



U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS


ENTERED

TAWANA C. MARSHALL, CLERK

THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 23, 2014


United States Bankruptcy Judge

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

In re:	§	CASE NO. 14-32821
	§	
SEARS METHODIST RETIREMENT	§	CHAPTER 11
SYSTEM, INC., <i>et al.</i> ¹	§	
	§	Jointly Administered
Debtors.	§	

STIPULATED FINAL ORDER:

**(1) AUTHORIZING SEARS TYLER METHODIST
RETIREMENT CORPORATION TO USE CASH COLLATERAL;
AND (2) GRANTING ADEQUATE PROTECTION TO THE TRUSTEE**

Upon the motion (the "*Motion*")² of Sears Tyler Methodist Retirement Corporation (the "*Debtor*"), a debtor and debtor-in-possession in the above-captioned case (the "*Chapter 11 Case*"), for a final order (this "*Final Order*") (1) authorizing the Debtor to use the cash collateral

¹ The debtors in these chapter 11 cases, along with the last four (4) digits of their taxpayer identification numbers, are: Sears Methodist Retirement System, Inc. (6330), Canyons Senior Living, L.P. (8545), Odessa Methodist Housing, Inc. (9569), Sears Brazos Retirement Corporation (8053), Sears Caprock Retirement Corporation (9581), Sears Methodist Centers, Inc. (4917), Sears Methodist Foundation (2545), Sears Panhandle Retirement Corporation (3233), Sears Permian Retirement Corporation (7608), Sears Plains Retirement Corporation (8233), Sears Tyler Methodist Retirement Corporation (0571) and Senior Dimensions, Inc. (4016) (collectively, the "*Debtors*"). The mailing address of each of the debtors, solely for purposes of notices and communications, is 2100 Ross Avenue, 21st Floor, c/o Paul Rundell, Dallas, Texas 75201.

² All capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

of the Trustee and (2) granting the Trustee adequate protection upon the terms set forth in interim and final orders; and upon the interim hearing on the relief requested in the Motion on an interim basis conducted by the Court on June 12, 2014; and upon the *Interim Order (1) Authorizing Sears Tyler Methodist Retirement Corporation to Use Cash Collateral on an Interim Basis; (2) Granting Adequate Protection to Trustee; and (3) Scheduling a Final Hearing* (Docket No. 60, the “*Interim Order*”) entered by the Court on June 12, 2014; and upon the final hearing on the Motion conducted by the Court on July 21, 2014; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of this case and the Motion in this district is proper pursuant to 28 U.S.C. § 1408; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors and other parties in interest; and it appearing that notice of the Motion has been given in accordance with Bankruptcy Rule 4001(b)(2); and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY FOUND THAT:³

A. On the Petition Date, the Debtor filed a petition for relief under Chapter 11 of the Bankruptcy Code.

B. Since the Petition Date, the Debtor has continued in the management and operation of its business and property as a debtor-in-possession pursuant to Bankruptcy Code sections 1107 and 1108. No request has been made for the appointment of a trustee or examiner.

³ The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

On June 19, 2014, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors (“the *Committee*”) in connection with the Chapter 11 case. (Docket No. 96).

C. On July 17, 2014, the Debtor filed its Emergency Motion for Interim and Final Orders (I) Authorizing Sears Tyler Methodist Retirement Corporation to Obtain Postpetition Financing on a Senior Secured Superpriority Basis Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, and 364, (II) Setting a Final Hearing; and (III) Granting Related Relief (the “*DIP Motion*”) (Docket No. 221), pursuant to which the Debtor is seeking interim and final orders (the “*DIP Orders*”) approving, among other things, the granting of certain first-priority liens (the “*Priming Liens*”) on all of the existing and after acquired real and personal, tangible and intangible assets of the Debtor, including, without limitation, all cash, cash equivalents, bank accounts, accounts, other receivables, chattel paper, contract rights, inventory, instruments, documents, securities (whether or not marketable), equipment, fixtures, real property interests, franchise rights, patents, trade names, copyrights, intellectual property, general intangibles, investment property and all substitutions, accessions and proceeds of the foregoing, wherever located, including, without limitation, insurance or other proceeds (the “*Sears Tyler DIP Collateral*”) to Invesco High Yield Municipal Fund⁴ or its designee, as note purchaser (the “*Purchaser*”) that are senior to those of the Trustee, and the Debtor’s obtaining secured financing provided by the Purchaser on an interim basis in a principal amount not to exceed \$500,000.00 (the “*Interim DIP Financing*”) and on a final basis in a principal amount not to exceed \$3,000,000.00 (the “*Final DIP Financing*”) and together with the Interim DIP Financing, the “*DIP Financing*”), as provided more fully in the Term Sheet and the \$3,000,000 Senior Secured Super-Priority Debtor-In-Possession Note

⁴ Invesco High Yield Municipal Fund is a beneficial owner of Tyler’s pre-petition Bonds (defined below).
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Purchase and Security Agreement to be entered into between the Debtor and the Purchaser (as amended from time to time, the “*DIP Note Purchase and Security Agreement*”).

