrender possession and vacate the leased premises immediately, and deliver possession thereof to Lessor, and hereby grants to Lessor the full and free right, without demand or notice of any kind to Lessee (except as hereinabove expressly provided for), to enter into and upon the leased premises in such event, with or without process of law, and to repossess the leased premises at Lessor's former estate, and to expel or remove Lessee and any others who may be occupying or within the leased premises, without being deemed in any manner guilty of trespass, eviction, or forcible entry or detainer, without incurring any liability for any damage resulting therefrom, and without relinquishing Lessor's rights to rent or any other right given to Lessor hereunder or by operation of law. Upon termination of the Lease, Lessor shall be entitled to recover, as damages, all rent and other sums due and payable to Lessor on the date of termination, plus (1) an amount equal to the rent and other sums provided herein to be paid by Lessee for the residue of the stated term hereof on the dates originally fixed herein for payment thereof, and (2) the cost of performing any other covenants to be performed by Lessee. If Lessor elects to terminate Lessee's right to possession only, without terminating the Lease, the Lessor may, at Lessor's option, enter into the leased premises, remove Lessee's signs and other evidence of tenancy, and take and hold possession thereof as hereinabove provided, without such entry and possession terminating the Lease or releasing Lessee, in whole or in part, from Lessee's obligations to pay the rent

hereunder for the full term or from any other of its obligations under this Lease, subject to the offset of all sums received by Lessor from any reletting. Lessor may, but shall be under no obligation so to do, relet all or any part of the leased premises for such rent and upon such terms as shall be satisfactory to Lessor (including the right to relet the leased premises for a term greater or lesser than that remaining under the Lease term, the right to relet the leased premises as a part of a larger area, and the right to change the character or use made of the leased premises). For the purpose of such reletting, Lessor may decorate or make any repairs, changes, alterations or additions in or to the leased premises that may be necessary or convenient. If Lessor does not relet the leased premises, Lessee shall pay to Lessor on demand damages equal to the amount of the rent and other sums provided herein to be paid by Lessee for the remainder of the Lease term. If the leased premises are relet and a sufficient sum shall not be realized from such reletting after paying all of the expenses of such decorations, repairs, changes, alterations, additions, the expenses of such reletting, and the collection of the rent accruing therefrom (including, but not by way of limitation, attorneys' fees and broker's commissions), to satisfy the rent and other charges herein provided to be paid for the remainder of the Lease term, Lessee shall pay to Lessor on demand any deficiency, and Lessee agrees that Lessor may file suit to recover any sums falling due under the terms of this section from time to time. In no event shall Lessor or its assigns be entitled to recover any punitive, exemplary, or consequential damages against Lessee. Lessor hereby waives any right it has for the recovery of such damages.

8.3 Non-Waiver. Acceptance of rent by Lessor shall not be deemed a waiver by it of any breach by Lessee of any covenant herein contained or of Lessor's right to re-enter for breach of condition. Waiver by Lessor of any breach by Lessee shall not operate to extinguish the term, covenant or condition, the breach whereof has been waived, nor be deemed to be a waiver of Lessor's right to declare a forfeiture for any other breach thereof.

ARTICLE IX MISCELLANEOUS

- Approval and Consent. Except as expressly provided herein, no approval or consent of Lessor required by any provision hereof shall be unreasonably or arbitrarily withheld, delayed or conditioned. Lessor shall use its reasonable best efforts to cooperate with Lessee in expediting all reasonable requests for approval or consent, and, if such approval or consent is refused, Lessor shall so state in writing and give its reasons therefor; provided, however, that in those instances wherein Lessor has reserved the arbitrary right to grant or withhold its consent or approval, no reason need be given. if Lessor shall fail to so approve or disapprove any request for approval or consent within thirty (30) days after the date on which notice of such request is given to Lessor as provided herein, together with documents and information reasonably necessary for Lessor to determine such matter (or within such other time as Lessor and Lessee shall mutually in writing agree), such request shall be deemed approved and such consent shall be deemed given.
- 9.2 <u>Assumption of Risk</u>. Lessee assumes all risk of loss or damage to furnishings, furniture, fixtures, equipment, supplies, merchandise and other property, by whomsoever owned, which is stored or placed on the Premises and does hereby agree that Lessor shall not be responsible for any loss or damage to any such property other than as a result of the gross

negligence or wilful misconduct of Lessor or Lessor's agents, contractors, employees or affiliates and not at the direction or behest of Lessee, and Lessee hereby agrees to indemnify and save harmless Lessor from and against any and all claims for such loss or damage, except for damage attributable to Lessee as specified.

- 9.3 <u>Modification of Lease</u>. At Lessee's request, in the event a modification of this Lease is necessary to secure mortgage financing for the construction of the Improvements from any Lender, Lessor will agree to modify this Lease to the extent reasonably necessary to secure such financing, provided that such modifications will not result in any lengthening of the Term nor adversely affect in any material respect any rights of Lessor under this Lease.
- 9.4 <u>Cancellation Not Merger</u>. The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation hereof, or the termination hereof by Lessor pursuant to any provision contained herein, shall not work a merger, but at the option of Lessor shall either terminate any or all existing subleases or subtenancies hereunder, including, without limitation, any life care contracts, or operate as an assignment to Lessor of any or all of such subleases or subtenancies, including, without limitation, life care contracts. Nothing herein contained shall be deemed or construed to require Lessor under any circumstances to assume or accept assignment of any life care contracts nor to permit attornment or any holding over by the holders thereof.
- Notices. Any notice, demand or other communication (in this section, collectively, "notice") to Lessor, Lessee or Lender provided for or permitted by this Lease shall be given in writing (unless otherwise expressly provided), and may be: (a) mailed by United States registered or certified mail, return receipt requested, addressed to such party at its post office address herein specified or the last such address designated by such party in writing to the other; or (b) delivered personally to any officer of the party to be notified, if such party is a corporation or any general partner of a party to be notified if such is a partnership, as the case may be; or (c) sent by overnight delivery, addressed to the party to be notified at the address hereinafter specified. Any such written notice shall be deemed received at the time of such personal delivery, or at 5:00 P.M. on the third business day after being deposited with the United States mail as aforesaid, or on the business day after deposit thereof with an overnight courier delivery service, as the case may be.

Lessor:

Intercity Investment Properties, Inc.

ATTN: Edwin B. Jordan, Jr.

4301 Westside Drive Dallas, Texas 75209

Lessee:

Northwest Senior Housing Corporation

ATTN: Charles B. Brewer

2711 LBJ Freeway

Suite 950

Dallas, Texas 75234

With copies to:

Michael B. Lanahan Greystone Communities 222 W. Las Colinas Blvd.

Suite 2100

Irving, Texas 75039

and

Peter J. Riley, Esq. Thompson & Knight

1700 Pacific Avenue, Suite 3300

Dallas, Texas 75201-4693

Lender:

Chase Bank of Texas, N.A. Attn: Mr. Dennis Roemelin 600 Travis Street, Suite 1150 Houston, Texas 77002

- Questruction. This Lease is the product of extensive negotiations in which Lessor and Lessee are represented by legal counsel of their choice. Lessor and Lessee enter into this Lease freely and after consultation with counsel and other professional advisors. Neither Lessor nor Lessee is acting under duress or compulsion. Accordingly, neither Lessor nor Lessee shall be deemed the drafter of this Lease and neither this Lease nor any provision hereof shall be construed against either Lessor or Lessee as drafter.
- 9.7 No Partnership Intended. Lessor and Lessee agree that Lessor in no event and for no purpose is a partner of Lessee in the conduct of any of its businesses or other affairs or joint ventures or members of a joint enterprise with Lessee. The relationship of the parties is that of landlord and tenant.
- 9.8 Governing Law and Venue. This Lease and all of its provisions shall be governed by and construed in accordance with the law of the State of Texas other than that which would require reference to the law of another jurisdiction. The venue for any action with respect to this Lease shall be in Dallas County, Texas.
- 9.9 <u>Waiver of Jury Trial</u>. Lessor and Lessee each hereby voluntarily and knowingly waive and relinquish its right to a trial by jury in any action, proceeding or counterclaim brought by either against the other as to any matter whatsoever arising out of or in any way connected with this Lease.
- 9.10 <u>Time Is Of The Essence</u>. Time is expressly declared to be of the essence of this Lease and the performance and observance of all of the terms, covenants and conditions of this Lease.
- 9.11 <u>Memorandum of Lease</u>. Lessee shall not record this Lease without the prior written consent of Lessor, which consent Lessor may arbitrarily withhold; provided, however, that concurrently with the execution of this Lease, Lessor and Lessee shall join in the execution of a memorandum of this Lease (the "Memorandum") for the purpose of recordation in the

- form attached hereto as <u>Exhibit "E"</u> and made a part hereof and such Memorandum shall be promptly recorded in the Real Property Records of Dallas County, Texas in connection with the inception hereof.
- 9.12 <u>Captions and Headings.</u> The captions and headings of the Articles, Sections and subsections of this Lease are inserted only for convenience and reference and shall in no way define, expand or limit the scope or intent of any provisions of this Lease.
- 9.13 <u>Copies</u>. Wherever in this Lease it is provided that Lessor or Lessee shall provide a copy of any instrument, document or report, the copy shall be full, true and complete, with all of its exhibits, appendices and schedules. The recipient also shall be entitled to receive a copy of any matter cross-referenced or referred to in any instrument, document or report required to be given it hereunder.
- 9.14 Estoppel Certificates. Each party will, from time to time upon reasonable written request therefor from the other party or its Lender(s) or mortgagee(s), furnish to the other party or its Lender or mortgagee an estoppel certificate duly executed and acknowledged and certifying (a) that the Lease is unmodified and in full force and effect or if the Lease has been modified, is in full force and effect as modified and identifying the modifications; (b) whether or not there is, to such party's knowledge, then any default of this Lease by the other party or, to the party's knowledge, any condition which with the passage of time or delivery of notice would become a default, and, if so specifying, the nature thereof, (c) the dates to which rent and any other charges payable under the Lease have been paid; and (d) such other information as may reasonably be requested. Lessor and Lessee will furnish their estoppel certificates without any charge.
- 9.15 <u>Lease Prior To Any Mortgages Or Security Interest On Fee</u>. At all times while this Lease remains in effect, the Lease and the Leasehold Estate established under this Lease shall be prior and superior to any mortgages or other security interests granted by Lessor on Lessor's fee simple interest in the Land.
- 9.16 Lessor's Representations and Warranties. Lessor represents and warrants to Lessee, which representations and warranties shall survive the commencement of this Lease, that the person signing this Lease on behalf of Lessor is authorized to do so, that Lessor has full right and authority to enter into this Lease, and that the execution, consent or acknowledgment of no other person is necessary in order to validate the execution of this Lease by Lessor. Upon full execution, this Lease shall be valid, legally binding and enforceable against Lessor according to the terms of this Lease.
- 9.17 <u>Lessee's Representations and Warranties</u>. Lessee represents and warrants to Lessor, which representations and warranties shall survive the commencement of this Lease, that the person signing this Lease on behalf of Lessee is authorized to do so, that Lessee has full right and authority to enter into this Lease, and that the execution, consent or acknowledgment of no other person is necessary in order to validate the execution of this Lease by Lessee. Upon full execution, this Lease shall be valid, legally binding and enforceable against Lessee according to the terms of this Lease.

9.18 Entire Agreement, Binding Effect. This Lease and those provisions of the Option Agreement continuing thereunder as provided therein and those leases and service contracts to be assumed by Lessee hereunder constitute a complete integration of all prior agreements between Lessor and Lessee and the entire agreement of Lessor and Lessee, and supersedes all oral and written agreements and understandings made and entered into by the parties or their agents. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by each of them. This Lease shall be binding upon and inure to the benefit of the Lessor and Lessee and their respective successors and assigns or permitted assigns. Whenever the term "Lessee" shall refer to more than one person or entity, the covenants and agreements of the Lessee shall be jointly and severally binding upon each such person or entity.

Lessor:

INTERCITY INVESTMENT PROPERTIES, INC.

Edwin B. Jordan, Jr., President

Case 22-00050-mvl Doc 1000:19651:04/154602121203602ed (154/154/2021120/2530/20271417220)06442 10fe \$6 Exhibit A Page 42 of 76

Lessee:

Northwest Senior Housing Corporation

Charles B. Brewer, President

EXHIBIT "A" TO GROUND LEASE

The Land

TRACT I

Being Lots 1 thru 7, Block 8/5464 of PRESTONVILLE, an Addition to the City of DALLAS, DALLAS County, Texas, according to the Plat thereof recorded in Volume 12, Page 83, Map Records, DALLAS County, Texas.

TRACT II

Being Lots 1 thru 8, Block 9/5464 of PRESTONVILLE, an Addition to the City of DALLAS, DALLAS County, Texas, according to the Plat thereof recorded in Volume 12, Page 83, Map Records, DALLAS County, Texas.

Provided, if abandonment is successful and the Owner acquires title to the alleyways and part of Beauregard Drive, both within the above described area, the portion thereof abandoned by the City of Dallas and acquired by Owner shall be a part of the Land subject to lease.

