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PROPOSED ATTORNEYS FOR SEDGEBROOK, INC.

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

In re:	§	CASE NO. 10-34178
	§	
SEDGEBROOK, INC.,	§	CHAPTER 11
	§	(Joint Administration Pending)
Debtor.	§	

**MOTION OF THE DEBTOR FOR INTERIM AND FINAL ORDERS:
(I) PROHIBITING UTILITIES FROM ALTERING, REFUSING OR DISCONTINUING
SERVICE; (II) DEEMING THE UTILITY COMPANIES ADEQUATELY ASSURED OF
FUTURE PERFORMANCE; (III) AUTHORIZING THE DEBTOR TO MAINTAIN
ITS PREPETITION RELATIONSHIPS AND PRACTICES WITH THE THIRD
PARTY VENDOR; AND (IV) ESTABLISHING PROCEDURES FOR DETERMINING
REQUESTS FOR ADDITIONAL ADEQUATE ASSURANCE**

The above-captioned debtor and debtor in possession (the "Debtor" or "Sedgebrook"), by and through its proposed attorney, Whiteford, Taylor and Preston L.L.P., files this motion (the "Motion"), pursuant to sections 105(a) and 366 of title 11 of the United States Code (the "Bankruptcy Code"), requesting the entry of an interim and final order (i) prohibiting utilities from altering, refusing, or discontinuing service; (ii) deeming the utility companies adequately assured of future performance; and (iii) establishing procedures for determining requests for additional adequate assurance. In support of this Motion, the Debtor respectfully represents as follows:

Jurisdiction and Venue

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).
2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory bases for the relief requested herein are Bankruptcy Code sections 105(a) and 366.

The Debtor's Chapter 11 Proceeding

4. On June 15, 2010 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.
5. The Debtor intends to continue in the possession of its property and the management of its business as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.
6. No creditors committee has been appointed in this case by the United States Trustee.

Related Chapter 11 Proceeding

7. Contemporaneous with the filing of the Debtor's case, Lincolnshire Campus, LLC ("Lincolnshire"), filed a petition for relief under Chapter 11 of the Bankruptcy Code in this Court [Case No. 10-34176 (SGJ)]. The Debtor leases its principal Facility (defined supra) from Lincolnshire and has various financial as well as contractual relationships with Lincolnshire.

8. Approximately nine (9) months prior to the Petition Date, Lincolnshire's parent corporation, Senior Living Retirement Communities, LLC, formerly known as Erickson Retirement Communities, LLC ("Senior Living"), and certain other of its related entities¹ filed for bankruptcy in this Court (Main Case No. 09-37010). Senior Living developed and managed the Facility for the Debtor. Senior Living's Chapter 11 Plan was confirmed on April 16, 2010 ("Senior Living's Plan"). Senior Living and its related entities cases are still pending before this Court.

The Debtor and Its Business Operations

9. The Debtor was established on July 18, 2003, as a Maryland nonstock corporation to operate a continuing care retirement community in Lincolnshire, Illinois (the "Facility"), which opened in July, 2005. The Debtor is classified as a Internal Revenue Code Section 501(c)(3) organization based on its mission to provide affordable senior housing to seniors. The Debtor is a supported organization of National Senior Campuses, Inc. ("NSC"), a not-for-profit organization organized to support the Debtor and 16 other not-for-profit organizations that operate Continuing

¹ The Debtors in Senior Living's chapter 11 cases are: (i) Erickson Retirement Communities, LLC; (ii) Ashburn Campus, LLC; (iii) Columbus Campus, LLC; (iv) Concord Campus GP, LLC; (v) Concord Campus, LP; (vi) Dallas Campus GP, LLC; (vii) Dallas Campus, LP; (viii) Erickson Construction, LLC; (ix) Erickson Group, LLC; (x) Houston Campus, LP; (xi) Kansas Campus, LLC; (xii) Littleton Campus, LLC; (xiii) Novi Campus, LLC; (xiv) Senior Campus Services, LLC; (xv) Warminster Campus GP, LLC; and (xvi) Warminster Campus, LP.

Care Retirement Communities (“CCRCs”). NSC is the sole member of the Debtor and appoints all of the members of the Debtor’s board of directors.

10. The Facility and NSC’s other CCRCs are designed to offer seniors a continuum of care during their retirement years from independent living to skilled nursing care on the same campus. These facilities provide affordable living accommodations and related healthcare and support services to a target market of middle-income seniors aged sixty-two (62) years and older.

11. Senior Living was the developer of the Facility. Senior Living and its affiliates are not related to or affiliated with the Debtor or NSC. The Debtor has entered into a master lease agreement and certain other agreements with Lincolnshire. In addition, the Debtor and Senior Living have entered into a management and marketing agreement (the “Management Agreement”), pursuant to which Senior Living it to manage the community. As of April 30, 2010, pursuant to a transitional subcontract agreement, Senior Living subcontracted its right and obligations under the Management Agreement to Erickson Living Management, LLC (“ELM”), which is presently managing the Debtor’s Facility (the “Transitional Subcontract Agreement”). In return for its management services, the Debtor pays ELM a monthly management fee, per the Management Agreement. The Debtor also reimburses ELM for the costs of: (a) marketing the re-occupancy of the units at the Facility; (b) the salary and benefits of the Debtor’s employees and ELM’s management personnel located at the Facility, and (c) the Debtor’s share of certain other centralized services.