D. The Debtor stipulates and agrees that it is obligated under the following undertakings (collectively, the “*Bond Financing Documents*”):

(1) a certain Master Trust Indenture, Deed of Trust and Security Agreement dated November 1, 2009 (as supplemented and amended, the “*Master Indenture*”), by and between the Debtor and UMB Bank, N.A., not individually, but as successor master trustee (the “*Master Trustee*”);

(2) a certain Indenture of Trust dated November 1, 2009 (as supplemented and amended, the “*Bond Indenture*”), by and between HFDC of Central Texas, Inc. (the “*Issuer*”) and UMB Bank, N.A., not individually, but as successor bond trustee (the “*Bond Trustee*” and, together with the Master Trustee, the “*Trustee*”);

(3) those certain HFDC of Central Texas, Inc. Retirement Facility Revenue Bonds (Sears Tyler Methodist Retirement Corporation Project), Series 2009A (the “*2009A Bonds*”), issued pursuant to the Bond Indenture in the initial aggregate principal amount of \$36,100,000;

(4) those certain HFDC of Central Texas, Inc. Retirement Facility Revenue Bonds (Sears Tyler Methodist Retirement Corporation Project), Series 2009B (the “*2009B Bonds*”), issued pursuant to the Bond Indenture in the initial aggregate principal amount of \$7,850,000;

(5) those certain HFDC of Central Texas, Inc. Retirement Facility Revenue Bonds (Sears Tyler Methodist Retirement Corporation Project), Series 2011A (the “*2011A Bonds*”), issued pursuant to the Bond Indenture in the initial aggregate principal amount of \$3,895,000;

(6) those certain HFDC of Central Texas, Inc. Retirement Facility Revenue Bonds (Sears Tyler Methodist Retirement Corporation Project), Series 2011B (the “*2011B Bonds*” and, together with the 2009A Bonds, the 2009B Bonds, and the 2011A Bonds, the “*Bonds*”), issued pursuant to the Bond Indenture in the initial aggregate principal amount of \$1,500,000; and

(7) a certain Loan Agreement dated November 1, 2009 (as supplemented and amended, the “*Loan Agreement*”), by and between the Issuer and the Debtor, pursuant to which the Debtor covenanted to make payments at such times and in such amounts so as to provide for the payment of the principal of, premium, if any, and interest on the Bonds and any fees, costs and expenses related thereto (collectively, the “*Prepetition Obligations*”).

The foregoing acknowledgments and stipulations shall be binding on the Debtor but not on any other party-in-interest in this case, except as provided in Paragraph 8 hereof.

E. The Debtor further stipulates and agrees as follows:

(1) As of the Petition Date, the Bond Financing Documents are each valid and enforceable against the Debtor, and the Debtor does not possess and agrees not to assert any claim (as such term is defined in Section 101(5) of the Bankruptcy Code), counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity or enforceability of the Bond Financing Documents;

(2) As of the Petition Date, the Prepetition Obligations constitute legal, valid and binding obligations of the Debtor, enforceable in accordance with the terms of the Bond Financing Documents (other than with respect to a stay of enforcement arising from section 362 of the Bankruptcy Code); no offsets, defenses or counterclaims to any of the Prepetition Obligations exists; no portion of the Prepetition Obligations is subject to recharacterization, disallowance, reduction or subordination pursuant to the Bankruptcy Code or non-bankruptcy law (except as provided for herein); the Prepetition Obligations constitute allowable secured claims; and the Debtor has irrevocably waived, discharged and released any rights it may have to challenge or object to the Prepetition Obligations, and/or to challenge or object to the security for the Prepetition Obligations;

(3) The Trustee's liens and security interests with respect to the Debtor's "Gross Revenues" and the "Premises" (each as defined in the Bond Financing Documents, and collectively, the "*Prepetition Collateral*") are valid, enforceable and perfected (by filing financing statements, recording the Deed of Trust and, where necessary, by possession of relevant instruments, certificates or other property), and are not subject to recharacterization, disallowance, reduction or subordination pursuant to the Bankruptcy Code or non-bankruptcy law (except as provided for herein). All of such financing statements and the Deed of Trust were validly authorized by the Debtor or validly executed by authorized representatives of the Debtor. Pursuant to the Bond Financing Documents, the Trustee has first priority security interests in and liens on all of the Prepetition Collateral, including the Cash Collateral (defined herein) and all proceeds of the Prepetition Collateral, to secure payment of the Prepetition Obligations;

(4) Pursuant to the Master Indenture, certain accounts were established and are held by the Trustee (collectively, the "*Trustee-Held Funds*"), including, without limitation, (a) a certain "Entrance Fee Fund," (b) a certain "Working Capital Fund," (c) a certain "Operating Support Fund," and (d) a certain "Revenue Fund" (each as defined in the Master Indenture). The Trustee-Held Funds are held in trust for the benefit of the holders of the Bonds as set forth the Bond Financing Documents and for the express purposes set forth therein. The Debtor acknowledges that the Trustee holds a validly perfected possessory security interest in the Trustee-Held Funds, and is entitled to access the Trustee-Held Funds in accordance with the terms of the Bond Financing Documents. To the extent that the automatic stay otherwise applies to such Trustee-Held Funds pursuant to Bankruptcy Code Section 362(a), as adequate protection for the use of the Trustee's Cash Collateral, the Debtor stipulates to relief from such stay for the limited purpose of allowing the Trustee to administer and apply the Trustee-Held Funds in accordance with the Bond Financing Documents. The Trustee-Held Funds shall be administered and applied

as set forth the Bond Financing Documents and for the express purposes set forth therein, and shall not be used or made available to the Debtor as Cash Collateral or otherwise pursuant to the Interim Order, this Final Order or any other order entered in this case; and