(TO BE REPLACED WHEN THE LAND IS REPLATTED)

EXHIBIT "B" TO GROUND LEASE

Permitted Exceptions

- 1. Standby fees, taxes and assessments by any taxing authority for the year 1999, and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership.
- 2. Lease of laundry facilities granted to UNITED COIN METER COMPANY, INC. by instrument dated March 31, 1976, filed May 19, 1976, recorded in Volume 76097, Page 2079, Deed Records, Dallas County, Texas, as noted on the Survey.
- 3. The following easement(s) and/or building lines, as shown on plat recorded in Volume 12, Page 83, Map Records, Dallas County, Texas, and as shown on survey prepared by John R. Piburn, RPLS No. 3689, dated November 16, 1997, hereinafter the "Survey", to-wit:
 - a. 25 foot building line along the East property line of Lots 2, 4, 6, Block 8/5464.
 - b. 25 foot building line along the North property line of Lots 1 and 2, Block 8/5464.
 - c. 25 foot building line along the West property line of Lots 1, 3, 5 and 7, Block 8/5464.
 - d. 25 foot building line along the South property line of Lots 6 and 7, Block 8/5464.
 - e. 25 foot building line along the East property line of Lots 2, 4, 6 and 8, Block 9/5464.
 - f. 25 foot building line along the North property line of Lots 1 and 2, Block 9/5464.
 - g. 25 foot building line along the West property line of Lots 1, 3, 5 and 7, Block 9/5464.
 - h. 25 foot building line along the South property line of Lots 7 and 8, Block 9/5464.
 - i. 20 foot alleys between odd and even numbered lots.
- 4. Right of Entry granted to WARNER AMEX CABLE COMMUNICATIONS, INC. by instrument dated December 2, 1981, filed June 23, 1982, recorded in Volume 82123, Page 0112, Deed Records, Dallas County, Texas, as noted on the Survey.
- 5. Rights of tenants in possession, as tenants only, under any unrecorded written rental or lease agreements.

EXHIBIT "C" TO GROUND LEASE

Ordinance for Abandonment of Beauregard Drive

Attached following this cover page



CITY OF DALLAS

October 22, 1999

Intercity Investment Properties % H. Louis Nichols Nichols, Jackson, Dillard, Hager & Smith, L.L.P. 1800 Lincoln Plaza 500 North Akard Street Dallas, Texas 75201

Re:

Log 16758 - Abandonment Request - Beauregard Drive and alley rights-of-way

Dear Mr. Nichols:

Enclosed is a copy of a proposed ordinance which, if approved by the City Council, will abandon a portion Beauregard Drive and alley rights-of-way containing approximately 79,074 square feet of land located near Northwest Highway between Thackery Street and Edgemere Road to Intercity Investment Properties. A portion of the proposed abandoned area will be exchanged for the dedication of approximately 9,125 sq. ft. land needed for street right-of-way and approximately 21,958 sq. ft. feet of land dedicated as a private drive and utility easement, totaling a dedication of 31,083 sq. ft. of land.

Please review this document and, if all is acceptable, have this letter, and the "No Conflict of Interest" statement signed by the appropriate individual where indicated below and return it, along with your **cashier's check** in the amount of \$428,390 (79,074 sq. ft. - 31,083 sq. ft. = 47,991sq. ft. X 10.50 p.s.f. X 85%, plus the \$20.00 ordinance publication fee and \$50.00 recording fees) to the attention of the undersigned.

ALL TAXES OWED MUST BE PAID AND ALL OUTSTANDING CODE VIOLATIONS MUST BE RESOLVED PRIOR TO SCHEDULING THIS ITEM FOR ANY CITY COUNCIL AGENDA.

When this letter and "No Conflict of Interest" statement are returned properly executed and said cashier's check in the amount of \$428,390 are received, this matter will be placed on the earliest possible City Council Agenda. All items must be received upon receipt, in order to make the November 10, 1999 agenda.

Thanks for your cooperation. If you have any question, please call me at 948-4086.

Sincerely.

Ernestine E. Tucker

Sr. Real Estate Specialist

enclosure:

We have reviewed the proposed ordinance attached hereto and find all of its terms and conditions acceptable and are enclosing the executed "No Conflict of Interest" statement and a **cashier's check** in the amount of \$428,390. We are still the current owners of the abutting property adjacent to the proposed abandoned area.

Intercity Investment Properties Z.

By: Name: Title:

_(print)

_(print)

NO "CONFLICT OF INTEREST" STATEMENT

REVISED 5-18-92

we_			agree to the following
•	Neither I/v Council ap	ve, nor my/our spouse(s), is/ar opointed member of any board	re a City of Dallas officer, employee or City
	The grant City charte	of this application would not ver which follows:	violate Chapter XXII, Sec. 11 of the Dallas
			TY CHARTER XXII, SEC. 11.
•	SEC. 11.	FINANCIAL INTEREST OF EMPL	OYEE OR OFFICER PROHIBITED.
	(a) No officer or employee shall have any financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or services, except on behalf of the city as an officer or employee. Any violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit the officer's or employee's office or position with the city. Any violation of this section, with knowledge, express or implied, of the person or corporation contracting with the city shall render the contract involved voidable by the city manager or the city council.		
	man De	ne alleged violations of this section sha pard in the case of employees who ha city council in the case of other emp	all be matters to be determined either by the ve the right to appeal to the trial board, and loyees.
	mi iede	e prohibitions of this section shall not erally-funded housing programs, to th aw. (Amend. of 8-12-89, Prop. No. 1	apply to the participation by city employees e extent permitted by applicable federal or ; Amend. of 8-12-89, Prop. No. 15)
i	Dallas office neither I/we,	r, employee or board or comminor my/our spouse(s), have fire partnership, corporation or	other person, partnership, corporation or ned or my/our spouse(s) is/are a City of ission member, I/we swear and affirm that nancial interest, direct or indirect, with the r other business on whose behalf this
<u></u>	Signature	Jeff Tiles	Signature
F	Printed Name	e: Plana T. Jana T.	Printed Name:
	دے کا _Title:		

ORDINANCE NO	ORDINANCE N	D
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An ordinance providing for the abandonment of Beauregard Drive and alley rights-of-way located in and adjacent to City Block 8/5464 and 9/5464 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Intercity Investment Properties, Inc.; providing for the terms and conditions of the abandonment and quitclaim made herein; providing for barricading; providing for the indemnification of the City of Dallas against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Dallas; providing for the payment of the publication fee; and providing an effective date.

0000000

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Intercity Investment Properties, Inc., a Texas corporation, hereinafter referred to as GRANTEE, deems it advisable to abandon and quitclaim the hereinafter described tracts of land to GRANTEE, and is of the opinion that said street and alley rights-of-way are not needed for public use, and same should be abandoned and quitclaimed to GRANTEE, as hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the public will be served by abandoning and quitclaiming the same to GRANTEE for the consideration hereinafter more fully set forth; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the tracts of land described in Exhibit A, which is attached hereto and made a part hereof, be and the same are abandoned, vacated and closed insofar as the right, title and interest of the public are concerned; subject, however, to the conditions hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of FOUR HUNDRED TWENTY-EIGHT THOUSAND THREE HUNDRED TWENTY AND NO/100 (\$428,320.00) DOLLARS paid by GRANTEE, and the further consideration described in Sections 8, 9,

10, 11, and 12 the City of Dallas does by these presents FOREVER QUITCLAIM unto the said **GRANTEE**, subject to the conditions, reservations, and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all of its right, title and interest in and to those certain tracts or parcels of land hereinabove described in Exhibit A. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions and conditions of this ordinance.

SECTION 4. That the City Controller is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the Property Management Fund 0001, Agency PGT, Balance Sheet 0519 and Property Management shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in Fund 0001, Agency PGT, Org. 1301, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0525, Agency BMS, Org. 8888, Revenue Source 8416.

SECTION 5. That the abandonment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise, and are further subject to the conditions contained in Exhibit B, which is attached hereto and for all intents and purposes made a part hereof.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. That the abandonment and quitclaim provided for herein shall extend only to the public right, title, easement and interest, and shall be construed to extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon and vacate.

SECTION 8. That as a condition of this abandonment and as a part of the consideration for the quitclaim to GRANTEE herein, GRANTEE, its successors and assigns, agree to indemnify, defend, release and hold the City of Dallas whole and harmless against any and all claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the property described in Exhibit A by GRANTEE, its successors and assigns; (ii) the presence. generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the area set out in Exhibit A, (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas described in Exhibit A, which GRANTEE agrees to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the areas set out in Exhibit A. GRANTEE hereby agrees to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgement or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substance" under the Comprehensive, Environmental Response, Compensation Liability Act, 42 U.S.C. Section 9601 et seq., as amended, (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended, (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils, (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended, (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance" under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

SECTION 9. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall:

- a) file a final replat of the adjoining properties within one year after passage of this ordinance showing the dedication of:
 - not less than approximately 21, 958 square feet of land as a private drive and utility easement located in City Block 9/5464 with alignments acceptable to the Director of Public Works & Transportation. The private drive and utility easement shall expressly provide for private service easements including, but not limited to utilities, fire lanes, street lighting, government vehicle access, mail collection and delivery access and utility meter reading access; and
 - 2) approximately 8,786 square feet of land, as street rights-of-way located in City Block 9/5464; and
 - 3) three 15' X 15' corner clips at Beauregard Avenue and Thackery Street and Northwest Highway and its intersection with Edgemere Road and Thackery Street.

This final replat shall be recorded by **GRANTEE** in the Deed Records of Dallas County, Texas after its approval by the City Plan Commission of the City of Dallas. Failure to record a final replat in accordance with the term of this section shall render this ordinance null and void, and of no further effect. Further, the final replat shall be filed with the Planning and Development Department of the City of Dallas before a certified copy of this ordinance shall be delivered to **GRANTEE**; and

- b) provide and construct within two years after passage of this ordinance a private drive and utility easement containing not less than 21,958 square feet of land, adequate to serve the development as determined by the Building Official of the City of Dallas; and
 - assume full responsibility for maintenance of the private drive; The private drive and utility easement is to be built within the easements to be dedicated as specified in Section 9a)1) herein, to the same specifications as a street dedicated to public use; with a minimum width of 24 feet (no curb requirement, when adjacent to parking), and a minimum width of 20 feet (with a curb requirement when not adjacent to parking). Failure by **GRANTEE**, its successors and assigns, to comply with this provision within two years from the passage of this ordinance, shall render this ordinance null and void and at no further effect; and

- submit detailed plans for the private drive and utility easement to the Director of Public Works and Transportation, or his designee, for review and approval, and execute a private development contract for the construction of the proposed private drive and utility easement; and
- construct the private drive and utility easement in accordance with the approved plans and executed private development contract, and have all work accepted in writing by the Director of Public Works and Transportation or his designee. Failure to construct the private drive and utility easement as set forth herein, shall render this ordinance null and void and of no further effect; and
- c) install signs denoting the private drive as "private" in accordance with plans approved by the Director of Public Works and Transportation, or his designee; and
- d) provide a means of access for sanitation collection acceptable to the Department of Street, Sanitation and Code Enforcement; and
- e) locate all utility and communication facilities, including but not limited to Southwestern Bell Telephone Company facilities prior to any construction within the abandonment area; and
- f) comply with the Uniform Fire Code and Uniform Building Code for any new construction within or adjacent to the abandoned area; and
- g) comply with Dallas Fire Department Standard No. 4, "Security Gates" of the Uniform Fire Code, Section 10.205 for any access security gates and fencing; and
- h) copies of the replat must be submitted to the Fire Department for review of any proposed new construction within or adjacent to the abandoned area during the routing of the replat; and
- i) contact the Local One Call System at 1-800/344-8377 and Lone Star Gas at 214/426-7051 at least 48 hours prior to any construction; and

SECTION 10. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, the private drive and utility easement, as set forth in Section 9a), is restricted to residential uses only, for a period of forty years from the date of

passage of this ordinance, unless such use restriction is sooner removed by ordinance duly passed by the City Council of the City of Dallas and payment of the abandonment fee calculated in accordance with the requirements of the Dallas City Code at the time of request. Upon receipt of a certified copy of this ordinance GRANTEE shall record this ordinance in the Deed Records of Dallas County, Texas. Failure by GRANTEE, its successors and assigns to comply with these restrictions shall render this ordinance null and void and of no further effect. The City shall have the exclusive right to enforce these use restrictions, by any lawful means, including filing an action in a court of competent jurisdiction at law or at equity, against GRANTEE or any other person violating or attempting to violate these use restrictions.

SECTION 11. That as a condition of this abandonment and as a part of the consideration for the quitclaim to GRANTEE herein, GRANTEE shall, keep and maintain the existing streets and alleys described in Exhibit A open and usable for emergency vehicle access (police, fire and ambulance services) and governmental vehicle access (mail collection, sanitation collection, utility meter access, etc.) during any demolition and any redevelopment of the abutting properties until the new private drive is dedicated and constructed by GRANTEE and accepted by the City. The governmental vehicular access reserved herein shall terminate upon the completion of construction and acceptance of the new private drive by the City.

SECTION 12. That as a condition of the abandonment and as a part of the consideration for the quitclaim made herein, GRANTEE, shall, upon the filing of a final replat as set forth in Section 9a) close, barricade and/or place signs in the areas described in Exhibit A in accordance with detailed plans approved by the Director of Public Works and Transportation, subject to providing for adequate access for emergency vehicles (police, fire and ambulance services). GRANTEE's responsibility for keeping the area described in Exhibit A closed, barricaded (except to emergency vehicles) and/or signs in place shall continue until the street improvements and intersection returns are removed by GRANTEE, its successors and assigns, to the satisfaction of the Director of Public Works & Transportation.