12. Other than through the various agreements associated with the development, construction, funding of the Facility, Senior Living and its affiliates are not affiliated with the Debtor or NSC. The Debtor contracts with Erickson Living Management, LLC to provide for the management of its community.

13. The Debtor leases the Facility from Lincolnshire (which Senior Living owns, directly or indirectly), pursuant to a master lease. The Debtor enters into a residence and care agreement (the “Residence and Care Agreement”) with each individual resident entering a community, pursuant to which the Debtor collects an initial entrance deposit (“IEDs”) and monthly fees from each resident. As of the Petition Date, the Facility had (i) 469 completed independent living units, 402 residents, and a percent (85.7%) occupancy rate; (ii) 44 completed assisted living units, 10 residents, and a percent (21.7%) occupancy rate; and (iii) 44 completed skilled nursing units, 22 residents, and a percent (49.7%) occupancy rate. It was originally anticipated that the Debtor’s facilities would include up to 1,392 independent living units, 96 assisted living units and 132 skilled nursing beds.

14. The Debtor’s capital structure consists of permanent financing in the form of project bonds and special tax district bonds. The Debtor has very low operating margins compared to the cost of the Facility’s programs and staffing. In addition, construction costs of the Facility have been much higher than similar costs for other CCRCs. Further, there is significant competition for the targeted residents in the greater Chicago area, which has caused the Facility’s occupancy rate to increase at a lower rate than projected. Moreover, the Chicago metropolitan area’s employment rates and home prices have declined more than in other markets, thereby causing the Debtor to have problems selling units as well as causing significant liquidity and capital structure difficulties.

Events Leading to Chapter 11 Filing

15. As mentioned previously, the Debtor leases the Facility from Lincolnshire (which Senior Living owns, directly or indirectly) pursuant to a master lease.

16. Under the terms of Senior Living's Plan, the Bond Trustees² (as defined in the Plan) were to negotiate in good faith with the Debtor and Redwood-ERC Senior Living Holdings, LLC, a Maryland limited liability company ("Redwood"), regarding the possible sale of the Facility as well as two other related facilities, Monarch Landing, Inc. ("Monarch") and Linden Ponds, Inc. to Redwood during the 90-day period following the confirmation of Senior Living's Plan (i.e. from April 30, 2010 through July 31, 2010) (the "Negotiation Period").³ Although the Bond Trustees had an obligation to negotiate in good faith during the Negotiation Period, approximately two (2) weeks ago, the bond trustee for Monarch, inappropriately effectuated a set-off against the Monarch's cash reserves in the amount of \$15,166,737.69. The action of Monarch's bond trustee has threatened to destabilize Monarch's operations. As a number of the Debtor's bond owners are the same as Monarch's and they both are represented by the same counsel, the Debtor filed this chapter 11 proceeding to stop its Bond Trustee from making a similar offset against Sedgebrook's cash reserves thereby causing severe damage to its operations and threatening the well being of its residents.

17. Additionally, beginning in December of 2009, the Bond Trustees began removing amounts held in escrow for the benefit of the Debtors in order to pay their professional fees. In doing so, the Bond Trustees did not follow the requisite procedures for removing such funds as

2 The trustee for the Debtor's bonds is US Bank National Association (the "Bond Trustee").

3 Section 6.2.3.1 of Senior Living's Plan provides:

Disposition. During the 90-day period immediately following the Plan Confirmation Date, Redwood will negotiate (non-exclusively) in good faith with the applicable NFPs and Bond Trustees for the Bond Communities to reach a resolution regarding such Bond Communities. During such 90-day period, the applicable NFP, with the consent of the applicable Bond Trustee, may market the applicable Bond Community for sale with the consent of the applicable Bond Trustee and letter of credit provider, may consummate such sale. At the conclusion of the 90-day period, if the parties have reached a resolution with respect to a particular Bond Community then the Debtors will facilitate a definitive agreement regarding such a resolution for such Bond Community. If Redwood does not reach an agreement with respect to resolution of a particular Bond Community during this 90-day period that is acceptable to Redwood, the applicable NFP, the letter of credit provider and the applicable Bond Trustee, then promptly at the end

proscribed in the bond documents, primarily the submission of bills and request of payment from Sedgebrook or Monarch Landing. Moreover, the Bond Trustees neglected to provide notice of their removal of the funds to either Sedgebrook or Monarch Landing. To date, the Bond Trustees have removed \$835,136 from the Sedgebrook reserve account, and \$792,562 from the Monarch Landing reserve account. The actions of the Bond Trustee have threatened to destabilize Monarch's operations by severely limiting liquidity and endangering its residents. The Debtors filed these chapter 11 proceedings to protect their assets and to stop the Bond Trustee from causing further damage to their operations and threatening the well being of their residents.

A. The Debtor's Accounts With Utility Companies

18. The Debtor receives electricity, power, gas, telephone, water, and sewer (the "Utility Services") from approximately 12 utilities (the "Utility Companies"). Cass Information Services ("Cass" or "Third Party Vendor"), provides consolidated billing and payment services to the debtor. Certain Utility Companies send their invoices directly to Cass, as opposed to the debtor. Cass then combines the invoices into a single consolidated bill amount, which is forwarded to the debtor for payment. Once the debtor's payment is received, Cass transmits payment to the appropriate Utility Companies. The debtor pays Cass a monthly fee in exchange for such services. A list identifying the Utility Companies with relevant accounts for these companies is attached as Exhibit A.⁴

of such 90-day period, ERC's interests in the entity related to such Bond Community (Naperville Campus, LLC, Linconshire Campus, LLC and/or Hingham Campus, LLC, as applicable will be transferred to the applicable NFP.