(5) The Trustee's security interests and liens have attached to all funds and property of the Debtor consisting of the Prepetition Collateral and the products and proceeds thereof, and the Trustee's security interests and liens will, notwithstanding the commencement of the Chapter 11 case, as of the Petition Date and thereafter, attach to the products and other proceeds of the Prepetition Collateral. The Trustee's security interests and liens shall attach to entrance fees received by the Debtor after the Petition Date, subject to the terms of the Initial Entrance Deposit Escrow Motion. Without limiting the foregoing, the Trustee's security interests and liens attach to all cash (whether as original collateral or cash proceeds of the Prepetition Collateral), negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents now or hereafter in the possession, custody or control of the Debtor (as defined in section 363(a) of the Bankruptcy Code, the "*Cash Collateral*"). For the avoidance of doubt, the term "Cash Collateral" does not include Trustee-Held Funds.

The foregoing acknowledgments and stipulations shall be binding on the Debtor, but not on any other party-in-interest in this case, except as provided in Paragraph 9 hereof.

F. The Debtor has requested that the Trustee consent to the Debtor's use of Cash Collateral and the Trustee is willing to consent to the Debtor's use of Cash Collateral on the terms and conditions provided herein. The Trustee is relying on the terms, conditions and protections provided herein in so consenting.

G. The agreements and arrangements described in the Motion and authorized in this Final Order have been negotiated at arm's-length with all parties represented by counsel, are fair and reasonable under the circumstances, and are enforceable in accordance with their terms. The Debtor and the Trustee are acting in good faith with respect to the use of Cash Collateral as provided in this Final Order. The superpriority claims, security interests and liens and other protections granted to the Trustee pursuant to this Final Order (1) are fair and reasonable and satisfy the requirements of the Bankruptcy Code and (2) will not be affected by any subsequent reversal, modification, vacatur or amendment of this Final Order or any other order, as provided in Section 364(e) of the Bankruptcy Code.

H. In light of the Trustee's agreement to subordinate its liens and superpriority claims to the Carve-Out (defined herein), the Priming Liens, and the superpriority claims granted to the Purchaser, and its agreement to permit use of its Cash Collateral, the Trustee is entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and the "equities of the case" exception shall not apply.

I. The liens and security interests granted to the Trustee hereunder shall not prime or impair any validly perfected lien or security interest senior to the liens and security interests of the Trustee with respect to the Debtor's assets and properties as of the Petition Date (the "*Prior Senior Liens*") or the Priming Liens. The granting of the replacement liens, super-priority administrative claims and other agreements of the Debtor hereunder constitute adequate protection to the Trustee for the Debtor's use of Cash Collateral for purposes of this Final Order.

J. Good cause has been shown for entry of this Final Order. Without use of Cash Collateral and the DIP Financing, the Debtor will not be able to fund its day-to-day operations, including payroll for its employees and ongoing services to its residents. Unless the Court authorizes the use of Cash Collateral, the Debtor will be unable to pay for the goods and services necessary to preserve and maximize the value of the Debtor's assets while it attempts to obtain confirmation of its Chapter 11 plan. Accordingly, this Final Order is required to avoid immediate and irreparable harm to the Debtor's estate. Entry of this Final Order is in the best interests of the Debtor, its creditors, its residents, and the estate.

THE COURT HEREBY ORDERS, AS FOLLOWS:

1. Motion Granted. The Motion is granted on a final basis in accordance with the terms and conditions of this Final Order. Any objections to the relief sought in the Motion that have not been previously resolved or withdrawn are overruled on the merits.

2. Use of Cash Collateral. Subject to the terms and conditions set forth in this Final Order, the Debtor is authorized pursuant to Bankruptcy Code sections 105, 361, 362 and 363 and Bankruptcy Rules 2002, 4001, 6003 and 9014 to use Cash Collateral through and including the earlier of (a) the entry of an order by this Court terminating such authority or (b) termination of this Final Order following issuance of a Termination Notice as set forth in Paragraph 10 below. The Cash Collateral may only be used to fund the types and corresponding amounts of itemized expenditures contained in the budget attached hereto as Exhibit A (as it may be amended from time to time as described below, the “*Budget*”) including any amounts relating to refunds due to current or former residents of Meadow Lake, but solely to the extent set forth in the Budget; provided, however, that the Debtor may use Cash Collateral in excess of the amount designated for a particular line-item so long as the percentage of deviation of each line item during any rolling 4-week period does not exceed ten percent (10%) in aggregate (the “*Variance*”); and provided further that any amendment or modification of the terms and conditions, or any amendment, modification, roll-forward or replacement of the Budget itself, shall be subject to the prior written consent of the Trustee. Any amendment or modification of the Budget shall not require approval by the Court to be effective. The Debtor shall provide a copy of any such amendment or modification to the Budget to the Committee. Any unused portion of the Variance will carry over to the following rolling 4-week period. Notwithstanding the foregoing, not more than \$20,000 of the Cash Collateral may be made available to reimburse the Committee, upon appropriate application therefor, for the Committee’s fees and expenses solely for the purposes of investigating the validity, priority, perfection and enforceability of the Trustee’s liens in the Prepetition Collateral.