SECTION 13. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Property Management Director, or her designee. Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which GRANTEE shall likewise pay, and the filing of the final replat set forth in Section 9a), the Property Management Director, or her designee: (i) shall deliver to GRANTEE a certified copy of this ordinance, and (ii) is authorized to prepare and deliver a QUITCLAIM DEED with regard to the areas abandoned herein, should such be requested by GRANTEE hereunder, same to be executed by the City Manager on behalf of the City of Dallas, attested by the City Secretary and approved as to form by the City Attorney. The Property Management Director, or her designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 14. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:	
MADELEINE B. JOHNSON,	PROPERTY MANAGEMENT DIRECTOR
City Attorney	400
BY ments a Start want	- Blady Bowens
Assistant City Attorney	for GAY DEHOFF
Passed	

L. Unly "15/96

EXHIBIT A

TRACT 1

STREET ABANDONMENT
33,206 sq. ft. (0.7623 acres)
BEAUREGARD DRIVE
between Blocks 9/5464 and 8/5464
City of Dallas
Dallas County, Texas

BEING a 33,206 square feet (0.7623 acre) tract of land situated in the J.M. McDowell Survey, Abstract No. 922, Dallas County, Texas, further being all of that portion of Beauregard Drive (50' R.O.W.) which lies between Block 9/5464 and Block 8/5464 of Prestonville Addition, an addition to the City of Dallas according to the plat thereof recorded in Volume 12, Page 83, Map Records, Dallas County, Texas, bounded on the north by the south line of Bandera Avenue (60' R.O.W.) and on the south by the north line of Northwest Highway (150' R.O.W.), and being more particularly described as follows:

BEGINNING at a brass highway monument found for corner in the north line of said northwest highway and being the southeast corner of said Block 9/5464, further being the southeast corner of Lot 8, Block 9/5464, of said addition as conveyed to Corrigan Properties, Inc. (subsequently renamed InterCity Investment Properties, Inc.) by Special Warranty Deed recorded in Volume 69194, Page 0065, Deed Records, Dallas County, Texas;

THENCE N00°28'33"E departing the north line of said Northwest Highway and along the east lines of Lots 8,6,4, and 2 of Block 9/5464 as conveyed to Corrigan Properties, Inc. by said Special Warranty Deed, a distance of 664.12 feet to a 5/8" iron rod with red cap stamped "RPLS 4625" set for corner in the south line of the aforementioned Bandera Avenue and being the northeast corner of said Block 9/5464;

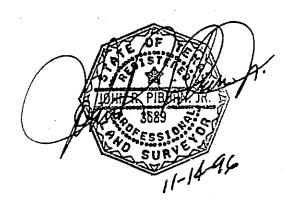
THENCE S89°44'30"E along the said south line of Bandera Avenue, a distance of 50.00 feet to a 5/8" iron rod with red cap stamped "RPLS 4625" set for corner at the northwest corner of the aforementioned Block 8/5464;

EXHIBIT A TRACT 1

THENCE S00°28'33"W departing the said south line of Bandera Avenue and along the west lines of Lots 1,3,5, and 7 of Block 8/5464 as conveyed to Corrigan Properties, Inc. by said Special Warranty Deed, a distance of 664.13 feet to a brass highway monument found for corner in the north line of the aforementioned Northwest Highway and being the southwest corner of said Block 8/5464;

THENCE N89°44'00"W along the said north line of Northwest Highway, a distance of 50.00 feet to the POINT OF BEGINNING and containing 33,206 square feet or 0.7623 acres of land, more or less.

*Bearings are based upon the north line of Northwest Hwy. (N89°44'00"W) as recorded by plat of PRESTONVILLE ADDITION in Vol.12, Pg.83, Map Records, Dallas County, Texas.



Case 22-09059-mvl:10cc De2c 196531 04/1F41602 121236202cd 0E2/1024202 1202530227 14 122006457 De36 Exhibit A Page 57 of 76 STREET ABANDONMENT TRACT 1 EXHIBIT 33,206 sq. ft. (0.7623 acres) BEAUREGARD DRIVE between Blocks 9/5464 and 8/5464 City of Dallas Dallas County, Texas 200 1" 100' SCALE: BANDERA AVENUE NOTES: irs = 5/8" iron rod w/red cop S 89'44'30" E stamped "RPLS 4625" 50.00 Bearings are based upon the north line of Northwest Hwy. (N89'44'00"W) as recorded by plat of PRESTONVILLE Φ LOT 1 ADDITION in Vol.12, Pg.83, LOT 2 Ü Map Records, Dallas County, Texas. O. 3 2 TO TO တ Corrigan Properties, Inc. Corrigan Properties, Inc. Vol.69194, Pg.0065 Vol.69194, Pg.0065 subsequently renamed subsequently renamed InterCity Investment Properties, Inc. InterCity Investment Properties, Inc. ハロコ LOT 3 LOT 4 BLOCK 8/5464 BLOCK 9/5464 20' ALLEY 20' ALLEY PRESTONVILLE ADDITION 00"28"33" PRESTONVILLE ADDITION VOL12, PG83 VOL12, PG83 LOT 5 LOT 6 TO TO Corrigon Properties, Inc. Corrigan Properties, Inc. Vol.69194, Pg.0065 Vol.69194, Pg.0065 subsequently renamed subsequently renamed InterCity Investment Properties, Inc. InterCity Investment Properties, Inc. σ S 0 O LOT. 7 LOT 8 2 POINT OF BEGINNING brass highway dept. manument lound 89°44'00" W 50.00 **NORTHWEST HIGHWAY**

150' R.O.W.

EXHIBIT A TRACT 2

ALLEY ABANDONMENT
23,202 sq. ft. (0.5326 acres)
Block 9/5464
City of Dallas
Dallas County, Texas

BEING a 23,202 square feet (0.5326 acre) tract of land situated in the J.M. McDowell Survey, Abstract No. 922, Dallas County, Texas, further being all of those two 20' Alleys which lie within Block 9/5464 of Prestonville Addition, an addition to the City of Dallas according to the plat thereof recorded in Volume 12, Page 83, Map Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 60d nail set for corner in the north line of Northwest Highway (150' R.O.W.) and being the southeast corner of Lot 7, Block 9/5464;

THENCE N00°28'33"E departing the said north line of Northwest Highway and along the east lines of Lots 7 and 5 of Block 9/5464, as conveyed to Corrigan Properties, Inc. (subsequently renamed InterCity Investment Properties, Inc.) by Special Warranty Deed recorded in Volume 69194, Page 0065, Deed Records, Dallas County, Texas, a distance of 321.68 feet to a pk nail set for corner at the northeast corner of said Lot 5;

THENCE N89°44'30"W along the north line of said Lot 5, a distance of 248.00 feet to an "x" cut set for corner in the east line of Edgemere Road (100' R.O.W.);

THENCE N00°28'33"E along the said east line of Edgemere Road, a distance of 20.00 feet to an "x" cut set for corner at the southwest corner of Lot 3, Block 9/5464 as conveyed to Corrigan by the aforementioned Deed;

THENCE S89°44'30"E along the south line of said Lot 3, a distance of 248.00 feet to a pk nail set for corner at the southeast corner of said Lot 3;

THENCE N00°28'33"E along the east line of said Lot 3 and the east line of Lot 1, Block 9/5464 as conveyed to Corrigan by said Deed, a distance of 322.40 feet to an "x" cut set for corner in the south line of Bandera Avenue (60' R.O.W.) at the northeast corner of said Lot 1;

THENCE S89°44'30"E along the south line of said Bandera Avenue, a distance of 20.00 feet to an "x" cut set for corner at the northwest corner of Lot 2, Block 9/5464 as conveyed to Corrigan by said Deed;

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EXHIBIT A TRACT 2

THENCE S00°28'33"W along the west line of said Lot 2 and Lot 4 as conveyed to Corrigan by said Deed, a distance of 322.40 feet to a pk nail set for corner at the southwest corner of said Lot 4;

THENCE S89°44'30"E along the south line of said Lot 4, a distance of 248.00 feet to a pk nail set for corner in the west line of Beauregard Drive (50' R.O.W.) at the southeast corner of said Lot 4:

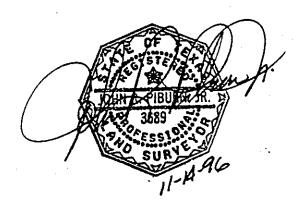
THENCE S00°28'33"W along the said west line of Beauregard Drive, a distance of 20.00 feet to an "x" cut set for corner at the northeast corner of Lot 6, Block 9/5464, as conveyed to Corrigan by the aforementioned Deed;

THENCE N89°44'30"W departing the said west line of Beauregard Drive and along the north line of said Lot 6, a distance of 248.00 feet to a pk nail set for corner at the northwest corner of said Lot 6;

THENCE S00°28'33"W along the west line of said Lot 6 and Lot 8 as conveyed to Corrigan by said Deed, a distance of 321.68 feet to an "x" cut set for corner in the aforementioned north line of Northwest Highway, at the southwest corner of said Lot 8;

THENCE N89°44'00"W along the said north line of Northwest Highway, a distance of 20.00 feet to the POINT OF BEGINNING and containing 23,202 square feet or 0.5326 acres of land, more or less.

*Bearings are based upon the north line of Northwest Hwy. (N89°44'00"W) as recorded by plat of PRESTONVILLE ADDITION in Vol.12, Pg.83, Map Records, Dallas County, Texas.



Case 22-00059-mvl 121.0c De2c F916551 D4/F41632 12E33622ed 0E4/f64632 11202530247 14F226916460 De36 Exhibit A Page 60 of 76 ALLEY ABANDONMENT TRACT 2 EXHIBIT A 23,202 sq. ft. (0.5326 acres) Block 9/5464 City of Dallas Dallas County, Texas 200 100 1" BANDERA AVENUE 100 SCALE: NOTES: S 89'44'30" E 20.00 Bearings are based upon the north line of Northwest Hwy. (N89°44'00"W) as recorded by plat of PRESTONVILLE ADDITION in Vol.12, Pg.83, Map Records, Dallas County, LOT 2 LOT 1 Texas TO Corrigan Properties, Inc. Corrigan Properties, Inc. Vol.69194, Pg.0065 Vol.69194, Pg.0065 subsequently renamed subsequently renamed InterCity Investment Properties, Inc. InterCity Investment Properties, Inc. BEAUREGARD DRIVE LOT 3 LOT 4 S BLOCK SEMERE ROA VOL12, PG83 PRESTONVILLE ADDITION 00'28'33" 20.00 pk_nelS_89'44'30" E - 248.00pk_nel cuS 89*44'30" E - 248.00 acres ****N 89*44*30* ***N 89*44'30" W - 248.00" *** ഗ z 8/5464 LOT 6 LOT 5 TO TO Corrigan Properties, Inc. Corrigan Properties, Inc. ₹ Vol.69194, Pg.0065 Vol.69194, Pg.0065 subsequently renamed subsequently renamed InterCity Investment Properties, Inc. InterCity Investment Properties, Inc. 19 00.28 S LOT 8 LOT 7 POINT OF BEGINNINGS 248.00 N 89 44 00 W

NORTHWEST HIGHWAY

20.00

115/9c

EXHIBIT A TRACT 3

ALLEY ABANDONMENT
22,666 sq. ft. (0.5203 acres)
Block 8/5464
City of Dallas
Dallas County, Texas

BEING a 22,666 square feet (0.5203 acre) tract of land situated in the J.M. McDowell Survey, Abstract No. 922, Dallas County, Texas, further being all of those two 20' Alleys which lie within Block 8/5464 of Prestonville Addition, an addition to the City of Dallas according to the plat thereof recorded in Volume 12, Page 83, Map Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at an "x" cut set for corner in the north line of Northwest Highway (150' R.O.W.) and being the southeast corner of Lot 7, Block 8/5464;

THENCE N00°28'33"E departing the said north line of Northwest Highway and along the east lines of Lots 7 and 5 of Block 8/5464, as conveyed to Corrigan Properties, Inc. (subsequently renamed InterCity Investment Properties, Inc.) by Special Warranty Deed recorded in Volume 69194, Page 0065, Deed Records, Dallas County, Texas, a distance of 321.76 feet to an "x" cut set for corner at the northeast corner of said Lot 5;

THENCE N89°44'30"W along the north line of said Lot 5, a distance of 248.53 feet to an "x" cut set for corner in the east line of Beauregard Drive (50' R.O.W.);

THENCE N00°28'33"E along the said east line of Beauregard Drive, a distance of 20.00 feet to a pk nail set for corner at the southwest corner of Lot 3, Block 8/5464 as conveyed to Corrigan by the aforementioned Deed;

THENCE S89°44'30"E along the south line of said Lot 3, a distance of 248.53 feet to a pk nail set for corner at the southeast corner of said Lot 3;

THENCE N00°28'33"E along the east line of said Lot 3 and the east line of Lot 1, Block 8/5464 as conveyed to Corrigan by said Deed, a distance of 322.40 feet to an "x" cut set for corner in the south line of Bandera Avenue (60' R.O.W.) at the northeast corner of said Lot 1;

THENCE S89°44'30"E along the south line of said Bandera Avenue, a distance of 20.00 feet to an "x" cut set for corner at the northwest corner of Lot 2, Block 8/5464 as conveyed to Corrigan by said Deed; ...