4 The listing of any entity on Exhibit A is not an admission that any listed entity is a utility within the meaning of Bankruptcy Code section 366. The Debtor reserves all rights to further address the characterization of any particular entities listed on Exhibit A as a utility company within the meaning of Bankruptcy Code section 366(a). The Debtor further reserves all rights to terminate the services of any Utility Company at any time and to seek an immediate refund of any utility deposit without effect to any right of setoff or claim asserted by a Utility Company against it. The relief requested herein is with respect to all Utility Companies and is not limited to only those identified in Exhibit A.

19. At all relevant times, the Debtor has attempted to remain current with regard to its utility bills. Furthermore, to the best of the Debtor's knowledge, the Debtor is current on all amounts owing to the Utility Companies, other than payment interruptions that may be caused by the commencement of these chapter 11 cases.

20. Continued and uninterrupted Utility Services is vital to the Debtor's ability to sustain its operations during this chapter 11 case. The inability to ensure sustained Utility Services would jeopardize the Debtor's ability to reorganize.

B. The Debtor's Ability to Meet Their Postpetition Obligations to Utility Companies

21. The Debtor estimates that its cost for the Utility Services during the 30 days after the Petition Date will be approximately \$90,976.

22. Assuming that the relief requested in the other first day motions is granted, the Debtor will have adequate cash on hand to meet all of its necessary postpetition operating expenses on a current basis, including payments to the Utility Companies. The Debtor is, by separate motion, seeking to maintain access to cash collateral financing (the "Cash Collateral") to make such payments.

Relief Requested

23. By this Motion, the Debtor seeks the entry of an interim and final order (the "Interim Order" and the "Final Order"), pursuant to Bankruptcy Code sections 105(a) and 366:prohibiting utilities from altering, refusing, or discontinuing service to the Debtor, deeming the utility companies adequately assured of future performance by the Debtor; (c) authorizing the Debtor to pay the Utilities a one month deposit; and (d) establishing procedures for determining requests to the Debtor for additional adequate assurance.

24. The Debtor expects to have access to Cash Collateral which means that it will have liquidity sufficient to keep its utility obligations current.

25. The Debtor has determined that its average monthly bill from all of the Utility Companies is approximately \$90,976. Thus, the Debtor proposes to pay each of the Utility Companies a one month deposit (the "Deposit"). The Debtor submits that the Deposit, in conjunction with the Debtor's ability to pay for future Utility Services in the ordinary course of business, constitutes adequate assurance of payment to the Utility Companies.

26. The Debtor also seeks to establish reasonable procedures (the "Procedures") by which the Utility Companies may request additional adequate assurance of future payment, in the event that the Utility Companies believe that the Deposit does not provide them with satisfactory adequate assurance. The proposed procedures are as follows:

a. Absent any further order of this Court and except as otherwise provided herein, the Utility Companies may not alter, refuse or discontinue service to, or discriminate against, the Debtor on account of the commencement of this case or any unpaid prepetition charges, or request payment of a deposit or receipt of other security in connection with any unpaid prepetition charges;

b. The Debtor will serve this Motion and any order granting this Motion (the "Order"), if granted by the Court, via first-class mail, within three (3) business days after the date that the Order is entered by the Court on all Utility Companies identified on Exhibit A attached hereto; provided that for any Utility Company that may have been omitted from Exhibit A, the Debtor shall have the right to supplement such list of Utility Companies and shall promptly provide notice of the Order upon learning of such Utility Company;

c. A Utility Company may request additional assurance of payment within 30 days after the Petition Date (the "Additional Assurance Request") by submitting an Additional Assurance Request to (the "Notice Party"): Whiteford, Taylor & Preston L.L.P., Seven Saint Paul Street, Baltimore, MD 21202 (Attn: Stephen F. Fruin, Esq.);

d. If a Utility Company makes a timely Additional Assurance Request that the Debtor believes is reasonable, then the Debtor shall be authorized in its sole discretion (but subject to the terms of the Cash Collateral) to comply with such request without further order of the Court;

e. Any Additional Assurance Request must: (a) be in writing; (b) set forth the location for which utility services are provided; include a summary of the Debtor's payment history relevant to the affected account(s), include any security deposits or other prepayments or assurances previously provided by the Debtor; (d) describe in sufficient detail the reason(s) why the treatment afforded pursuant to the procedures set forth herein does not constitute satisfactory adequate assurance of payment; and (e) include a

proposal for what treatment would constitute adequate assurance of payment from the Debtor, along with an explanation of why such proposal is reasonable;

f. If the Debtor believes that the Additional Assurance Request is unreasonable, then the Debtor will schedule a hearing to determine the adequate assurance to such Utility Company as necessary at the next omnibus hearing scheduled in these cases (the "Determination Hearing");

g. Pending resolution of that issue at any such Determination Hearing, any Utility Company making an Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing service to the Debtor; and

h. A Utility Company shall be deemed to have adequate assurance of payment unless and until a future order of this Court is entered requiring further adequate assurance of payment.

