

RESOLUTION NO. 10-16

A RESOLUTION OF THE GOVERNING BOARD OF THE CAPITAL TRUST AGENCY AWARDDING SALE OF NOT TO EXCEED \$46,000,000 CAPITAL TRUST AGENCY SENIOR LIVING REVENUE BONDS (LADY LAKE SENIOR LIVING FACILITY PROJECT), IN ONE OR MORE SERIES, EITHER TAXABLE OR TAX-EXEMPT, OR BOTH, FOR THE PURPOSE OF FINANCING A LOAN PROGRAM TO ASSIST IN FINANCING THE HEREIN DESCRIBED SENIOR LIVING FACILITY; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE AND LOAN AGREEMENT FOR SUCH BONDS; APPROVING USE OF OFFERING MATERIALS IN CONNECTION WITH MARKETING SUCH BONDS AND OTHER ACTIONS IN CONNECTION WITH DELIVERY OF SUCH BONDS; AUTHORIZING THE USE OF PRIVATE ACTIVITY BOND VOLUME CAP CARRYFORWARD ALLOCATION OF THE CAPITAL TRUST AGENCY FOR THE BENEFIT OF THE BONDS; PROVIDING CERTAIN OTHER DETAILS IN CONNECTION WITH THE BONDS; PROVIDING FOR A SEVERABILITY CLAUSE AND A REPEALER CLAUSE; AND PROVIDING EFFECTIVE DATE.

WHEREAS, the Capital Trust Agency (the "Issuer"), a separate legal and administrative agency of the State of Florida, is authorized by the laws of the State of Florida, particularly Chapter 159, Part II, Chapter 163, Part I, and Chapter 166, Part II, Florida Statutes, Ordinance 05-97 of the City Council (the "City Council") of Gulf Breeze, Florida (the "City") duly enacted by the City Council on July 7, 1997, as amended, restated and supplemented by Ordinance Nos. 04-00, 05-01 and 10-11 duly enacted by the City Council on May 15, 2000, May 7, 2001 and September 6, 2011, respectively; Ordinance 2-00 duly enacted by the Town Council (the "Town Council") of Century, Florida (the "Town" and together with the City, the "Sponsoring Political Subdivisions"), on August 7, 2000, as amended and supplemented by Ordinance Nos. 1-01 and 5-11 duly enacted by the Town Council on May 7, 2001 and October 3, 2011, respectively; an Interlocal Agreement, dated as of August 2, 1999, between the City and the Town, as amended and supplemented, particularly as amended and supplemented by Amendment No. 68 to the Interlocal Agreement, dated July 5, 2016 ("Amendment No. 68"); Resolution No. 15-16, duly adopted by the City Council on July 5, 2016, approving Amendment No. 68, Resolution No. 11-16, duly adopted by the Town Council on June 20, 2016, approving Amendment No. 68, Resolution No. 05-16, duly adopted by the Issuer on March 31, 2016, and other applicable provisions of law (hereinafter collectively defined as the "Act"), to sell and deliver its bonds for the purpose of financing or refinancing, including through reimbursement, the cost of a health care facility, as defined in the Act; and

WHEREAS, pursuant to the Act, the Issuer may issue its revenue bonds for the purpose of developing and maintaining the public welfare and relieving the burdens of government, by

financing capital facilities for for-profit and non-profit organizations and for participating public agencies within and without the State of Florida, including the Issuer; and

WHEREAS, the Issuer has been requested by Living Waters, LLC, a Delaware limited liability company, whose principal place of business is 2 Metroplex Drive, Suite 202, Birmingham, Alabama 35209, and/or one or more of its affiliates (as applicable, the "Borrower"), to establish a loan program (the "Program") for the purpose, among other things, of financing or refinancing, including through reimbursement, the costs of acquiring, constructing, developing, furnishing and equipping by the Borrower of an independent living, assisted living and memory care facility for the elderly; and