EXHIBIT A TRACT 3

THENCE S00°28'33"W along the west line of said Lot 2 and Lot 4 as conveyed to Corrigan by said Deed, a distance of 322.40 feet to an "x" cut set for corner at the southwest corner of said Lot 4;

THENCE S89°44'30"E along the south line of said Lot 4, a distance of 226.60 feet to an "x" cut set for corner in the curving west line of Thackery Street (60' R.O.W.) at the southeast corner of said Lot 4;

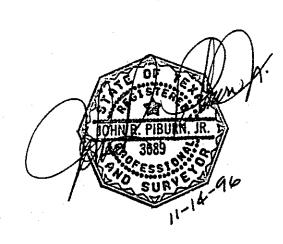
THENCE along the said west line of Thackery, with a non-tangent curve to the right which has a central angle of 04°46′33", a radius of 283.00 feet, and a chord which bears S32°15′12"W - 23.58 feet, an arc distance of 23.59 feet to an "x" cut set for corner at the northeast corner of Lot 6, Block 8/5464, as conveyed to Corrigan by the aforementioned Deed;

THENCE N89°44'30"W departing the said curving west line of Thackery Avenue and along the north line of said Lot 6, a distance of 214.18 feet to an "x" cut set for corner at the northwest corner of said Lot 6;

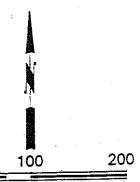
THENCE S00°28'33"W along the west line of said Lot 6, a distance of 321.77 feet to an "x" cut set for corner in the aforementioned north line of Northwest Highway, at the southwest corner of said Lot 6;

THENCE N89°44'00"W along the said north line of Northwest Highway, a distance of 20.00 feet to the POINT OF BEGINNING and containing 22,666 square feet or 0.5203 acres of land, more or less.

*Bearings are based upon the north line of Northwest Hwy. (N89°44'00"W) as recorded by plat of PRESTONVILLE ADDITION in Vol.12, Pg.83, Map Records, Dallas County, Texas.



for the way "15/96



100

ALLEY ABANDONMENT 22,666 sq. ft. (0.5203 acres) Block 8/5464 City of Dallas Dallas County, Texas

EXHIBIT A TRACT 3

BANDERA AVENUE

S 89"44"30" E

60' R.O.W.

20.00

Bearings are based upon the north line of Northwest Hwy. (N89*44'00"W) as recorded by plat of PRESTONVILLE ADDITION in Vol.12. Pg.83. Map Records, Dallas County, Texas.

1"

SCALE:

OTES:

50' R.O **00'28'** 20.0 Z

THACKERY STR LOT 2 LOT 1 TO TO Corrigan Properties, Inc. Corrigan Properties, Inc. Vol.69194, Pg.0065 Vol.69194, Pg.0065 subsequently renamed subsequently renamed InterCity Investment Properties, Inc. InterCity Investment Properties, Inc. 00 LOT 3 LOT 4 ဟ BLOCK VOL12, PG83 PRESTONVILLE ADDITION S 89*44"30" E - 226.60 nois 89°44'30" E - 248.53 acres SQ *** N 89*44*30" W - 248.53 *** Ñ 89°44'30" W 214.18/ Corrigon Properties, Inc. Vol.59194, Pg.Q655 subsequently renamed interCity Investment Properties, Inc. △=04°46'33" R=283.00 LOT 5 321 8/5464 L=23.59LC = 23.58TO CB=S 3215'12" LOT 6 Corrigan Properties, Inc. Vol.69194, Pg.0065 subsequently renamed InterCity Investment Properties, Inc 00.28 LOT 7 ഗ POINT OF BEGINNING 248.25

NORTHWEST HIGHWAY 150' R.O.W.

N 89'44'00" W 20.00

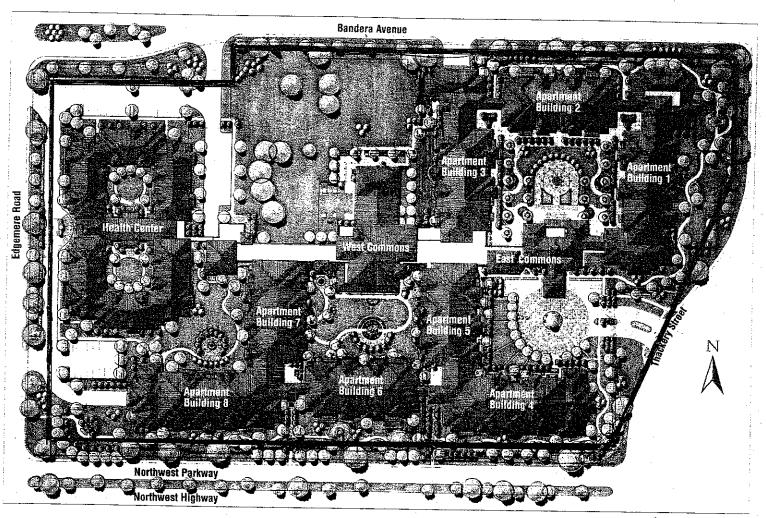
EXHIBIT B

ADDITIONAL ABANDONMENT PROVISIONS

That as a condition hereof, this abandonment is subject to any existing utilities or communication facilities, including water and wastewater lines, gas lines, and storm sewers ("Facilities"), presently located within the abandoned area, owned and/or operated by the City of Dallas or any utility or communications company, public or private, ("Utility") and to any vested rights presently owned by any Utility for the use of the abandoned area for Facilities presently located within the boundaries of said abandoned area; and the relocation, removal or adjustment of any or all such Facilities, if such relocation, removal or adjustment is made necessary by GRANTEE's (whether one or more natural persons or legal entities) use of said subject property, shall be at the expense of GRANTEE herein, or GRANTEE's successors and assigns. It is the intent of the foregoing that there shall be hereby reserved and excepted unto the City of Dallas, and not abandoned or conveyed hereunder, and to which the abandonment herein is made expressly subject, an easement for the Facilities, for each Utility, which, at the time of this abandonment, presently owns and/or operates Facilities over, under, through, across and along the abandoned area. No buildings shall be constructed or placed upon, over or across the easement. Any Utility shall have the right to remove and keep removed all or parts of any buildings which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective Facilities lying within the easement, and each Utility shall have the full right to remove and keep removed all or parts of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance and efficiency of its respective system and shall at all times have the full right of ingress and egress to or from and upon the easement for the purpose of constructing, relocating, inspecting, patrolling, maintaining and adding to or removing all or part of its Facilities without the necessity at any time of procuring the permission of anyone. All Utility easements are retained in the present owners until removal and relocation of the Facilities. Should the relocation or removal of the Facilities require the obtaining of new easements, the acquisition of same shall be at the expense of GRANTEE, GRANTEE's successors and assigns. If any of the Facilities (or relocations thereof) are allowed to remain on such property, such easements and building restrictions shall remain thereon. Upon removal or relocation of all of the Facilities any easements reserved or created herein, relating to such removed or relocated Facilities, shall terminate, and any building restrictions herein created shall cease.

EXHIBIT "D" TO GROUND LEASE

Essential Areas



Site Plan for Edgemere

Essential AREAS Inside boundaries

II.

EXHIBIT "E" TO GROUND LEASE

Ground Lease Memorandum

MEMORANDUM OF GROUND LEASE

STATE OF TEXAS

COUNTY OF DALLAS	§			
THIS MEMORAN	DUM OF G	ROUND LEASI	E (the "Memorar	ndum") is made and
entered into as of the da				
PROPERTIES, INC., a Te	xas corporation	n, whose principa	al place of busine	ss and office address
is 4301 Westside Drive, Su	iite 100, Dalla	s. Texas 75209-6	6546. Attn: Edwi	in B. Jordan Ir (the

"Lessor") and NORTHWEST SENIOR HOUSING CORPORATION, a Texas not-for-profit corporation, whose principal place of business and office address is Attention: Charles B. Brewer,

This Memorandum provides notice to the public that Lessor and Lessee have entered into a certain Ground Lease (the "Ground Lease"), of even date herewith, pursuant to the terms of which Lessor has leased to Lessee, and Lessee has accepted from Lessor, certain real property (the "Land") containing approximately 16.25 acres of land, generally located at the northwest corner of the intersection of Thackery Road and Northwest Highway in the City of Dallas, Dallas County, Texas, as further and legally described in Exhibit "A" attached hereto and made a part hereof.

The Ground Lease is for a term of fifty-five (55) years, commencing on the date hereof and continuing thereafter until the fifty-fifth (55th) anniversary of such date, unless extended by agreement of the parties or sooner terminated as provided in the Ground Lease.

All rights, duties, responsibilities and obligations of Lessor and Lessee with respect to the Land and the Leasehold Estate created therein are specified in the Ground Lease and any person having an interest in the Land is hereby notified to contact Lessor and/or Lessee with respect thereto.

EXECUTED as of the day and year first set forth above.

2711 LBJ Freeway, Suite 950, Dallas, Texas 75234 (the "Lessee").

LESSOR:

INTERCITY INVESTMENT PROPERTIES, INC., a Texas corporation
Ву:
Edwin B. Jordan, Jr., President

[Executed by Lessee on the attached Signature Page]

Case 22-09059-mvl Doc 1002:191659 D4/1541602 12/238622 d 054/154/202 1120/2330/207 14 17220 104/68 104/50 Exhibit A Page 68 of 76

STATE OF TEXAS	§ 8	•		
COUNTY OF DALLAS	§			
	s acknowledged before me on t esident of Intercity Investmen	~+ *++	ay of November, 2 ., a Texas corpora	
(SEAL)			<i>:</i>	
	Nota	ary Public		

Case 22-69659-mvl Doc 1965 D4/F462 12/2362 d 12/23/22/14/P2296469 De 80 Exhibit A Page 69 of 76

Lessee's Signature Page to Memorandum o	f Ground Lease
	LESSEE:
	NORTHWEST SENIOR HOUSING CORPORATION, a Texas not-for-profit corporation
	By: Charles B. Brewer, President
STATE OF TEXAS § COUNTY OF DALLAS §	
	pefore me on the day of November, 1999, by est Senior Housing Corporation, a Texas not-for-profit
(SEAL)	Notary Public

EXHIBIT "A" TO MEMORANDUM OF GROUND LEASE

The Land

TRACT I

Being Lots 1 thru 7, Block 8/5464 of PRESTONVILLE, an Addition to the City of DALLAS, DALLAS County, Texas, according to the Plat thereof recorded in Volume 12, Page 83, Map Records, DALLAS County, Texas.

TRACT II

Being Lots 1 thru 8, Block 9/5464 of PRESTONVILLE, an Addition to the City of DALLAS, DALLAS County, Texas, according to the Plat thereof recorded in Volume 12, Page 83, Map Records, DALLAS County, Texas.

Provided, if abandonment is successful and the Owner acquires title to the alleyways and part of Beauregard Drive, both within the above described area, the portion thereof abandoned by the City of Dallas and acquired by Owner shall be a part of the Land subject to lease.

(TO BE REPLACED WHEN THE LAND IS REPLATTED)

EXHIBIT B

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BCLP Comments 7 September 2021

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Non-Disclosure Agreement (this "Agreement") is entered into as of this _____ day of September 2021, by and among Lifespace Communities, Inc., and its respective affiliated organizations ("Lifespace") including Northwest Senior Housing Corporation a Texas not for profit corporation ("Edgemere"), whose corporate office is located at 4201 Corporate Drive, West Des Moines, Iowa, 50266, and Intercity Investments Properties, Inc. ("Company"), whose principal place of business is located at 4301 Westside Drive, Suite 100, Dallas, Texas 751209.

Lifespace, Edgemere and Company are interested in evaluating and discussing various strategic, business and/or financial options relating to the Ground Lease dated November 15, 1999 between Company and Edgemere (the "Transaction"). In order to permit Lifespace and Company to evaluate the merits and risks of the Transaction, they desire to exchange certain confidential information related to each other and their respective Affiliates (as defined below) and to provide for the protection of such confidential information and to restrict its use.

In consideration of their mutual promises herein, the parties agree as follows:

- 1. <u>Definitions</u>. For the purposes of this Agreement, each of the terms set forth below shall have the following meaning:
- "Confidential Information" means all information disclosed by Lifespace, Edgemere or by Company (in each case related to itself or its Affiliates) to the other in the course of their discussions concerning the Transaction, whether marked or designated as "confidential" or not (hereinafter referred to as "Confidential Information"). Without limiting the generality of the foregoing, "Confidential Information" includes (i) all financial, resident, client, patient (excluding Protected Health Information as that term is defined by HIPAA), vendor, supplier, employee or other business or personal information; (ii) information relating to trade secrets, trademarks, service marks, patents or copyrights, or any applications therefore; (iii) information relating to existing or contemplated products, services, offerings, technology, processes, manuals, computer systems and/or software; (iv) information relating to business plans, sales or marketing methods, methods of doing business, customer and vendor lists and information; (v) the existence of this Agreement or the discussions or negotiations that are currently taking place or have taken place concerning the Transaction, including any proposed terms and conditions, the status of such discussions or negotiations; (vi) information relating to the financial condition of Edgemere and its negotiations with stakeholders and creditors; (vii) information relating to discussions between Edgemere and governmental authorities and regulators including the Texas Attorney General's Office and the Texas Department of Insurance; (vii) all copies and reproductions of any of the foregoing. "Confidential Information" will not, however, include information that (i) was already known to the receiving party at the time that discussions between Lifespace, Edgemere and Company commenced, unless the information is or was subject to a prior confidentiality agreement signed by the parties; (ii) has become publicly known through no wrongful act of the receiving party; (iii) has been received from a third party without restriction on disclosure and without breach of an obligation of confidentiality on the disclosing party; (iv) has been independently developed by the receiving party without breach of this Agreement; (v) has been approved for release by written authorization of the disclosing party; or (vi) is required to be disclosed by law, regulation, governmental proceeding, court order or similar process or otherwise and the provisions of Section 2 of this Agreement have been complied with.