27. Although the Debtor believes that the list of Utility Companies attached as Exhibit A is complete, the Debtor requests authority, without further order of the Court, to supplement the list of Utility Companies if any Utility Company has been inadvertently omitted. If the Debtor supplements the list subsequent to the filing of this Motion, the Debtor promptly will serve a copy of this Motion, and the signed order granting this Motion, on any Utility Company that is added to the list by such a supplement (the "Supplemental Service"). Concurrently with the Supplemental Service, the Debtor will: (a) file with the Court a supplement to Exhibit A adding the name of the Utility Company so served; (b) serve a copy of such filing on the Notice Parties; and (c) increase the Utility Deposit Account to reflect the addition of the new Utility Company. The added Utility Company shall have 30 days from the date of service of this Motion and the Final Order to make an Additional Assurance Request. If such an Additional Assurance Request is made, the Debtor shall abide by the Procedures set

forth above, as applicable. Pending resolution of any Determination Hearing relating to an Additional Assurance Request, the Debtor seeks an order prohibiting any such Utility Company from altering, refusing, or discontinuing Utility Services to the Debtor.

Basis For Relief

28. Bankruptcy Code Section 366 supports the relief requested in this Motion. It provides, in pertinent part, as follows:

(a) Except as provided in subsections (b) and (c) of this section, a utility may not alter, refuse, or discontinue service to, or discriminate against, the trustee or the debtor solely on the basis of the commencement of a case under this title or that a debt owed by the debtor to such utility for service rendered before the order for relief was not paid when due.

(b) Such utility may alter, refuse, or discontinue service if neither the trustee nor the debtor, within 20 days after the date of the order for relief, furnishes adequate assurance of payment, in the form of a deposit or other security, for service after such date. On request of a party in interest and after notice and a hearing, the court may order reasonable modification of the amount of the deposit or other security necessary to provide adequate assurance of payment.

* * *

(c)(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30- day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

11 U.S.C. § 366.

29. Bankruptcy Code section 366 applies to entities providing electricity, gas, oil, water, trash removal, and/or telephone services, as well as any other entity that supplies services that cannot be readily obtained or replaced elsewhere, or which constitutes a monopoly with respect to the services it provides to a debtor. See In re Darby, 470 F.3d 573, 574 (5th Cir. 2006)

(clarifying those service providers that qualify as "utilities" under section 366); In re Northwest Recreational Activities, Inc., 8 B.R. 7, 9 (Bankr. Ga. 1980) (discussing section 366's application to "utilities"); In re Lucre, Inc., 333 B.R. 151, 154 (Bankr. W.D. Mich. 2005) (court held that entities providing energy and telephone services were utilities under Bankruptcy Code section 366); In re Woodland Corp., 48 B.R. 623, 624-25 (Bankr. D.N.M. 1985) (court found that section 366 applied to electricity company that provided electrical services to debtor).

30. Bankruptcy Code section 366 protects a debtor against the immediate termination of utility services after it files for bankruptcy. Pursuant to this section, a utility may not, during the first 30 days of the case, alter, refuse, or discontinue services to a debtor in a chapter 11 case solely because of unpaid prepetition amounts. However, the utility may do so thereafter unless the debtor furnishes "adequate assurance" of payment. See In re Polly, 392 B.R. 236, 240 (Bankr. N.D. Tex. 2008) (section 366(c) requires that debtor provide adequate assurance of payment); In re Beach House Property, LLC, No. 08-11761-BKC-RAM, 2008 WL 961498 at *1 (Bank. S.D.Fla. Apr. 8, 2008) (same); In re Viking Offshore (USA) Inc., No. 08-31219-H3-11, 2008 WL 782449, at *2-3 (Bankr. S.D. Tex. March 20, 2008) (same).

31. Under Bankruptcy Code section 366(c)(1)(A), "adequate assurance" means "(i) a cash deposit; (ii) a letter of credit; (iii) a certificate of deposit; (iv) a surety bond; (v) a prepayment of utility consumption; or (vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee." 11 U.S.C. § 366(c)(1)(A); see also, In re Syroco, 374 B.R. at 62 (deposit consisting of cost of two weeks' service was "adequate assurance" under section 366 of Bankruptcy Code); In re Bake-Line Group, LLC, 312 B.R. 48, 50 (Bankr. D. Del. 2004) (holding that Bankruptcy Code section 366 suggests that utilities be given adequate assurance of payment, such as a cash deposit).

32. While the form of adequate assurance of payment may be limited under Bankruptcy Code subsection 366(c) to the types of security enumerated in Bankruptcy Code section 366(c)(1)(A), the amount of the deposit or other form of security remains fully within the reasonable discretion of the court. See In re Circuit City Stores, 2009 WL 484553 at *4 (stating that courts have discretion under section 366(c) to determine the amount of adequate payments or collateral required to a utility company); Beach House Prop., 2008 WL 961498 at *1 (quoting 3 COLLIER ON BANKRUPTCY 'If 366.03[2] (rev. 15th ed. 2006)) ("[u]nder § 366(c)(2), the debtor must pay what the utility demands, unless the court orders otherwise") (emphasis in original).