3. Reporting. Each week during the Chapter 11 case, the Debtor will submit to the Trustee and counsel for the Committee an updated rolling 4-week cash flow report in a form acceptable to the Trustee comparing actual results to the Budget and reporting on the Variance of actual cash inflows and outflows from those set forth in the Budget. The Debtor will make its books and records, and its financial staff and advisors, reasonably available to the Trustee and its advisors at any time between the hours of 9:00 a.m. and 5:00 p.m. on any weekday, with not less than forty-eight (48) hours advance notice, to enable the Trustee to monitor the Debtor's compliance with the Budget and this Final Order and the Debtor's operations (whether historic, current or prospective).

4. Adequate Protection; Replacement Liens. The Trustee is entitled, pursuant to sections 361 and 363(e) of the Bankruptcy Code, to adequate protection of its interests in the Prepetition Collateral, including, but not limited to, the Cash Collateral, for any diminution in value of its interests in the Prepetition Collateral, including, without limitation, any such diminution resulting from (i) the Debtor's use of Cash Collateral and any other Prepetition Collateral, (ii) the subordination of the Trustee's liens on the Prepetition Collateral to the Carve Out (as defined herein), (iii) the subordination of the Trustee's liens on the Sears Tyler DIP Collateral to the Priming Liens, and (iv) the imposition of the automatic stay pursuant to Section 362 of the Bankruptcy Code. As security for and solely to the extent of any diminution in the value of the Trustee's Prepetition Collateral from and after the Petition Date, calculated in accordance with Bankruptcy Code Section 506(a) (a "*Diminution in Value*"), the Trustee is hereby granted senior priority replacement liens upon all assets and property of the Debtor and its estate of any kind or nature whatsoever, now existing or hereafter acquired, including, without limitation, the Prepetition Collateral (the "*Replacement Liens*"), but excluding all claims and

causes of action, and the products and proceeds thereof, arising under or permitted by Sections 502(d), 506(c), 544, 545, 547, 548, 549 and 550 of the Bankruptcy Code and any other avoidance claims and causes of action arising under state or federal law; provided, however, that the Replacement Liens shall be subject and subordinate to (a) the Carve-Out (defined below), (b) the Prior Senior Liens, and (c) the Priming Liens on the Sears Tyler DIP Collateral, but only to the extent of the amount of the outstanding borrowing by the Debtor under the DIP Note Purchase and Security Agreement plus any interest and fees related directly thereto. The Replacement Liens so granted are in addition to all security interests, liens, and rights of setoff existing in favor of the Trustee on the Petition Date, and are and shall be valid, perfected, enforceable and effective as of the Petition Date without any further action of the Debtor or the Trustee and without the necessity of the execution or recordation of filings by the Debtor of security agreements, pledge agreements, fixture filings, mortgages, hypothecs, deeds of trust, control agreements, financing statements or other similar documents, or the possession or control by the Trustee. Notwithstanding the foregoing, the Trustee is hereby authorized, but not required, to file or record any financing statements, security agreements, deeds of trust, or other documents in any jurisdiction or take any other action in order to validate and perfect the Replacement Liens granted hereunder.

5. Adequate Protection; 507(b) Priority Claim. The Trustee is hereby granted an administrative claim with a priority equivalent to a claim under sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code, on a dollar-for-dollar basis for and solely to the extent of any Diminution in Value, which administrative claim shall, among other things, have priority over all other costs and expenses of the kind specified in, or ordered pursuant to, sections 105, 328, 330, 331, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 1113 and 1114 of the Bankruptcy Code (the “*Super-Priority Administrative Claim*”), except for (a) expenditures constituting the Carve-Out

and (b) the superpriority claim granted to the Purchaser under the DIP Orders, which shall only have priority over the Super-Priority Administrative Claim to the extent of the outstanding borrowing by the Debtor under the DIP Note Purchase and Security Agreement plus any interest and fees related directly thereto.

6. Bankruptcy Code Section 506(c) Waiver. The entry of this Final Order by the Court shall be a conclusive and binding determination on all parties (x) as to the scope, extent, perfection, validity and enforceability, in all respects, of the Trustee's security interests and liens in the Prepetition Collateral, including, without limitation, the Cash Collateral, subject to the exceptions set forth in paragraph 9 hereof, (y) that such liens and security interests shall not be subject to any claim under section 552(b) of the Bankruptcy Code, and (z) that the Trustee's security interests in the Prepetition Collateral, including, without limitation, the Cash Collateral, are and shall not be subject to any claim under section 506(c) of the Bankruptcy Code, which claims are deemed to have been waived.