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BCLP Comments 7 September 2021

- (b) "Representatives" of a party shall mean its officers, directors, partners, members, managers, stockholders, Affiliates, agents, advisors (including, without limitation, attorneys, accountants, consultants, bankers and financial advisors) and employees, in each case that have a need to know such Confidential Information in order to assist a party in evaluating the Transaction or to assist a party in exercising its rights hereunder and who agree to maintain the confidentiality of such information in accordance with the terms of this Agreement.
- (c) "Affiliate" of a party means any other Person that owns or controls, directly or indirectly, a party, any Person that controls or is controlled by or is under common control with a party, and each of that Person's senior executive officers, directors, and partners and, for any Person that is a limited liability company, that Person's managers and members. For the purposes of this Agreement, the terms "control," "controlled by," or "under common control with" mean the ability to control the actions and activities of a party whether by voting authority, ownership, contract or otherwise.
- (d) "Person" as used in this Agreement means any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.
- Nondisclosure of Confidential Information. Lifespace, Edgemere and Company mutually agree to hold each other's Confidential Information in strict confidence and not to disclose such Confidential Information to any third party except as permitted herein. Each party agrees to protect and safeguard the confidentiality of all Confidential Information with at least the same degree of care as it would use to protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care. Lifespace, Edgemere and Company may disclose to its respective Representatives each other's Confidential Information for purposes of evaluating the merits and risks associated with the Transaction or to assist such party in exercising its rights under this Agreement, the Ground Lease or in connection with any reorganization by Lifespace and/or Edgemere including, without limitation, any reorganization in connection with a proceeding involving Lifespace and/or Edgemere under the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq., (each a "Permitted Use"). Lifespace, Edgemere and the Company agree to instruct their respective Representatives not to disclose Confidential Information to any Person without the written permission of the disclosing party providing such Confidential Information. In the event of any unauthorized use or disclosure of Confidential Information by any party or its Representatives, such party shall, promptly upon discovery of any such unauthorized use or disclosure, notify the party disclosing such Confidential Information of such unauthorized use or disclosure and take reasonable steps requested by the disclosing party to regain possession of such Confidential Information and prevent further breach of this Agreement. Notwithstanding the foregoing or any other provision of this Agreement, a party may disclose, provide and/or furnish Confidential Information pursuant to any of the following: (i) if required by law, regulation, governmental proceeding, court order or similar process or otherwise, so long as the party provides the disclosing party with written notice thereof so that the disclosing party may seek a protective order or other appropriate remedy, and/or (ii) in connection with enforcing any agreement or rights between the parties. In the event of disclosure pursuant to clause (i) in the foregoing sentence, the party seeking disclosure will cooperate with the disclosing party, at the disclosing party's expense, in seeking any protective order or other similar remedy and in the event that such protective order or other remedy is not obtained, , the party seeking disclosure shall furnish only that portion of the Confidential Information that such party is advised is legally required to be disclosed and such disclosure shall not constitute a breach of this Agreement.

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BCLP Comments 7 September 2021

- 3. <u>Use of Confidential Information</u>. Lifespace, Edgemere and the Company agree not to use the Confidential Information for any purpose other than a Permitted Use and each party specifically agrees not to use the Confidential Information for any competitive purpose.
- 4. Ownership of Confidential Information. Lifespace, Edgemere and the Company acknowledge that all Confidential Information of a disclosing party will be owned solely by the disclosing party.
- Redelivery of Confidential Information. All documents and other tangible objects 5. containing or representing Confidential Information and all copies thereof which are in the possession of the receiving party shall be and remain the property of the disclosing party and shall be promptly returned to the disclosing party upon disclosing party's request, or, at the option of the receiving party, shall be destroyed (except for such Materials that are retained for a Permitted Use), and the receiving party shall certify in writing to the disclosing party that such Confidential Information has been destroyed. In addition, the receiving party shall destroy all copies of notes, analyses, compilations, reports, forecasts, studies, interpretations and other materials (collectively, "Materials") prepared by or for such party or its Representatives that contain, are based on, or otherwise reflect or are derived from any Confidential Information and certify in writing to the disclosing party that such copies have been destroyed except for such Materials that are retained for a Permitted Use. Notwithstanding the foregoing, any party and its Representatives are entitled to retain (a) one copy of the Confidential Information and Materials as may be required to comply with any pre-existing, bona fide, internal document retention policy and (b) Confidential Information and Materials stored in a party's and/or its Representatives' automatic archival procedures,
- 6. No Rights; No Representations. Nothing contained in this Agreement will be construed as granting to any third party, including a receiving party hereunder, any rights, by license or otherwise, to any Confidential Information disclosed pursuant to this Agreement. Each party hereby acknowledges and agrees that neither the disclosing party nor any of its Representatives (i) makes any representation or warranty concerning the accuracy or completeness of the Confidential Information or (ii) shall have any liability to a receiving party as a result of the use of the Confidential Information by such receiving party or its Representatives, except as may arise pursuant to a definitive agreement between or among the parties, when, as, and if executed, and subject to such limitations and restrictions as may be specified in such definitive agreement.
- 7. No Obligation to Close the Transaction. Nothing in this Agreement shall be construed to create a binding obligation on any party to consummate the Transaction. The parties will only become legally obligated to proceed with a Transaction in accordance with the terms and conditions of a definitive agreement that the parties may enter into following the date of this Agreement.
- 8. Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then all of the remaining terms of this Agreement will continue in full force and effect as if such invalid or unenforceable term had never been included.
- 9. <u>Waiver</u>. If a party waives any term, provision or a receiving party's breach of this Agreement, such waiver shall not be effective unless it is in writing and signed by the disclosing party. No waiver shall constitute a waiver of any other or subsequent breach by any party.
- 10. No Assignment. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however that no party shall assign or

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BCLP Comments 7 September 2021

transfer any rights or obligations under this Agreement without the prior written consent of each of the other parties.

- Remedies. The parties understand and agree that money damages would not be a sufficient remedy for any breach of this Agreement by any party, a party's Affiliates, or a party's Representatives. Accordingly, in the event of a breach of this Agreement, the non-breaching disclosing party, in addition to any other remedies at law or in equity that it may have, shall be entitled without proof of actual damages and without the requirement of posting a bond or other security, to seek equitable relief, including without limitation, injunctive relief or specific performance or both. Each party shall be responsible for any breach of this Agreement by any of its Representatives. None of the parties hereto shall assert, and each hereby waives, any claim against the other parties (including their respective Affiliates and Representatives), on any theory of liability for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of any breach of this Agreement.
- 12. Governing Law; Forum; Venue; Legal Fees. This Agreement shall be governed in all respects by the laws of the United States of America and by the laws of the State of Texas. Venue shall be the state and federal courts located in Texas. The parties agree that the prevailing party in any suit to enforce this Agreement shall be entitled to recover its reasonable costs and attorneys' fees.
- 13. <u>Entire Agreement</u>. This Agreement contains the entire, complete, and integrated agreement among the parties with respect to the subject matter hereof, and supersedes any prior or contemporaneous understandings, agreements or representations by or between the parties, written or oral, express or implied, which may have related to the subject matter hereof in any way.
- 14. <u>Amendments</u>. This Agreement may be amended, modified, and supplemented only by written agreement among each of the parties which states that it is intended to be a modification of this Agreement.
- 15. Counterparts. This Agreement may be executed by the different parties in any number of separate counterparts, each of which, when so executed and delivered, shall be an original, and all such counterparts shall together constitute one and the same Agreement. It is agreed by the parties hereto that facsimile and PDF signature pages signed by the parties hereto shall be binding to the same extent as original signature pages.
- 16. <u>Term of Agreement</u>. This Agreement shall have a term of two years from the date first set forth above.

[Balance of page intentionally left black; signature page follows.]

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BCLP Comments 7 September 2021

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date written above.

Lifespace Communities, Inc.

2 Videl

Name: Nick Harshfield

Title: CFO & Corporate Treasurer

Northwest Senior Housing Corporation

By: Name:

Title: CFO

Intercity Investments Properties, Inc.

Name: Nick Hannon

Title: Executive Vice President

Landlord Cure Statement Exhibit B

Cure Schedule

Intercity Investment Properties, Inc. Cure Amount - Summary as of 12.23.2022

Category / Firm	Subtotal
Intercity Investment Properties, Inc. Lease Amounts	\$ 52,811,012.01
Other Lease Violations	Reserved
Levenfeld Pearlstein, LLC	\$ 3,985,717.82
Jackson Walker, LLP	\$ 1,909,885.97
Kong Capital LLC	\$ 2,250,000.00
The Monument Group, LLC	\$ 154,271.31
Getzler Henrich & Associates LLC	\$ 378,355.00
UMB Bank, N.A. (shared discovery costs)	Reserved
Fitch Ratings (shared discovery costs)	Reserved
Terracon Consultants, Inc.	Reserved
Adversary Proceeding Counterclaim Damages	Reserved
Dallas County Tax Assessor / Collector	\$ 1,958,096.40
Grand Total (Before Reserved Amounts)	\$ 63,447,338.51

Intercity Investment Properties, Inc. Cure Amount Calculation by Category / Professional as of 12.23.2022

Intercity Investment Properties, Inc. (Lease Amounts) - S	See Exs. A. B-1		
Postpetition Rent (through 12.31.2022)	,		Reserved
Postpetition Late Fees + Interest		\$	275,795.01
Postpetition Rent (after 12.31.2022)			Reserved
Repair, Maintenance, and Restoration Expenses		\$	52,535,217.00
Other Professionals - Bankruptcy (after 11.30.2022)		·	Reserved
Other Professionals - Adv. Pro. (after 11.30.2022)			Reserved
Adv. Pro. Counterclaim Damages			Reserved
	Subtotal	\$	52,811,012.01
Other Lease Walsting Co. Fr. D.2			
Other Lease Violations - See Ex. B-2			Danamad
Estimated	C. haras		Reserved
	Subtotal	\$	-
Levenfeld Pearlstein, LLC - See Ex. B-3			
Fees - Bankruptcy (through 11.30.2022)		\$	2,119,726.00
Expenses - Bankruptcy (through 11.30.2022)*		\$	13,276.25
Fees - Adv. Pro. (through 11.30.2022)		\$	1,816,667.25
Expenses - Adv. Pro. (through 11.30.2022)		\$	36,048.32
Estimated Fees - Bankruptcy (after 11.30.2022)			Reserved
Estimated Expenses - Bankruptcy (after 11.30.2022)			Reserved
Estimated Fees - Adv. Pro. (after 11.30.2022)			Reserved
Estimated Expenses - Adv. Pro. (after 11.30.2022)			Reserved
	Subtotal	\$	3,985,717.82
Jackson Walker, LLP - See Ex. B-4			
Fees - Bankruptcy (through 11.30.2022)		\$	283,187.50
Expenses - Bankruptcy (through 11.30.2022)		\$	37,634.20
Fees - Adv. Pro. (through 11.30.2022)		\$	1,561,958.50
Expenses - Adv. Pro. (through 11.30.2022)		\$	27,105.77
Estimated Fees - Bankruptcy (after 11.30.2022)		Ψ	Reserved
Estimated Expenses - Bankruptcy (after 11.30.2022)			Reserved
Estimated Fees - Adv. Pro. (after 11.30.2022)			Reserved
Estimated Expenses - Adv. Pro. (after 11.30.2022)			Reserved
	Subtotal	\$	1,909,885.97
			·
Kong Capital LLC - See Ex. B-5		,	
Fees - Bankruptcy (through 12.31.2022)		\$	2,250,000.00
Estimated Fees - Bankruptcy (after 12.31.2022)			Reserved
	Subtotal	\$	2,250,000.00

Intercity Investment Properties, Inc. Cure Amount Calculation by Category / Professional as of 12.23.2022

The Monument Group, LLC - See Ex. B-6	
Consulting Fees - Bankruptcy + Adv. Pro. (through 11.30.2022)	\$ 148,000.00
Fee Reimbursement Related to Adv. Pro. (through 11.30.2022)	\$ 6,271.31
Consulting Fees - Bankruptcy + Adv. Pro. (after 11.30.2022)	Reserved
Fee Reimbursement Related to Adv. Pro. (after 11.30.2022)	Reserved
Subtotal	\$ 154,271.31
Getzler Henrich & Associates LLC - See Ex. B-7	
Fees - Bankruptcy (through 11.30.2022)	\$ 61,677.50
Fees - Adv. Pro. (through 11.30.2022)	\$ 316,677.50
Estimated Fees - Bankruptcy (after 11.30.2022)	Reserved
Estimated Expenses - Bankruptcy (after 11.30.2022)	Reserved
Estimated Fees - Adv. Pro. (after 11.30.2022)	Reserved
Estimated Expenses - Adv. Pro. (after 11.30.2022)	Reserved
Subtotal	\$ 378,355.00
UMB Bank, N.A. Shared Adv. Pro. Costs	
Shared Costs - Adv. Pro. (through 11.30.2022)	Reserved
Estimated Shared Costs - Adv. Pro. (after11.30.2022)	Reserved
Subtotal	\$ -
Fitch Ratings Shared Adv. Pro. Costs	
Shared Costs - Adv. Pro. (through 11.30.2022)	Reserved
Estimated Shared Costs - Adv. Pro. (after 11.30.2022)	Reserved
Subtotal	\$ -
Terracon Consultants, Inc.	
Fees (through 11.30.2022)	Reserved
Expenses (through 11.30.2022)	Reserved
Estimated Fees (after 11.30.2022)	Reserved
Estimated Expenses (after 11.30.2022)	Reserved
Subtotal	\$ -
Dallas County Tax Assessor / Collector** - See Ex. B-8	
2022 Real Estate Taxes (through 01.31.2023)	\$ 1,958,096.40
2022 Real Estate Taxes - Delinquency Charges (after 01.31.2023)	Reserved
Subtotal	\$ 1,958,096.40
Grand Total (Before Reserved Amounts):	\$ 63,447,338.51

Intercity Investment Properties, Inc. Cure Amount Calculation by Category / Professional as of 12.23.2022

*To avoid duplicating amounts, LP's expenses stated in this Cure Schedule are net of amounts advanced by LP to The Monument Group on the Landlord's behalf, for which LP sought reimbursement from the Landlord. Amounts attributable to The Monument Group are separately scheduled

^{**}The 2022 Real Estate Taxes payable to the Dallas County Tax Assessor / Collector are currently outstanding. Landlord will reduce the Cure Amount by the amount of 2022 Real Estate Taxes upon receiving proof of payment of such taxes on or before January 31, 2023 at 12:00 pm CT

Landlord Cure Statement Exhibit B-1



Overview

Plante Moran Living Forward (PMLF) performed this property assessment at the request of Lifespace Communities (Lifespace) for the Edgemere Community.