33. It has been well established that the requirement that a utility receive adequate assurance of payment does not require a guarantee of payment. See, e.g., In re Circuit City Stores, 2009 WL 484553 at *4 ("A debtor need not provide utility companies an absolute guarantee of payment"); In re Anchor Glass Container Corp., 342 B.R. 872, 875 (Bankr. M.D.Fla. 2005); Adelphia Business Solutions, Inc., 280 B.R. 63, 80 (Bankr. S.D.N.Y. 2002); In re Astle, 338 B.R. 855, 860-61 (Bankr. D. Idaho 2006) ("[a]dequate assurance of payment under subsection (b) does not require an absolute guarantee of payment. What is required is that the utility will be protected from unreasonable risk of nonpayment") (internal quotations omitted). Instead, the protection granted to a utility is intended to avoid exposing the utility to an unreasonable risk of nonpayment. Id. Whether a utility is subject to an unreasonable risk of nonpayment must be determined from the facts and circumstances of each case. See In re Anchor Glass Container Corp., 342 B.R. at 875; see generally, In re Keydata Corp., 12 B.R. 156 (BAP 1st Cir. 1981).

34. The essence of the Court's inquiry is an examination of the totality of the circumstances in making an informed judgment as to whether utilities will be subject to an

unreasonable risk of nonpayment for postpetition services. Adelphia, 280 B.R. at 82-83; see also In re Anchor Glass Container Corp., 342 B.R. at 875 ("The type of arrangement that constitutes adequate assurance of future payment is a fact-intensive inquiry, determined under the individual circumstances of the case. . . . Section 366 requires a determination that a utility is not subject to unreasonable risk of nonpayment"); In re Magnesium Corp. of Am., 278 B.R. 698, 714 (S.D. N.Y. 2002) ("In deciding what constitutes adequate assurance in a given case, a bankruptcy court must focus upon the need of the utility for assurance, and to require that the debtor supply no more than that, since the debtor almost perforce has a conflicting need to conserve scarce financial resources.").

35. Here, the Debtor proposes to pay the Deposits to provide adequate assurance to its Utility Companies. Under the circumstances of these cases, the Debtor believes that the payment of a one month deposit, based on the Debtor's estimated monthly consumption, constitutes adequate assurance of payment under Bankruptcy Code section 366(c).

36. In addition, the Debtor proposes to protect the Utility Companies by establishing the Procedures provided herein, whereby any Utility Company can request additional adequate assurance in the event that it believes there are facts and circumstances with respect to its providing postpetition services to the Debtor that would merit greater protection.

37. Finally, the Debtor has budgeted for all of the postpetition obligations of the Utility Companies. In light of the commitments, the Debtor submits that the Utility Companies are adequately assured of future payments.

38. If the Utility Companies are permitted to terminate service after the Petition Date, the Debtor will be unable to operate its business to the severe detriment of its estate, creditors and employees. The Debtor will then be forced to pay whatever amounts are

demanded by the Utility Companies or face the cessation of essential utility services, and ultimately, its business. The rights of the Utility Companies, however, will not be prejudiced should the relief requested in this Motion be granted. See In re TSG, Inc., et al., Case No. 06-80899 (Bankr. E.D. Okla. 2006) (granting Debtor's motion for order deeming utility companies adequately assured of future performance and establishing procedure for determining requests for additional adequate assurance).

39. The relief sought herein is similar to the relief granted in other recent chapter 11 cases filed in this and other jurisdictions. See e.g., In re Renaissance Hosp. Grand Prairie, Inc., Case No. 08-43775 (DML) (Bankr. N.D. Tex. Sept. 5, 2008) (approving adequate assurance in the form of a one month deposit to requesting utilities); In re SemCrude, L.P., Case No. 08-11525 (BLS) (Bankr. D. Del. August 19, 2008) (approving adequate assurance in the form of a letter of credit or escrow account containing an amount equal to two weeks' deposit); In re Landsource Comtys. Dev. LLC, Case No. 08-11111 (KJC) (Bankr. D. Del. June 16, 2008) (approving adequate assurance to requesting utilities in an amount equal to two weeks' deposit); In re Steve & Barry's Manhattan, LLC, Case No. 08-12579 (ALG) (Bankr. S.D.N.Y. July 31, 2008) (approving adequate assurance to requesting utilities in an amount equal to two weeks' deposit).

NOTICE

Notice of this Motion has been provided to: (i) all Utility Companies identified on Exhibit A attached to the Motion; (ii) the Office of the United States Trustee; (iii) the Debtor's 20 largest unsecured creditors (until an official committee of unsecured creditors is appointed and has retained counsel, in which event, such committee's counsel); (iv) counsel to the Bond Trustee; (v) counsel to Senior Living Retirement Communities, LLC; (vi) counsel to Erickson Living

Management, LLC; (vii) Sovereign Bank, as issuing party of the letter of credit; (viii) the Utility Companies and (ix) those persons who have formally appeared and requested service in these proceedings pursuant to Bankruptcy Rule 2002.

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WHEREFORE, based upon the foregoing, the Debtor respectfully requests that the Court enter an interim and final order substantially in the form annexed hereto (a) granting the relief requested herein and (b) granting such other relief as may be deemed just and proper.

Dated: June 18, 2010
Dallas, Texas

Respectfully Submitted,

MCGURIE, CRADDOCK & STROTHER, P.C.

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Proposed Attorneys for Sedgebrook, Inc.

CERTIFICATE OF SERVICE

I certify that on the 18th day of June, 2010, a copy of the foregoing was sent by electronic mail or First Class U.S. Mail, postage prepaid, on all parties on the attached service list.