7. Adequate Protection; Fees and Expenses. The Debtor is hereby authorized and directed to pay the reasonable fees and expenses of Trustee's outside legal and financial advisors in accordance with the Budget, with any balance due to the Trustee's professionals and the Trustee's internal fees and expenses to be paid by the Trustee through deductions from (a) any expense retainers funded by the Debtor prior to the Petition Date and/or (b) the Trustee-Held Funds in accordance with the Bond Financing Documents. Notwithstanding the foregoing, the Trustee reserves its right to assert claims for the payment of additional amounts provided for in the Bond Financing Documents, and to seek additional or further adequate protection from the Court.

8. Carve-Out. The Replacement Liens and Super-Priority Administrative Claim granted hereunder shall be junior and subordinate to the following fees and expenses (the “*Carve-Out*”): (a) all budgeted and accrued but unpaid fees and expenses (the “*Professional Fees and Expenses*”) of the attorneys, accountants or other professionals retained by the Debtor and the Committee (collectively, the “*Professionals*”), allocable to the Debtor under and to the extent set forth in the Budget and incurred prior to the delivery of a Termination Notice; (b) Professional Fees and Expenses in the amount of \$125,000.00 incurred after delivery of a Termination Notice; (c) the payment of fees pursuant to 28 U.S.C. § 1930 to the extent related to the Debtor’s Chapter 11 case, provided that all such fees and expenses shall be subject to approval by a final order of the Court pursuant to sections 326, 328, 330, 331 or 363 of the Bankruptcy Code and (d) all reasonable and necessary costs incurred by any state regulatory authority in connection with the maintenance, retention and disposition of the Debtor’s patient medical records as required by applicable state or federal law or the provisions of 11 U.S.C. § 351, to the extent related to the Debtor’s Chapter 11 Case. Notwithstanding anything herein to the contrary, the Committee’s or Debtors’ professionals may seek a re-allocation of the Carve-Out, in a manner different from the Budget, if such allocation of the Carve-Out proves to have been improvident in light of developments not capable of being anticipated at the time of entry of this Order.

9. Parties in Interest Bound.

(a) The admissions and stipulations contained in Paragraphs D and E of this Final Order shall be binding on the Debtor under all circumstances and shall be binding upon all other parties in interest, including, without limitation, the Committee and any chapter 7 or chapter 11 trustee that may be appointed or elected on behalf of the Debtor’s estate, except to the extent that (i) a party in interest has filed an adversary proceeding or contested matter challenging the validity, enforceability or priority of the Prepetition Debt or the liens on the Prepetition Collateral in respect thereof, or otherwise asserting any claims or causes of action against the Trustee on behalf of the Debtor’s estate, no later than the date that is sixty (60) days

after the date of entry of this Final Order and (ii) the Court rules in favor of the plaintiff in any such timely filed adversary proceeding or contested matter. If any such adversary proceeding or contested matter is timely commenced as of such date, the admissions contained in this Final Order shall nonetheless remain binding and preclusive (as provided in this paragraph) except to the extent that such acknowledgments and agreements are expressly challenged in such adversary proceeding or contested matter.

(b) If no such adversary proceeding or contested matter is commenced as of such date, then (i) the Prepetition Obligations shall constitute allowed secured claims, not subject to subordination (other than as set forth herein with respect to the Carve-Out, the Prior Senior Liens, the Priming Liens, and any superpriority administrative claim granted to the Purchaser in connection with the DIP Financing), or avoidance, for all purposes in this Chapter 11 case and any subsequent Chapter 7 case, (ii) the liens securing the Prepetition Obligations on the Prepetition Collateral shall be deemed legal, valid, binding, duly authorized, perfected, not subject to defense, counterclaim, recharacterization, offset of any kind, subordination, other than as set forth herein, and otherwise unavoidable, (iii) the Prepetition Obligations and the liens on the Prepetition Collateral shall not be subject to any other or further challenge by any party-in-interest seeking to exercise the rights of the Debtor's estate, including, without limitation, any successor thereto, and (iv) the Trustee shall be deemed released from any and all rights, claims, causes of action and liabilities arising from or in connection with the Prepetition Obligations, the Prepetition Collateral, the Bond Financing Documents and/or the extension of credit or other financial accommodations thereunder or with respect thereto.

(c) Nothing herein shall affect the rights of the Texas Health and Human Services Commission from exercising its rights of recoupment, provided, however, that the Debtor shall retain its rights to exhaust all available administrative remedies to contest the dollar amount of any such recoupment(s).

10. Events of Default. Each of the following shall constitute an event of default ("*Event of Default*") with respect to the Debtor's authorization to use Cash Collateral hereunder, unless otherwise waived in writing by the Trustee:

(a) entry of an order converting this Chapter 11 Case to a case under Chapter 7 of the Bankruptcy Code;

(b) entry of an order dismissing this Chapter 11 Case;

(c) entry of an order appointing or directing the election of a trustee or examiner with enlarged powers (beyond those set forth in Sections 1104(c) and 1106(a)(3) and (4) of the Bankruptcy Code);

(d) without the prior written consent of the Trustee, the entry of any order (or other judicial action which has the effect of) amending, reversing, supplementing, staying the effectiveness of, vacating, or otherwise modifying this Final Order;

(e) the Debtor uses Cash Collateral for any purpose or in a manner other than as permitted in this Final Order and in the Budget or otherwise fails to comply with any term of this Final Order;