Date(s) of Assessment:	7/20/2021 & 7/21/2021
Community Staff Present:	James Oates, Chris Soden
PMLF Staff Present:	Kyle DeHenau
Architect/Engineer Staff Present:	NA
Number of Buildings:	1
Year Built:	2002

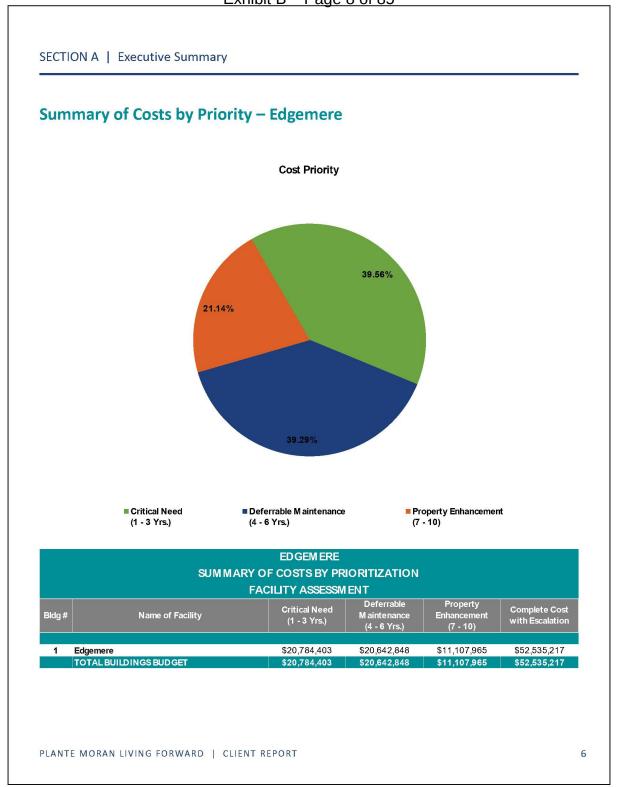
Summary of Findings

Overall, The Edgemere Community was found to be in **FAIR** condition as many building envelope materials, interior finishes, and mechanical systems would require a significant investment over a 10-year capital improvement effort. The building was well maintained, and most expenditures included are due to building age and specific materials reaching the end of their useful life expectancy. Various recommendations have been made throughout this report and are accounted for within the facility assessment capital planning improvement budget that is to be implemented over a period of 1-10 years.

Condition Summary

			SUI	EDGEME MMARY OF CO				
Bldg#	Name of Facility	1.0 Site Work	2.0 Building Envelope	3.0 Interior Renovations	4.0 Plumbing Systems	5.0 HVAC Systems	6.0 Electrical Systems	9.0 Furniture & Equipment
1	Edgemere	Good	Poor	Good	Fair	Fair	Good	Good

PLANTE MORAN LIVING FORWARD | CLIENT REPORT



Landlord Cure Statement Exhibit B-2

Exhibit B Page 10 of 85

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc

Texas Department of Licensing and Regulation

USPS CERTIFIED MAIL

PO Box 12157 Austin TX 78701

9214 8901 9403 8397 0105 78

12-6-27

INTERCITY INVESTMENTS PROPERTIES INC ROBERT B HENDERSON REGISTERED AGENT 4301 WESTSIDE DRIVE SUITE 100 DALLAS TX 75209 6546

TEXAS DEPARTMENT OF LICENSING & REGULATION

NOTICE OF ALLEGED VIOLATION

November 29, 2022

INTERCITY INVESTMENTS PROPERTIES INC 8523 THACKERY STREET DALLAS TX 75225 3903

INTERCITY INVESTMENTS PROPERTIES INC ROBERT B HENDERSON REGISTERED AGENT 4301 WESTSIDE DRIVE SUITE 100 DALLAS TX 75209 6546

Subject:

Intercity Investments Properties LLC (Respondent): Case Number

EAB20230004738

Dear Respondent:

The Texas Department of Licensing and Regulation (Department) has determined that you have violated Texas statutes and/or rules as described below. If you immediately come into compliance, we will settle this case for a <u>reduced penalty</u> of \$1,500.

This settlement offer is good for twenty (20) days from the date you receive this letter. To accept, sign the settlement agreement attached to the end of this letter and mail it along with your payment, before the deadline, to the Enforcement Division at the address above. However, if we are not able to reach an agreement, the Department will be asking for the <u>full penalty</u> of \$2,000 for these violation(s).

We will work with you to resolve this case. Call us immediately if you have any questions. Contact Brenda Winger, Legal Assistant, Enforcement Division by directly calling (512) 539-5682 or e-mail at brenda.winger@tdlr.texas.gov.

If you do not want to discuss settlement of this case with the Department, you have twenty (20) days after you receive this notice to e-mail, mail or fax us a written request for a hearing to contest the alleged violation(s), the amount of the penalty, or both.

If you do not respond in writing within twenty (20) days after you receive this notice, the Executive Director of the Texas Department of Licensing and Regulation can enter a <u>DEFAULT ORDER</u> against you for the full penalties and sanctions <u>WITHOUT HOLDING A HEARING BEFORE A JUDGE</u>.

BANKRUPTCY NOTICE: If you have filed for Bankruptcy prior to receiving this notice, please contact **Brenda Winger** immediately at the above listed contact information.

FACTUAL ALLEGATIONS

- 1. Intercity Investments Properties Inc is the owner of real property located at 8523 Thackery Street Dallas, Texas 75225 3903, where the project Edgemere Commons Addition & Renovation occurred (project).
- 2. According to Tex. Gov't Code § 469.101, the facility is a building subject to the Texas Accessibility Standards and is within the Department's jurisdiction. The project cost was greater than \$50,000; the date of construction was after June 1, 1994; and the facility is a public accommodation as that term is defined by statute.
- 3. According to the Dallas County Appraisal District records, the Respondent's mailing address is 8523 Thackery Street Dallas, Texas 75225 3903. Robert B Henderson is listed as the Registered Agent for Intercity Investments Properties Inc on file with the Texas Secretary of State Business Entity webpage.
- 4. The mailing address of record on file with the Texas Secretary of State for the Registered Agent is 4301 Westside Drive Suite 100 Dallas, Texas 75209 6546.
- Architectural Barriers project EABPRJB5818411 for the facility was **registered with** the Department June 22, 2015 and was **completed on or about** September 2018. As of the date of this Notice of Alleged Violation, no owner of the facility has obtained an inspection of the facility from a registered accessibility specialist.

APPLICABLE LAW

- 1. Based on Factual Allegation number 5 above, Respondent violated Tex. Gov'T CODE § 469.105(a) which states: "(a) The owner of a building or facility described by Section 469.101 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the commission under this chapter not later than the first anniversary of the date the construction or substantial renovation or modification of the building or facility is completed.
 - (b) The inspection must be performed by:
 - (1) the department;
 - (2) an entity with which the commission contracts under Section 469.055; or
 - (3) a person who holds a certificate of registration under Subchapter E." This is a Class B violation according to the Department's Enforcement Plan.
 - 2. TEX. OCC. CODE § 51.302(a) authorizes the Executive Director or the Texas Commission of Licensing and Regulation to assess an administrative penalty of up to \$5,000 per violation per day. The Department's Enforcement Plan provides for an administrative penalty from \$500 up to \$3,000, for each Class A violation, and from \$1,000 to \$3,000, for each Class B violation.
 - 3. The amount of the penalty is based on the following factors: (1) the seriousness of the violations; (2) the history of past violations; (3) the amount necessary to deter future

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 13 of 85

violations; (4) efforts made to correct the violations; and (5) any other matter that justice may require.

If you have any questions about this notice or you would like to speak with someone, please contact Brenda Winger, Legal Assistant, Enforcement Division by directly calling (512) 539-5682 or e-mail at brenda.winger@tdlr.texas.gov.

Sincerely,

Jessica Hurtado Prosecutor

State Bar Number 24068806

JH/bw

Nếu quý vị có câu hỏi gì về thơ thông báo này và muốn nói chuyện với nhân viên Việtnam thì xin quý vị vui lòng gọi số 1-877-636-7186. Xin để lại tên, số của thơ thông báo và số điện thoại của quý vị. Nhân viên nói tiếng Việt của chúng tôi sẽ liên lạc với quý vị.

Si tiene alguna pregunta acerca de esta notificación o quiere hablar con alguien en español, hable al 1-877-636-7186 favor de dejar su nombre, número de caso y el número telefónico de contacto y alguien le devolverá su llamada.

CERTIFICATE OF SERVICE

Ι	certify	that	true	and	correct	copies	of	the	foreg	oing	Notic	ce of	Allegeo	l Violation
hav	7914	en 190	sent	bу 740	United	State	s 0	certi	fied	mail, 3	re	turn	receipt	requested) to
Into	ercity 1	Invest 19	ments 90\	Prop	erties Ir 03 T	nc, 8523 397 (Th O	acke	ry Str 7 S	eet D	allas,	Теха	ıs 75225	3903, and
Inte	ercity In	ivestr	nents I	Proper	ties Inc,	Robert l	ВНе	ender	son, R	egiste.	red A	gent,	4301 Wes	stside Drive
Sui	te 100 i	Dallas	s, Texa	as 752	09 6546	, on this	2	40	_ day	$_{ m of}$ N	Jou	em	ber	, 2022.

Prosecution Administrative Assistant

SETTLEMENT AGREEMENT

I, Intercity Investments Properties Inc, accept the Department's determination in case number EAB20230004738, Architectural Barriers project EABPRJB5818411. I understand that I have the right to schedule a hearing to contest the Department's allegation(s), the amount of the penalty, or both.

- 1. I hereby waive my right to a hearing.
- 2. I admit to the alleged violation(s).
- 3. I agree to pay, and have enclosed, a total of \$1,500 for the administrative penalties.
- 4. I agree to hire a Registered Accessibility Specialist (RAS) to perform the inspection and I agree to get proof of the inspection to the department within 90 days of the Agreed Order being signed by the Executive Director.
- 5. I agree to comply with all applicable laws, rules, and regulations administered by the Texas Department of Licensing and Regulation.

Name of RAS Contact	Address
Telephone #	City/State/Zip
7. I understand that this settlement the Executive Director of the Agreed Order being signed and	nt agreement is not final until an Agreed Order is signed by Department, or his delegate, and I have no objection to an I issued.
gned this day of	, 2022

If a written request for a hearing has not been received or this Settlement Agreement is not signed and returned to the Department with the penalty listed above, postmarked no later than **November 29, 2022**, this settlement offer will be withdrawn, and a Default Order will be issued for the full amount of the administrative penalty.

• If you pay by personal check, business check, cashier's check or money order, please write case number EAB20230004738 on your payment. Send payment to: Texas Department of Licensing and Regulation, Enforcement Division, P.O. Box 12157, Austin, Texas 78711.

Landlord Cure Statement Exhibit B-3



Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 404482

 Client Matter
 46024-131210

 Date
 March 9, 2022

Fees: \$ 33,885.00

Third party disbursements:

Balance Due: \$ 33,885.00

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 405150

 Client Matter
 46024-131210

 Date
 March 18, 2022

Fees: \$ 11,420.00

Third party disbursements:

Balance Due: \$ 11,420.00

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 405235

 Client Matter
 46024-131210

 Date
 March 31, 2022

Fees: \$ 37,125.00

Third party disbursements:

Balance Due: \$ 37,125.00

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 407203

 Client Matter
 46024-131210

 Date
 April 14, 2022

Fees: \$ 29,838.75

Third party disbursements:

Balance Due: \$ 29,838.75

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



Invoice No. 409242
Client Matter 46024-131210
Date May 12, 2022

Fees: \$ 268,867.50

Third party disbursements: \$ 19,110.21

Balance Due: \$ 287,977.71

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



Invoice No. 409954
Client Matter 46024-131210
Date June 3, 2022

Fees: \$ 333,941.25

Third party disbursements: \$ 37,065.00

Balance Due: \$ 371,006.25

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



Invoice No. 413377
Client Matter 46024-131210
Date July 14, 2022

Fees: \$ 213,051.00

Third party disbursements: \$ 20,868.87

Balance Due: \$ 233,919.87

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 415288

 Client Matter
 46024-131210

 Date
 August 8, 2022

Fees: \$ 104,831.25

Third party disbursements: \$ 19,608.97

Balance Due: \$ 124,440.22

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 416788

 Client Matter
 46024-131210

 Date
 September 6, 2022

Fees: \$ 264,292.50

Third party disbursements:

Balance Due: \$ 264,292.50

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 418987

 Client Matter
 46024-131210

 Date
 October 4, 2022

Fees: \$ 254,958.75

Third party disbursements: \$ 37,000.00

Balance Due: \$ 291,958.75

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 423240

 Client Matter
 46024-131210

 Date
 November 8, 2022

Fees: \$ 268,226.25

Third party disbursements: \$ 26,320.45

Balance Due: \$ 294,546.70

Wire Transfer Instructions





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 425582

 Client Matter
 46024-131210

 Date
 December 12, 2022

Fees: \$ 292,288.75

Third party disbursements: \$ 26,074.06

Balance Due: \$ 318,362.81

Wire Transfer Instructions



To pay by credit card visit:



Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.