/s/J. Mark Chevallier

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Indian Creek, IL 60061

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Direct Supply Systems Inc.
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Milwaukee, WI 53288-0201

Get Fresh Produce
1441 Brewer Creek Blvd
Bartlett, IL 60103

Gulf South Medical Supply
Attn Melanie Brewer
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Jacksonville, FL 32216

Healthcare Cosmetology Services Inc
PO Box 850243
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Hershey Creamery Company
301 S. Cameron Street
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Harrisburg, PA 17105-1821

IKON Financial Services
Attn Donna Tanner Spec Assets Dept
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Koeckritz International, Inc.
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Lencioni Wholesale Meats Inc.
1000 Brown Street
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Linda Roberts & Associates Inc.
104 East Roosevelt Rd. Suite 201
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Phase 2 Services
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Dallas, Texas 75201

Thomas R. Califano/Jeremy R. Johnson
DLA Piper LLP (US)
1251 Avenue of the Americas
New York, NY 10020-1104

Erickson Retirement Communities, LLC
701 Maiden Choice Lane
Catonsville, MD 21228

Fifth Third Bank As Agent
424 Church St., Suite 500
Nashville, TN 37219

Wells Fargo, Trustee
9062 Old Annapolis Road
Columbia, MD 21045

Centerpoint Energy
PO Box 4981
Houston , TX 77210-4981
A/C #3500038340571

COMED
Bill Payment Center
Chicago, IL 60668-0001
A/C #0321118067

North Shore
North Shore Gas – Peoples Energy
PO Box A3991
Chicago, IL 60690-3991
A/C #3500057314563

Village of Lincolnshire
One Olde Half Day Road
Lincolnshire, IL 60069-3035
A/C #040156590300

Centerpoint Energy
PO Box 4981
Houston , TX 77210-4981
A/C #3500050752900

COMED
Bill Payment Center
Chicago, IL 60668-0001
A/C #0549114089

North Shore
North Shore Gas – Peoples Energy
PO Box A3991
Chicago, IL 60690-3991
A/C #3500057314703

Verizon Wireless
PO Box 371322
Pittsburgh, PA 15250
A/C #634628

Centerpoint Energy
PO Box 4981
Houston , TX 77210-4981
A/C #ERI10002

Suez
Suez Energy Resources NA
PO Box 25237
Lehigh Valley, PA 18002-5237
A/C #3684955005

Village of Lincolnshire
One Olde Half Day Road
Lincolnshire, IL 60069-3035
A/C #040156590200

Telesource
1450 Highwood East
Pontiac, MI 48340
A/C #80944

Exhibit A

List of Utilities Companies and Accounts

UTILITY PROVIDER	UTILITY SERVICES PROVIDED	MONTHLY AVERAGE COST (MAY 09 TO MAY 10)	ADEQUATE ASSURANCE DEPOSIT (AVERAGE PAYMENT OVER ONE MONTH)
Centerpoint Energy PO Box 4981 Houston , TX 77210-4981 A/C #3500038340571	Gas	\$3,777.42	\$3,777.42
Centerpoint Energy PO Box 4981 Houston , TX 77210-4981 A/C #3500050752900	Gas	\$1,449.70	\$1,449.70
Centerpoint Energy PO Box 4981 Houston , TX 77210-4981 A/C #ER110002	Gas	\$1,875.95	\$1,875.95
COMED Bill Payment Center Chicago, IL 60668-0001 A/C #0321118067	Electricity	\$5.88	\$5.88
COMED Bill Payment Center Chicago, IL 60668-0001 A/C #0549114089	Electricity	\$22.90	\$22.90
Suez Suez Energy Resources NA PO Box 25237 Lehigh Valley, PA 18002-5237 A/C #3684955005	Electricity	\$54,926.18	\$54,926.18
North Shore North Shore Gas – Peoples Energy PO Box A3991 Chicago, IL 60690-3991 A/C #3500057314563	Gas	\$3,603.26	\$3,603.26
North Shore North Shore Gas – Peoples Energy PO Box A3991 Chicago, IL 60690-3991 A/C #3500057314703	Gas	\$7,794.82	\$7,794.82
Village of Lincolnshire One Olde Half Day Road Lincolnshire, IL 60069-3035 A/C #040156590200	Water/Sewer	\$6,675.08	\$6,675.08
Village of Lincolnshire One Olde Half Day Road Lincolnshire, IL 60069-3035 A/C #040156590300	Water/Sewer	\$7,008.64	\$7,008.64
Verizon Wireless PO Box 371322	Telecom	\$2,877.00	\$2,877.00

UTILITY PROVIDER	UTILITY SERVICES PROVIDED	MONTHLY AVERAGE COST (MAY 09 TO MAY 10)	ADEQUATE ASSURANCE DEPOSIT (AVERAGE PAYMENT OVER ONE MONTH)
Pittsburgh, PA 15250 A/C #634628			
Telesource 1450 Highwood East Pontiac, MI 48340 A/C #80944	Telecom	\$959.00	\$959.00
Total			\$90,975.83

Exhibit B

Proposed Interim Order

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

In re: § **CASE NO. 10-34178**
§
SEDGEBROOK, INC., § **CHAPTER 11**
§ **(Joint Administration Pending)**
§
Debtor. §

**INTERIM ORDER (I) PROHIBITING UTILITIES FROM ALTERING, REFUSING
OR DISCONTINUING SERVICE, (II) DEEMING THE UTILITY COMPANIES
ADEQUATELY ASSURED OF FUTURE PERFORMANCE; (III) AUTHORIZING
THE DEBTOR TO MAINTAIN THEIR PREPETITION RELATIONSHIPS AND
PRACTICES WITH THE THIRD PARTY VENDOR; AND (IV) ESTABLISHING
PROCEDURES FOR DETERMINING REQUESTS FOR
ADDITIONAL ADEQUATE ASSURANCE**

Upon the Motion For An Interim Order (I) Prohibiting Utilities From Altering, Refusing, Or
Discontinuing Service, (II) Deeming The Utility Companies Adequately Assured Of Future

¹ Unless otherwise noted, capitalized terms used but not defined herein shall have the meanings provided in the Motion.