(f) entry of an order by the Bankruptcy Court authorizing relief from stay by any person (other than the Trustee) on or with respect to all or any portion of the Prepetition Collateral with a value in excess of \$50,000;

(g) the filing by the Debtor of any pleading objecting to or seeking to challenge the Trustee's claims with respect to the Prepetition Obligations or the Trustee's lien upon Cash Collateral or the Prepetition Collateral or otherwise asserting rights, claims or causes of action against the Trustee with respect to the Prepetition Obligations;

(h) the breach by the Debtor of its obligations under this Final Order (including, without limitations, the milestones set forth in Paragraph 12 hereof);

(i) an event of default or termination under the Debtor's DIP Financing arrangement with the Purchaser;

(j) the filing by the Debtor of any debtor-in-possession financing pleadings or any final documents pertaining to a debtor-in-possession financing not acceptable to and not supported by the Trustee;

(k) the filing by the Debtor of any bid procedure and/or sale documents relating to the sale of the Prepetition Collateral, post-petition collateral subject to the Replacement Lien, and/or Cash Collateral not acceptable to and not supported by the Trustee; or

(l) the Debtor voluntarily or involuntarily dissolves or is dissolved, liquidates or is liquidated or ceases the operation of any material portion of its business.

11. Termination Notice. Immediately upon the occurrence or existence of an Event of Default, the Trustee shall be authorized to issue a notice (a "*Termination Notice*") thereof to the Debtor, its counsel, counsel to the Committee, counsel to the Purchaser, and the U.S. Trustee, which Termination Notice may be delivered by electronic mail or facsimile. Unless, within five (5) business days after the issuance of such notice, the Court determines that the applicable Event of Default has not occurred or does not exist, the Debtor's authority to use Cash Collateral shall terminate.

12. Deemed Request for Stay Relief. The Motion and this Final Order shall be deemed to constitute a request by the Trustee for relief from the automatic stay with respect to the Prepetition Collateral, for adequate protection for the use of Cash Collateral as of the Petition Date, and shall suffice for all purposes of section 507(b) of the Bankruptcy Code.

13. Trustee-Held Funds. The Trustee-Held Funds are held in trust for the benefit of the holders of the Bonds, as set forth the Bond Financing Documents. The Trustee may, without further Court authority (including, without limitation, the need to file a motion to lift the automatic stay), access the Trustee-Held Funds in accordance with the terms of the Bond Financing Documents.

14. Milestones. The Debtor shall take the actions identified below by the following dates:

(a) as soon as practicable, but in any event no later than July 25, 2014, file an application with the Court seeking authorization to retain an investment banker, acceptable to the Trustee, to advise the Debtor in its efforts to solicit and consummate a sale of all or substantially all the Debtor's assets through a competitive auction process;

(b) on or before August 15, 2014, obtain entry of an order approving the retention of the investment banker;

(c) on or before September 29, 2014, enter into a letter of intent with a prospective purchaser for the sale of all or substantially all the Debtor's assets (the "Sale"), in a form and substance acceptable to the Debtor and the Trustee;

(d) on or before November 7, 2014, enter into an asset purchase agreement with the prospective purchaser, in a form and substance acceptable to the Debtor and the Trustee, memorializing the letter of intent and any non-material modifications resulting from due diligence;

(e) on or before November 7, 2014, file (i) a motion with the Court seeking approval of bidding and auction procedures relating to the Sale (the “*Sale Procedures*”), (ii) a proposed order approving the Sale Procedures, (iii) a proposed order approving the Sale as contemplated under the Sale Procedures, and (iv) appropriate supporting declarations, in each case in a form and substance acceptable to the Debtor and the Trustee;

(f) on or before November 25, 2014, obtain entry of an order approving the Sale Procedures, in a form and substance acceptable to the Debtor and the Trustee; and

(g) on or before December 24, 2014, obtain entry of an order approving the Sale, in a form and substance acceptable to the Debtor and the Trustee.

15. No Duty to Monitor Compliance. The Trustee may assume that the Debtor will comply with all terms and conditions of this Final Order and the Budget and shall not (a) be obligated to ensure or monitor the Debtor’s compliance with any financial covenants, formulae or other terms and conditions of this Final Order or the Bond Financing Documents, (b) be obligated to pay (directly or indirectly from Cash Collateral or otherwise) any expenses incurred or authorized to be incurred pursuant to this Final Order or in connection with the operation of the Debtor’s business, or (c) be obligated to ensure or monitor that Cash Collateral exists to pay such expenses.

16. No Waiver. The failure of the Trustee to seek relief or otherwise exercise its rights and remedies under this Final Order or the Bond Financing Documents, as applicable, shall not constitute a waiver of any of the Trustee’s rights hereunder, thereunder or otherwise.

17. No Third Party Rights. Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any third party, creditor, equity holders or any direct, indirect or incidental beneficiary.

18. Section 552(b). In light of its agreement to subordinate its liens and superpriority claims on the Prepetition Collateral to the Carve-Out and the Prior Senior Liens, and its liens and superpriority claims on the Sears Tyler DIP Collateral to the Priming Liens, the Trustee shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to the Trustee with respect to products and proceeds of any of the Prepetition Collateral.