Invoice No. 409477
Client Matter 46317-132590
Date May 16, 2022

Fees: \$ 7,193.75

Third party disbursements: \$ -

Balance Due: \$ 7,193.75

Wire Transfer Instructions To pay by credit card visit:





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



Invoice No. 409955
Client Matter 46317-132590
Date June 3, 2022

Fees: \$ 195,009.00

Third party disbursements: \$ -

Balance Due: \$ 195,009.00

Wire Transfer Instructions

To pay by credit card visit:





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.

Invoice No. 413378
Client Matter 46317-132590
Date July 14, 2022

Fees: \$ 266,395.50

Third party disbursements: \$

Balance Due: \$ 266,395.50

Wire Transfer Instructions To pay by credit card visit:





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 415290

 Client Matter
 46317-132590

 Date
 August 8, 2022

Fees: \$ 269,838.00

Third party disbursements: \$ -

Balance Due: \$ 269,838.00

Wire Transfer Instructions To pay by credit card visit:





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 416924

 Client Matter
 46317-132590

 Date
 September 7, 2022

Fees: \$ 282,630.00

Third party disbursements: \$ 13,961.68

Balance Due: \$ 296,591.68

Wire Transfer Instructions

To pay by credit card visit:





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 418988

 Client Matter
 46317-132590

 Date
 October 4, 2022

Subtotal Fees: \$ 405,138.75

Third party disbursements:

Balance Due: \$ 405,138.75

Wire Transfer Instructions To pay by credit card visit:





Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



Invoice No. 423249
Client Matter 46317-132590
Date November 8, 2022

Fees: \$ 236,829.50

Third party disbursements: \$ 9,587.36

Balance Due: \$ 246,416.86

Wire Transfer Instructions



To pay by credit card visit:



Telephone (312) 346-8380 Fax (312) 346-8434 LPlegal.com

Intercity Investment Properties, Inc.



 Invoice No.
 425585

 Client Matter
 46317-132590

 Date
 December 12, 2022

Fees: \$ 153,632.75

Third party disbursements: \$ 12,499.28

Balance Due: \$ 166,132.03

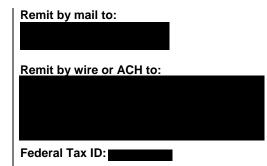
Wire Transfer Instructions



To pay by credit card visit:

Landlord Cure Statement Exhibit B-4





Payment due upon receipt. Please include Invoice No. with remittance.

Intercity Investment Properties, Inc.

Re: Senior Housing - Bankruptcy

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending March 31, 2022:

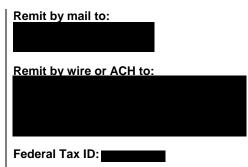
INVOICE SUMMARY

Total Fees \$2,560.50

Total Expenses 0.00

Total Due This Invoice: \$2,560.50





Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1841279 Invoice Date: 05/22/2022

Intercity Investment Properties, Inc.



Re: Senior Housing - Bankruptcy

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending April 30, 2022:

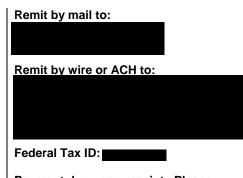
INVOICE SUMMARY

Total Fees \$87,882.50

Total Expenses 300.00

Total Due This Invoice: \$88,182.50





Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1846772 Invoice Date: 06/22/2022

Intercity Investment Properties, Inc.



Re: Senior Housing - Bankruptcy

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending May 31, 2022:

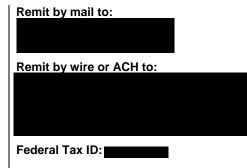
INVOICE SUMMARY

Total Fees \$75,812.00

Total Expenses 3,265.39

Total Due This Invoice: \$79,077.39





Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1854875 Invoice Date: 07/29/2022



Re: Senior Housing - Bankruptcy

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending June 30, 2022:

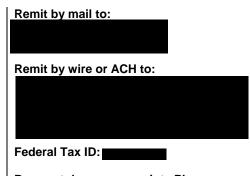
INVOICE SUMMARY

Total Fees \$33,135.00

Total Expenses 14,142.23

Total Due This Invoice: \$47,277.23



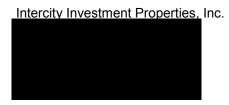


Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1860184 Invoice Date: 08/30/2022



Re: Senior Housing - Bankruptcy

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending July 31, 2022:

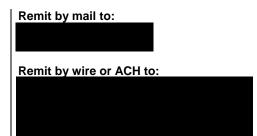
INVOICE SUMMARY

Total Fees \$7,533.00

Total Expenses 6,369.51

Total Due This Invoice: \$13,902.51





Federal Tax ID: 75-0764921

Payment due upon receipt. Please include Invoice No. with remittance.



Re: Senior Housing - Bankruptcy

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending August 31, 2022:

INVOICE SUMMARY

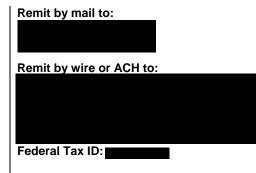
Total Fees \$29,940.50

Total Expenses 2,916.49

Total Due This Invoice: \$32,856.99





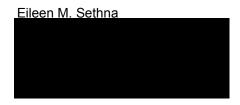


Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1870808 Invoice Date: 10/19/2022



Re: Senior Housing - Bankruptcy

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending September 30, 2022:

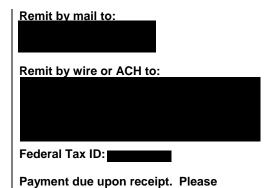
INVOICE SUMMARY

Total Fees \$13,815.00

Total Expenses 3,321.30

Total Due This Invoice: \$17,136.30





include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1874268 Invoice Date: 11/08/2022



Re: Senior Housing - Bankruptcy

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending October 31, 2022:

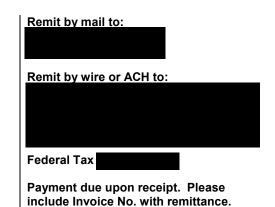
INVOICE SUMMARY

Total Fees \$4,735.00

Total Expenses 2,021.21

Total Due This Invoice: \$6,756.21





(214)953-5843/rmendoza@jw.com

Page 3

Invoice No: 0
Invoice Date: 12/02/2022

Eileen M. Sethna



Re: Senior Housing - Bankruptcy

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending November 30, 2022:

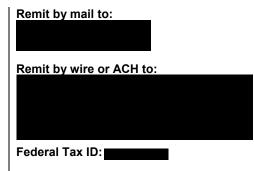
INVOICE SUMMARY

Total Fees \$27,774.00

Total Expenses 5,298.07

Total Due This Invoice: \$33,072.07





Payment due upon receipt. Please include Invoice No. with remittance.

Intercity Investment Properties, Inc.

Re: Adversary Proceeding

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending April 30, 2022:

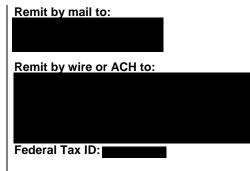
INVOICE SUMMARY

Total Fees \$23,755.50

Total Expenses \$0.00

Total Due This Invoice: \$23,755.50





Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1846772 Invoice Date: 06/22/2022

Intercity Investment Properties, Inc.



Re: Adversary Proceeding

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending May 31, 2022:

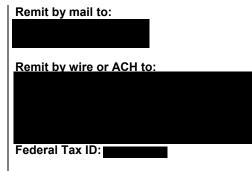
INVOICE SUMMARY

Total Fees \$141,172.50

Total Expenses 0.00

Total Due This Invoice: \$141,172.50





Payment due upon receipt. Please include Invoice No. with remittance.

 Ref No.:
 Invoice No: 1854876

 (214)953-5843/rmendoza@jw.com
 Page 1
 Invoice Date: 07/29/2022



Re: Adversary Proceeding

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending June 30, 2022:

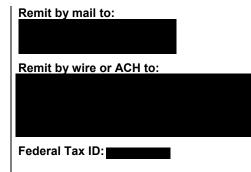
INVOICE SUMMARY

Total Fees \$94,128.00

Total Expenses 0.00

Total Due This Invoice: \$94,128.00





Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1854875 Invoice Date: 07/29/2022



Re: Adversary Proceeding

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending June 30, 2022:

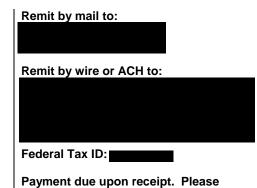
INVOICE SUMMARY

Total Fees \$96,796.00

Total Expenses 0.00

Total Due This Invoice: \$96,796.00





include Invoice No. with remittance.

 Ref No.:
 Invoice No: 1860185

 (214)953-5843/rmendoza@jw.com
 Page 1
 Invoice Date: 08/30/2022

Intercity Investment Properties, Inc.

Re: Adversary Proceeding

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending July 31, 2022:

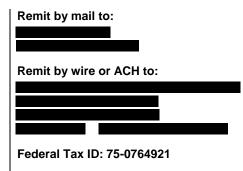
INVOICE SUMMARY

Total Fees \$229,293.00

Total Expenses 8,239.29

Total Due This Invoice: \$237,532.29





Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1860184 Invoice Date: 08/30/2022

Intercity Investment Properties, Inc.



Re: Adversary Proceeding

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending July 31, 2022:

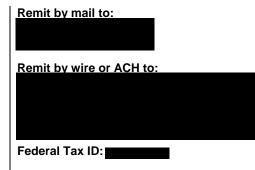
INVOICE SUMMARY

Total Fees \$ 5,265.00

Total Expenses 0.00

Total Due This Invoice: \$5,265.00



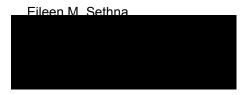


Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1867135 Invoice Date: 09/26/2022



Re: Adversary Proceeding

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending August 31, 2022:

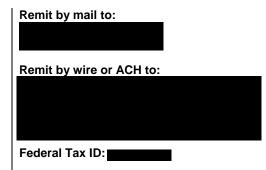
INVOICE SUMMARY

Total Fees \$348,570.50

Total Expenses 650.49

Total Due This Invoice: \$349,220.99





Payment due upon receipt. Please include Invoice No. with remittance.

Invoice No: 1870809

Invoice Date: 10/19/2022

Ref No.: Page 1

Eileen M. Sethna

Re: Adversary Proceeding

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending September 30, 2022:

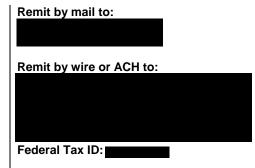
INVOICE SUMMARY

Total Fees \$292,242.00

Total Expenses 8,784.05

Total Due This Invoice: \$301,026.05





Payment due upon receipt. Please include Invoice No. with remittance.

(214)953-5843/rmendoza@jw.com

Page 1

Invoice No: 1874261 Invoice Date: 11/08/2022



Re: Adversary Proceeding

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending October 31, 2022:

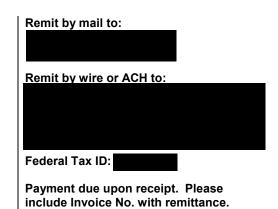
INVOICE SUMMARY

Total Fees \$181,435.00

Total Expenses 6,380.88

Total Due This Invoice: \$187,815.88





(214)953-5843/rmendoza@jw.com

Page 3

Invoice No: 0 Invoice Date: 12/02/2022

Eileen M. Sethna



Re: **Adversary Proceeding**

FOR LEGAL SERVICES RENDERED and expenses incurred in connection with the above-referenced matter for the period ending November 30, 2022:

INVOICE SUMMARY

Total Fees \$149,281.00 **Total Expenses** 3,051.12

Total Due This Invoice: \$152,332.12

Landlord Cure Statement Exhibit B-5



KONG CAPITAL ICI APRIL INVOICE

Amount: \$250,000.00

Re: Services Rendered in the Edgemere Bankruptcy Case – April 2022



KONG CAPITAL ICI MAY INVOICE

Amount: \$250,000.00

Re: Services Rendered in the Edgemere Bankruptcy Case – May 2022



KONG CAPITAL ICI JUNE INVOICE

Amount: \$250,000.00

Re: Services Rendered in the Edgemere Bankruptcy Case – June 2022



KONG CAPITAL ICI JULY INVOICE

Amount: \$250,000.00

Re: Services Rendered in the Edgemere Bankruptcy Case – July 2022



KONG CAPITAL ICI AUGUST INVOICE

Amount: \$250,000.00

Re: Services Rendered in the Edgemere Bankruptcy Case – August 2022



KONG CAPITAL ICI SEPTEMBER INVOICE

Amount: \$250,000.00

Re: Services Rendered in the Edgemere Bankruptcy Case – September 2022



KONG CAPITAL ICI OCTOBER INVOICE

Amount: \$250,000.00

Re: Services Rendered in the Edgemere Bankruptcy Case – October 2022



KONG CAPITAL ICI NOVEMBER INVOICE

Amount: \$250,000.00

Re: Services Rendered in the Edgemere Bankruptcy Case – November 2022



KONG CAPITAL ICI DECEMBER INVOICE

Amount: \$250,000.00

Re: Services Rendered in the Edgemere Bankruptcy Case – December 2022

Landlord Cure Statement Exhibit B-6

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 67 of 85



Invoice

Date

Invoice #

2/23/2022

2491

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

	Service Description	Amount
Communications Consulting		18,500.00

Total

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 68 of 85



Invoice

Date

Invoice #

3/31/2022

2545

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

Service Description	Amount
Communications Consulting - March 2022	18,500.00

Total

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 69 of 85



Invoice

Date

Invoice #

4/30/2022

2578

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

Service Description	Amount
Communications Consulting - April 2022	18,500.00

Total

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 70 of 85



Invoice

Date

Invoice #

5/31/2022

2621

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

Service Description	Amount
Communications Consulting - May 2022	18,500.00

Total

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 71 of 85

Invoice

Date Invoice #

6/30/2022

2654

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

Service Description	Amount
Communications Consulting - June 2022	18,500.00

Total

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 72 of 85



Invoice

Date

Invoice #

7/31/2022

2683

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

Service Description	Amount
Communications Consulting - July 2022	18,500.00

Total



Invoice

Date

Invoice #

8/31/2022

2714

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

Service Description	Amount
Communications Consulting - August 2022	18,500.00

Total

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 74 of 85



Invoice

Date

Invoice #

9/30/2022

2747

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

	Service Description	Amount
Communications Consulting - September 2022		18,500.00

Total



Invoice

Date

Invoice #

10/31/2022

2782

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

Service Description	Amount
Communications Consulting - October 2022	18,500.00
Per Agreement 50% of Legal Costs: Invoice 13852 \$117 Per Agreement 50% of Legal Costs: Invoice 14466 \$10,843.50	58.50 5,421.75
THE AGREEMENT SOUND LEGAL COSTS. HIVOICE 14400 \$10,043.30	3,421.73

Total

\$23,980.25

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 76 of 85



Invoice

Date

Invoice #

11/30/2022

2815

4407 Bee Cave Rd Bldg 5, Ste 520 Austin, TX 78746

Terms

Net 15

Bill To

Levenfeld Pearlstein, LLC Re: Intercity Investments, Inc. 2 N. LaSalle Street, Suite 1300 Chicago, IL 60602

Service Description	Amount
Communications Consulting - November 2022	18,500.00
Per Agreement 50% of Legal Costs: Invoice 14935 \$1,582.12	791.06
-	

Total

\$19,291.06

Landlord Cure Statement Exhibit B-7

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 78 of 85 **INVOICE**

Getzler Henrich 295 Madison Ave, 20th Floor New York, NY 10017 212-697-2400

Invoice Date: 7/7/22

Due Date: 7/7/22

Total Amount: \$65,175.00

> Number: 1-01

Invoice Period: 06/01/22 - 06/30/22

> Terms: On Receipt

Levenfeld Pearlstein, LLC

Harold D. Israel, Esq 2 North LaSalle St. Suite 1300 Chicago, IL 60602

INVOICE SUMMARY

Description	Quantity	Rate	Amount
Daniel Polsky	35.60	\$675.00	\$24,030.00
Rod Olivero	71.50	\$550.00	\$39,325.00
Tom Schrader	5.20	\$350.00	\$1,820.00
TOTAL AMOUNT DUE			\$65,175.00

\$65,175.00

Re: Intercity Investment Properties, Inc



Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc **INVOICE**

Getzler Henrich 295 Madison Ave, 20th Floor New York, NY 10017 212-697-2400

Exhibit B Page 79 of 85

8/10/22 Invoice Date: Due Date: 8/10/22

Total Amount: \$157,205.00

> Number: 1-02

Invoice Period: 07/01/22 - 07/31/22

> Terms: On Receipt

Levenfeld Pearlstein, LLC

Harold D. Israel, Esq 2 North LaSalle St. Suite 1300 Chicago, IL 60602

INVOICE SUMMARY

Description	Quantity	Rate	Amount
Daniel Polsky	68.00	\$675.00	\$45,900.00
Rod Olivero	157.00	\$550.00	\$86,350.00
Joey Goldstein	35.30	\$350.00	\$12,355.00
Tom Schrader	36.00	\$350.00	\$12,600.00

\$157,205.00 **TOTAL AMOUNT DUE**

Re: Intercity Investment Properties, Inc

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc

Getzler Henrich Exhibit B Page 80 of 85 INVOICE

Getzler Henrich 295 Madison Ave, 20th Floor New York, NY 10017 212-697-2400

Invoice Date: 9/8/22

Due Date: 9/8/22

Total Amount: \$81,707.50

Number: 1-03

Invoice Period: 08/01/22 - 08/31/22

Terms: On Receipt

Levenfeld Pearlstein, LLC

Harold D. Israel, Esq 2 North LaSalle St. Suite 1300 Chicago, IL 60602

INVOICE SUMMARY

Description	Quantity	Rate	Amount
Daniel Polsky	55.50	\$675.00	\$37,462.50
Rod Olivero	61.10	\$550.00	\$33,605.00
Joey Goldstein	30.40	\$350.00	\$10,640.00
TOTAL AMOUNT DUE			\$81,707.50

Re: Intercity Investment Properties, Inc



Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc Exhibit B Page 81 of 85 **INVOICE**

Getzler Henrich 295 Madison Ave, 20th Floor New York, NY 10017 212-697-2400

Invoice Date: 10/5/22

Due Date: 10/5/22

Total Amount: \$58,662.50

> Number: 1-04

Invoice Period: 09/01/22 - 09/30/22

> Terms: On Receipt

Levenfeld Pearlstein, LLC

Harold D. Israel, Esq 2 North LaSalle St. Suite 1300 Chicago, IL 60602

INVOICE SUMMARY

Description	Quantity	Rate	Amount
Daniel Polsky	48.30	\$675.00	\$32,602.50
Rod Olivero	42.10	\$550.00	\$23,155.00
Joey Goldstein	8.30	\$350.00	\$2,905.00
TOTAL AMOUNT DUE			\$58,662.50

\$58,662.50

Re: Intercity Investment Properties, Inc



Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc

Getzler Henrich Exhibit B Page 82 of 85 INVOICE

Getzler Henrich 295 Madison Ave, 20th Floor New York, NY 10017 212-697-2400

Invoice Date: 11/8/22

Due Date: 11/8/22

Total Amount: \$6,310.00

Number: 1-05

Invoice Period: 10/01/22 - 10/31/22

Terms: On Receipt

Levenfeld Pearlstein, LLC

Harold D. Israel, Esq 2 North LaSalle St. Suite 1300 Chicago, IL 60602

INVOICE SUMMARY

Description	Quantity	Rate	Amount
Daniel Polsky	5.60	\$675.00	\$3,780.00
Rod Olivero	4.60	\$550.00	\$2,530.00

TOTAL AMOUNT DUE \$6,310.00

Re: Intercity Investment Properties, Inc



Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc

Getzler Henrich Exhibit B Page 83 of 85 INVOICE

Getzler Henrich
295 Madison Ave, 20th Floor
New York, NY 10017
212-697-2400

Invoice Date: 12/8/22

Due Date: 12/8/22

Total Amount: \$9,295.00

Number: 1-06

Invoice Period: 11/01/22 - 11/30/22

Terms: On Receipt

Levenfeld Pearlstein, LLC

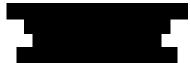
Harold D. Israel, Esq 2 North LaSalle St. Suite 1300 Chicago, IL 60602

INVOICE SUMMARY

Description	Quantity	Rate	Amount
Daniel Polsky	8.80	\$675.00	\$5,940.00
Rod Olivero	6.10	\$550.00	\$3,355.00

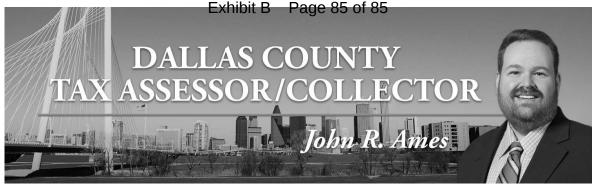
TOTAL AMOUNT DUE \$9,295.00

Re: Intercity Investment Properties, Inc



Landlord Cure Statement Exhibit B-8

Case 22-30659-mvl11 Doc 965-2 Filed 12/23/22 Entered 12/23/22 14:22:04 Desc



Account Search Fiduciary Search

Property Tax Balance

All tax information refers to the 2022 Tax Year, unless otherwise noted, i.e. "Prior Year Amount Due". Amounts due include penalty, interest, and collection fees if applicable.

Account Number: 005464000801A0000

Address: INTERCITY INVESTMENTS PROPERTIES INC 8523 THACKERY ST DALLAS, TX 75225-0000

Property Site Address: 8523 THACKERY ST, DA

Legal Description: EDGEMERE BLK 8/5464 LT 1A ACS 15.4722 VOL77013/0745 DD12271976 CO-DC 5464 008 01A 1005464 008

Current Tax Levy: \$1,958,096.40

Current Amount Due: \$1,958,096,40

Prior Year Amount Due: \$0.00 Total Amount Due: \$1,958,096.40

PAY NOW +

Large dollar payments may cause your issuing bank to question this transaction. Contact your financial institution to inform them of the amount you will be paying to avoid delays in processing your

eStatement Enroll ment
Enroll in eStatements to receive your 2023 Current Tax Statement by email in October, 2023.

Market Value: \$78,000,000

Land Value: \$26,958,760

Improvement Value: \$51,041,240

Capped Value: \$0

Agricultural Value: \$0

Exemptions: None

Current Tax Statement

Summary Tax Statement

Taxes Due Detail by Year and Jurisdiction Payment Information

Composite Receipt (pending payments are not included) Request an Address Correction

Click Here to see your estimated amount due for a future date. You can see this information by year and by both year and jurisdiction.

Make your check or money order payable to: JOHN R. AMES, CTA, TAX ASSESSOR/COLLECTOR Dallas County Tax Office P O BOX 139066 DALLAS, TEXAS 75313-9066

Go to Your Portfolio Tax Office Home Page

Terms of Use Privacy Policy

DALLAS COUNTY TAX OFFICE 500 Elm Street, Suite 3300 Dallas, Texas 75202 214-653-7811

Landlord Cure Statement Exhibit C

Notice of Lease Cure Parties

IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

In re:) Chapter 11
NORTHWEST SENIOR HOUSING CORPORATION, et al. ¹	Case No. 22-30659 (MVL) (Jointly Administered)
Debtors.	

INTERCITY INVESTMENT PROPERTIES, INC.'S NOTICE OF LANDLORD CURE PARTIES

Intercity Investment Properties, Inc. (the "<u>Landlord</u>") a creditor and party in interest in the above-captioned chapter 11 cases (the "<u>Cases</u>"), provides notice (the "<u>Notice</u>") of the following entities and individuals to be included in the Landlord Cure Notice (in addition to the late fees under the Lease), and a notation regarding the category of fees and/or expenses associated with each for inclusion in the Landlord Cure Notice:

Entity	Summary Description
Levenfeld Pearlstein, LLC	Legal counsel –bankruptcy, adversary proceeding
Jackson Walker LLP	Legal counsel – bankruptcy, real estate, adversary proceeding
Kong Capital LLC	Consulting expert, senior living – bankruptcy
Monument Group, LLC	Consulting and media relations expert –bankruptcy and adversary
Getzler Henrich & Associates LLC	Expert witness – adversary proceeding Consulting – bankruptcy
UMB Bank, N.A.	Costs – adversary proceeding shared cost of discovery production
Fitch Ratings	Costs – adversary proceeding shared cost of discovery production

The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Northwest Senior Housing Corporation (1278) (the "Edgemere") and Senior Quality Lifestyles Corporation (2669) ("SQLC"). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

Terracon Consultants, Inc.	Consultant, property condition
Dallas County Tax Assessor/Collector	Real estate taxes 2022 [if not otherwise timely paid]

RESERVATION OF RIGHTS

Nothing contained in this Notice shall constitute a waiver of any rights or remedies of the Landlord under the Bankruptcy Code or applicable law, including, without limitation, the right to: (i) amend, modify, or supplement this Notice; and (ii) include any additional amounts appropriately included in the cure amount related to the Lease between the Landlord and Debtor Northwest Senior Housing Corporation.

December 16, 2022

/s/ Michael S. Held

JACKSON WALKER LLP

Michael S. Held (State Bar No. 09388150) Jennifer F. Wertz (State Bar No. 24072822) J. Machir Stull (State Bar No. 24070697)

2323 Ross Ave., Suite 600

Dallas, Texas 75201

Telephone: (214) 953-6000 Facsimile: (214) 953-5822 Email: mheld@jw.com Email: jwertz@jw.com Email: mstull@jw.com

Local Counsel for Intercity Investment Properties, Inc.

LEVENFELD PEARLSTEIN, LLC

Elizabeth B. Vandesteeg (admitted *pro hac vice*) Harold D. Israel (admitted *pro hac vice*)

Eileen M. Sethna (admitted *pro hac vice*)

2 North LaSalle Street, Suite 1300

Chicago, IL 60602

Telephone: (312) 346-8380 Facsimile: (312) 346-7634

Email: evandesteeg@lplegal.com Email: hisrael@lplegal.com Email: esethna@lplegal.com

Counsel for Intercity Investment Properties, Inc.