Performance; And (III) Establishing Procedures For Determining Requests For Additional Adequate Assurance (the "Motion")¹ of the above-captioned debtor and debtor in possession Performance of the above-captioned debtor and (the "Debtor"); and all as more fully set forth in the Motion; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. §157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409, and due and proper notice of the Motion having been provided to the necessary parties; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "Hearing"); and the appearances of all interested parties having been noted in the record of the Hearing; and upon the record of the Hearing, and all of the proceedings had before the Court; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtor, their creditors, and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefore, it is hereby:

ORDERED that the Motion is GRANTED; and it is further

ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that until such time as the Final Order is entered by this Court, no Utility

Company may (a) alter, refuse, terminate or discontinue services to, an/or discriminate against, the Debtor on the basis of the commencement of this chapter 11 case or on account of outstanding prepetition invoices or (b) require additional assurance of payment, other than the proposed adequate assurance in the Motion, as a condition to the Debtor receiving such utility services pending the entry of this Order (except subject to the Procedures established in the Motion); and it is further

ORDERED that the Debtor shall provide notice, via first class mail, of this Interim Order within three business days of entry of this Interim Order on: (i) all Utility Companies identified on Exhibit A attached to the Motion; (ii) the Office of the United States Trustee; (iii) the Debtor's 20 largest unsecured creditors on a consolidated basis (until an official committee of unsecured creditors is appointed and has retained counsel, in which event, such committee's counsel); (iv) counsel to the Bond Trustee; (v) counsel to Erickson Retirement Communities, LLC; (vi) counsel to Erickson Living Management, LLC; (vii) Sovereign Bank, as issuing party of the letter of credit; and (viii) those persons who have formally appeared and requested service in these proceedings pursuant to Bankruptcy Rule 2002; and it is further

ORDERED that within twenty days of the date of the commencement of these chapter 11 cases, the Debtor shall establish the Utility Deposit Account and deposit \$90,976 therein; and it is further

ORDERED that any deposit or payment requested by or provided to any Utility Company as adequate assurance pursuant to the procedures described herein shall be returned to the Debtor at the conclusion of this chapter 11 case, if not returned or applied earlier; and it is further

ORDERED that the following adequate assurance procedures are approved in all

respects:

- a. A Utility Company may request additional assurance of payment within 30 days after the Petition Date (the "Additional Assurance Request") by submitting an Additional Assurance Request to Whiteford, Taylor and Preston, L.L.P., Seven Saint Paul Street, Baltimore, MD 21202-1636 (Attn: Stephen F. Fruin, Esq.);
- b. If a Utility Company makes a timely Additional Assurance Request that the Debtor believe is reasonable, then the Debtor shall be authorized in its sole discretion (but subject to the terms of the Debtor in Possession Financing) to comply with such request without further order of the Court;
- c. Any Additional Assurance Request must: (a) be in writing; (b) set forth the location for which utility services are provided; (c) include a summary of the Debtor's payment history relevant to the affected account(s), including any security deposits or other prepayments or assurances previously provided by the Debtor; (d) describe in sufficient detail the reason(s) why the treatment afforded pursuant to the procedures set forth herein does not constitute satisfactory adequate assurance of payment; and (e) include a proposal for what treatment would constitute adequate assurance of payment from the Debtor, along with an explanation of why such proposal is reasonable;
- d. If the Debtor believes that the Additional Assurance Request is unreasonable, then the Debtor will schedule a hearing to determine the adequate assurance to such Utility Company as necessary at the next omnibus hearing scheduled in these cases (the "Determination Hearing");
- e. Pending resolution of that issue at any such Determination Hearing, any Utility Company making an Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing service to the Debtor; and
- f. A Utility Company shall be deemed to have adequate assurance of payment unless and until a future order of this Court is entered requiring further adequate assurance of payment; and it is further

ORDERED that a final hearing on the relief sought in the Motion will be held on [1,

2009 (the "Final Hearing"), and the Debtor shall provide notice, via first class mail, of the Motion, the Final Hearing, and the Final Order within three business days of the entry of the Final Order on (i) all Utility Companies identified on Exhibit A attached to the Motion; (ii) the Office of the United States Trustee for the Northern District of Texas; (iii) the Debtor' thirty largest creditors on a consolidated basis; and (iv) the Bond Trustee; and it is further

ORDERED that any deadline by which objections to the Motion must be filed and served is five days prior to the Final Hearing (the "Objection Deadline"). Objections to the Motion must be served on (i) Whiteford, Taylor & Preston L.L.P., Seven Saint Paul Street, Baltimore, MD 21202-1636 (Attn: Stephen F. Fruin, Esq.) and (ii) the Office of the United States Trustee for the Northern District of Texas. A Final Hearing, if required on the Motion will be held on _____, ___2010 at __:__ a.m./p.m. (prevailing Central Time). If no objections are filed to the Motion by the Objection Deadline, then this Court may enter a Final Order on the Motion without further notice or a hearing; and it is further

ORDERED that the Debtor is authorized and empowered to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion; and it is further

ORDERED that this Court will retain jurisdiction to address all disputes related to the interpretation or enforcement of this Interim Order.