19. Effect of Order. This Final Order shall be effective upon its entry and not subject to any stay (notwithstanding anything to the contrary contained in the Bankruptcy Rules, including Bankruptcy Rule 4001(a)(3)).

20. Amendments and Waivers. The Debtor and the Trustee may amend, modify, supplement or waive any provision of this Final Order in writing if such amendment, modification, supplement or waiver is not material, with notice to the Committee, but without any need to apply to, or receive further approval from, the Court. The Debtor shall provide notice of any such nonmaterial amendment, modification, supplement or waiver to counsel for the Committee and the Office of the United States Trustee. Any material amendment, modification, supplement or waiver shall be in writing, signed by the Debtor and the Trustee, and approved by the Court on appropriate notice by the Debtor.

21. Trustee Not in Control of Debtor’s Operations. With respect to the Debtor’s use of Cash Collateral pursuant to this Final Order, or any actions reasonably related to this Final Order, the Motion or the Bond Financing Documents, neither the Trustee nor its agents, employees, attorneys or representatives shall have any liability to any third party (including creditors of the Debtor) and shall not be deemed to be in control of the Debtor’s operations or to

be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtor.

22. Order Governs. In the event of any inconsistency between the provisions of this Final Order and the Motion, the provisions of this Final Order shall govern.

Agreed to by:

Sears Tyler Methodist Retirement Corporation, as debtor
and debtor-in-possession through its counsel

/s/ Vincent P. Slusher

UMB Bank, N.A., as trustee
through its counsel

/s/ Nathan F. Coco

###End of Order###

CRO Budget
SMRS - Meadow Lake in Tyler

Week	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending
7/20/2014	7/27/2014	8/3/2014	8/10/2014	8/17/2014	8/24/2014	8/31/2014	9/7/2014	9/14/2014	9/21/2014	9/28/2014	10/5/2014	10/12/2014	10/19/2014	10/26/2014	11/2/2014	

SMRS - Meadow Lake in Tyler

Beginning Book Cash Balance	\$ 371,282	\$ 59,232	\$ (213,883)	\$ (224,295)	\$ (361,192)	\$ (393,442)	\$ (619,367)	\$ (651,617)	\$ (733,203)	\$ (746,312)	\$ (1,218,887)	\$ (1,251,138)	\$ (1,337,724)	\$ (1,277,196)	\$ (1,375,621)	\$ (1,764,121)
Receipts																
Deposits	62,778	62,778	216,668	155,556	62,778	62,778	62,778	216,668	155,556	62,778	62,778	216,668	155,556	62,778	62,778	216,668
Medicare	-	-	75,120	-	-	-	-	75,120	-	-	-	75,120	-	-	-	75,120
Medical	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Shared Services Receipts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Entrance Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Receipts	62,778	62,778	291,788	155,556	62,778	62,778	62,778	291,788	155,556	62,778	62,778	291,788	155,556	62,778	62,778	291,788
Disbursements																
Payroll & Benefits	32,313	98,488	32,313	98,488	32,313	98,488	32,313	98,488	32,313	98,488	32,313	98,488	32,313	98,488	32,313	98,488
Trade Payables	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715
Entrance Fee Refunds	279,800	174,690	-	-	-	-	-	-	-	240,000	-	-	-	-	240,000	-
Adequate Protection	-	-	100,000	-	-	-	-	100,000	-	-	-	100,000	-	-	-	100,000
Shared Services Expenses	-	-	102,171	-	-	-	-	102,171	-	-	-	102,171	-	-	-	102,171
Utility Deposits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Debtors Counsel - DLA	-	-	-	65,250	-	-	-	-	-	54,750	-	-	-	-	-	51,000
Debtors Advisor - A&M	-	-	-	46,500	-	-	-	-	-	38,750	-	-	-	-	-	36,000
Debtors Banker - RBC	-	-	-	3,750	-	-	-	-	-	3,750	-	-	-	-	-	3,750
Creditors Professionals	-	-	-	7,500	-	-	-	-	-	15,000	-	-	-	-	-	15,000
Claims Agent - GCG	-	-	-	8,250	-	-	-	-	-	6,750	-	-	-	-	-	6,750
Ombudsman	-	-	-	-	-	-	-	-	-	3,750	-	-	-	-	-	3,750
US Trustee	-	-	-	-	-	-	-	-	-	10,400	-	-	-	-	-	-
System Conversion / Special Projects	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
DIP Interest and Fees	-	-	5,000	-	-	-	-	10,000	-	-	-	15,000	-	-	-	20,000
Total Disbursements	374,828	336,893	302,199	292,453	95,028	288,703	95,028	373,374	168,665	536,353	95,028	378,374	95,028	161,203	451,278	383,374
Net Cash Flow	(312,050)	(273,115)	(10,411)	(136,897)	(32,250)	(228,925)	(32,250)	(81,586)	(13,109)	(472,575)	(32,250)	(86,586)	60,528	(98,425)	(388,500)	(91,586)
Ending Book Cash Balance	\$ 59,232	\$ (213,883)	\$ (224,295)	\$ (361,192)	\$ (393,442)	\$ (619,367)	\$ (651,617)	\$ (733,203)	\$ (746,312)	\$ (1,218,887)	\$ (1,251,138)	\$ (1,337,724)	\$ (1,277,196)	\$ (1,375,621)	\$ (1,764,121)	\$ (1,855,707)
Beginning DIP Balance	\$ -	\$ -	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000	\$ 2,000,000
DIP Funding	-	500,000	-	-	-	-	500,000	-	-	500,000	-	-	-	-	-	500,000
Ending DIP Balance	\$ -	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000	\$ 2,000,000
Adjusted Ending Cash Balance	\$ 59,232	\$ 286,117	\$ 275,705	\$ 138,808	\$ 106,558	\$ 380,633	\$ 348,383	\$ 266,797	\$ 253,688	\$ 281,113	\$ 248,662	\$ 162,276	\$ 222,804	\$ 124,379	\$ 235,679	\$ 144,293
Cumulative Fees Incurred Case to Date	173,708	258,750	258,750	258,750	258,750	258,750	382,500	382,500	382,500	382,500	498,750	498,750	498,750	498,750	607,500	607,500