###End of Order###

Exhibit C

Proposed Final Order

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

In re:	§	CASE NO. 10-34178
	§	
SEDGEBROOK, INC.,	§	CHAPTER 11
	§	(Joint Administration Pending)
Debtor.	§	

**FINAL ORDER (I) PROHIBITING UTILITIES FROM ALTERING, REFUSING OR
DISCONTINUING SERVICE, (II) DEEMING THE UTILITY COMPANIES
ADEQUATELY ASSURED OF FUTURE PERFORMANCE; (III) AUTHORIZING THE
DEBTOR TO MAINTAIN THEIR PREPETITION RELATIONSHIPS AND
PRACTICES WITH THE THIRD PARTY VENDOR; AND (IV) ESTABLISHING
PROCEDURES FOR DETERMINING REQUESTS FOR
ADDITIONAL ADEQUATE ASSURANCE**

Upon the Motion For A Final Order (I) Prohibiting Utilities From Altering, Refusing, Or
Discontinuing Service, (II) Deeming The Utility Companies Adequately Assured Of Future

Performance; And (III) Establishing Procedures For Determining Requests For Additional Adequate Assurance (the "Motion")¹ filed by the above captioned debtor and debtor in possession (the "Debtor"); and all as more fully set forth in the Motion; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. §157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409, and due and proper notice of the Motion having been provided to the necessary parties; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "Hearing"); and the appearances of all interested parties having been noted in the record of the Hearing; and upon the record of the Hearing, and all of the proceedings had before the Court; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtor, its creditors, and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefore, it is hereby:

ORDERED that the Motion is granted on a final basis as provided herein; and it is further

ORDERED that the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that subject to the procedures described below, no Utility Company may (a) alter, refuse, terminate or discontinue services to, and/or discriminate against, the Debtor on the basis of the commencement of this chapter 11 case or on account of outstanding prepetition invoices or (b) require additional assurance of payment, other than the proposed adequate

assurance in the Motion, as a condition to the Debtor receiving such utility services pending the entry of this Order (except subject to the Procedures established in the Motion); and it is further;

1 Unless otherwise noted, capitalized terms used but not defined herein shall have the meanings provided in the Motion.

ORDERED that the Debtor shall provide notice, via first class mail, of this Final Order within three business days of entry of this Final Order on (i) all Utility Companies identified on Exhibit A attached to the Motion; (ii) the Office of the United States Trustee; (iii) the Debtor's 20 largest unsecured creditors on a consolidated basis (until an official committee of unsecured creditors is appointed and has retained counsel, in which event, such committee's counsel); (iv) counsel to the Bond Trustee; (v) counsel to Erickson Retirement Communities, LLC; (vi) counsel to Erickson Living Management, LLC; (vii) Sovereign Bank, as issuing party of the letter of credit; and (viii) those persons who have formally appeared and requested service in these proceedings pursuant to Bankruptcy Rule 2002; and it is further

ORDERED that within twenty days of the date of the commencement of this chapter 11 case, the Debtor shall establish the Utility Deposit Account and deposit \$90,976 therein; and it is further

ORDERED that any deposit or payment requested by or provided to any Utility Company as adequate assurance pursuant to the procedures described herein shall be returned to the Debtor at the conclusion of this chapter 11 case, if not returned or applied earlier; and it is further

ORDERED that the following adequate assurance procedures are approved in all respects:

- a. A Utility Company may request additional assurance of payment within thirty days after the Petition Date (the "Additional Assurance Request") by submitting an Additional Assurance Request to Whiteford, Taylor & Preston L.L.P., Seven Saint Paul Street, Baltimore, MD 21202-1636 (Attn: Stephen F. Fruin, Esq.);
- b. If a Utility Company makes a timely Additional Assurance Request that the Debtor believes is reasonable, then

the Debtor shall be authorized in their sole discretion to comply with such request without further order of the Court;

c. Any Additional Assurance Request must: (a) be in writing; (b) set forth the location for which utility services are provided; (c) include a summary of the Debtor's payment history relevant to the affected account(s), including any security deposits or other prepayments or assurances previously provided to the Debtor; (d) describe in sufficient detail the reason(s) why the treatment afforded pursuant to the procedures set forth herein does not constitute satisfactory adequate assurance of payment; and (e) include a proposal for what treatment would constitute adequate assurance of payment from the Debtor, along with an explanation of why such proposal is reasonable;

d. If the Debtor believes that the Additional Assurance Request is unreasonable, then the Debtor will schedule a hearing to determine the adequate assurance to such Utility Company as necessary at the next omnibus hearing scheduled in these cases (the "Determination Hearing");

e. Pending resolution of that issue at any such Determination Hearing, any Utility Company making an Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing service to the Debtor; and

f. A Utility Company shall be deemed to have adequate assurance of payment unless and until a future order of this Court is entered requiring further adequate assurance of payment; and it is further

ORDERED that the Debtor is authorized and empowered to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion; and it is further

ORDERED that this Court will retain jurisdiction to address all disputes related to the interpretation or enforcement of this Order.

###End of Order###