CRO Budget
SMRS - Meadow Lake in Tyler

Week	22	23	24	25	26	27	28	29	30	25 Weeks Total 7/20/2014 1/4/2015
Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	Week Ending	
11/9/2014	11/16/2014	11/23/2014	11/30/2014	12/7/2014	12/14/2014	12/21/2014	12/28/2014	1/4/2015		

SMRS - Meadow Lake in Tyler

Beginning Book Cash Balance	\$ (1,855,707) \$ (1,795,180) \$ (1,893,605) \$ (2,274,605) \$ (2,373,030) \$ (2,403,441) \$ (2,409,088) \$ (2,560,489) \$ (2,658,914) \$									
Receipts										
Deposits	155,556	62,778	62,778	62,778	216,668	155,556	62,778	62,778	216,668	2,956,679
Medicare	-	-	-	-	75,120	-	-	-	75,120	450,718
Medicaid	-	-	-	-	-	-	-	-	-	-
Shared Services Receipts	-	-	-	-	-	-	-	-	-	-
Entrance Fees	-	-	-	-	-	-	-	-	-	-
Total Receipts	155,556	62,778	62,778	62,778	291,788	155,556	62,778	62,778	291,788	3,407,398
Disbursements										
Payroll & Benefits	32,313	98,488	32,313	98,488	32,313	98,488	32,313	98,488	32,313	1,601,930
Trade Payables	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	62,715	1,567,875
Entrance Fee Refunds	-	-	240,000	-	-	-	-	-	-	1,174,490
Adequate Protection	-	-	-	-	100,000	-	-	-	100,000	600,000
Shared Services Expenses	-	-	-	-	102,171	-	-	-	134,449	645,302
Utility Deposits	-	-	-	-	-	-	-	-	-	-
Debtors Counsel - DLA	-	-	43,500	-	-	-	43,500	-	66,000	382,500
Debtors Advisor - A&M	-	-	36,000	-	-	-	36,000	-	36,000	270,000
Debtors Banker - RBC	-	-	3,750	-	-	-	3,750	-	221,250	243,750
Creditors Professionals	-	-	15,000	-	-	-	15,000	-	15,000	97,500
Claims Agent - GCG	-	-	6,750	-	-	-	6,750	-	6,750	48,750
Ombudsman	-	-	3,750	-	-	-	3,750	-	3,750	22,500
US Trustee	-	-	-	-	-	-	10,400	-	10,400	31,200
System Conversion / Special Projects	-	-	-	-	-	-	-	-	-	73,637
DIP Interest and Fees	-	-	-	-	25,000	-	-	-	30,000	105,000
Total Disbursements	95,028	161,203	443,778	161,203	322,199	161,203	214,178	161,203	718,627	6,864,433
Net Cash Flow	60,528	(98,425)	(381,000)	(98,425)	(30,411)	(5,647)	(151,400)	(98,425)	(426,839)	(3,457,035)
Beginning Book Cash Balance	\$ (1,795,180) \$ (1,893,605) \$ (2,274,605) \$ (2,373,030) \$ (2,403,441) \$ (2,409,088) \$ (2,560,489) \$ (2,658,914) \$ (2,658,914) \$									
Beginning DIP Balance	\$ 2,000,000 \$ 2,000,000 \$ 2,000,000 \$ 2,500,000 \$ 2,500,000 \$ 2,500,000 \$ 2,500,000 \$ 3,000,000 \$ 3,000,000 \$									
DIP Funding	-	-	500,000	-	-	-	-	-	200,000	-
Ending DIP Balance	\$ 2,000,000 \$ 2,000,000 \$ 2,500,000 \$ 2,500,000 \$ 2,500,000 \$ 2,500,000 \$ 2,500,000 \$ 3,000,000 \$ 3,200,000 \$									
Adjusted Ending Cash Balance	\$ 204,820 \$ 106,395 \$ 225,395 \$ 126,570 \$ 96,559 \$ 90,912 \$ 439,511 \$ 341,086 \$ 114,247 \$									
Cumulative Fees Incurred Case to Date	607,500	607,500	607,500	716,250	716,250	716,250	716,250	1,065,000	1,065,000	1,065,000