WHEREAS, pursuant to the Act and to the plan of finance (the "Plan of Finance"), the Issuer did on March 31, 2016, duly adopt Resolution No. 05-16 (the "Authorizing Resolution") authorizing the issuance of its revenue bonds in one or more series (collectively, the "Bonds") and agreeing to loan the proceeds thereof to the Borrower for the primary purpose of acquiring, constructing, developing, furnishing and equipping of a senior living facility, including related facilities, fixtures, furnishings and equipment, now described as a senior living rental facility of approximately 164,157 square feet expected to consist of approximately 145 independent living beds, approximately 29 assisted living beds and approximately 24 memory care beds and associated common spaces, located or to be located on the approximately 7.5 acres on the north side of E. County Road 466 approximately three hundred (300) feet east of the intersection of E. County Road 466 and NE 90th Street, Lady Lake, Lake County, Florida 32159 (the "Senior Living Facility"), within the corporate limits of the Town of Lady Lake, Florida (the "Town"); and

WHEREAS, pursuant to the Authorizing Resolution, the Issuer now desires to issue, sell and deliver its Bonds in an aggregate principal amount of not to exceed \$46,000,000, pursuant to a Trust Indenture more particularly described herein (the "Indenture") between the Issuer and U.S. Bank National Association (the "Trustee"); and

WHEREAS, pursuant to Section 147(f) of the Code (a) a public hearing was scheduled by the Town Commission of the Town (the "Town Commission") on June 6, 2016, tabled by the Town Commission on such date due to inclement weather and subsequently held by the Town Commission on June 9, 2016, at 6:00 p.m. in the Commission Chambers, Lady Lake Municipal Complex, 409 Fennell Boulevard, Lady Lake, Florida 32159, and such elected representative approval was received on June 9, 2016, and (b) a public hearing was scheduled and held on behalf of the Issuer by the City Council of the City of Gulf Breeze, Florida, on June 27, 2016, at 10:00 a.m. in City Council Chambers located at 1070 Shoreline Drive, Gulf Breeze, Florida 32561, and such elected representative approval was received on July 5, 2016; and

WHEREAS, the Issuer has determined that issuing its Bonds for the purposes of financing or refinancing the Senior Living Facility serves a public purpose and is in the best interest of the citizens and residents of the Town and the people of the State of Florida, as hereinafter described, to implement the Program through the financing of the Senior Living Facility, and to

loan the proceeds of the Bonds to the Borrower pursuant to the hereafter described Loan Agreement (the "Loan Agreement"); and

WHEREAS, because the Borrower is not a non-profit entity and the Bonds are being issued as private activity bonds under the Internal Revenue Code of 1986, as amended, in order for all or a portion of the Bonds to be issued as tax-exempt bonds, it is necessary for the Bonds to receive private activity bond volume cap allocation; and

WHEREAS, the Issuer currently has carryforward private activity bond volume cap allocation available; and

WHEREAS, the Issuer hereby finds that the timing, size and complexity of the financing and the present volatility of the municipal bond market require that the terms of each series of the Bonds being hereby sold be negotiated at private sale to a purchaser selected by the Borrower and approved by the Issuer rather than offered by competitive bid at public sale in order to assure the most favorable terms in the bond market and, therefore, has determined to sell such Bonds at private, negotiated sale; and

WHEREAS, the Issuer desires to acknowledge the use of an Official Statement (the "Official Statement") in connection with the marketing of the Bonds and to authorize the taking of all other necessary action in connection with the issuance and delivery of the Bonds;

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE CAPITAL TRUST AGENCY:

Section 1. Issuance of Bonds.

The Bonds shall be issued in one or more series designated Senior Living Revenue Bonds (Lady Lake Senior Living Facility Project), Series 2016, with such priority among series and additional descriptive titles as may be set forth in the Indenture, the aggregate principal amount of all of the Bonds being not to exceed \$46,000,000. The proceeds of the Bonds shall be used to fund the financing or refinancing, including through reimbursement, of the Senior Living Facility by making a Loan to the Borrower, all as defined in the Indenture, in the manner described in the Indenture and the Loan Agreement.

Section 2. Award of Bonds; Bond Purchase Agreement.

The matters set forth in the penultimate preamble hereof, require that the Bonds be negotiated at private sale to a purchaser selected by the Borrower and approved by the Issuer rather than offered by competitive bid at public sale in order to assure the necessary flexibility to obtain the most favorable terms in the bond market. The Issuer finds that a competitive sale of the Bonds would in all likelihood not result in better terms or interest rates than the negotiated sale of the Bonds. The sale of the Bonds to and by Piper Jaffray & Co. (the

"Underwriter"), is hereby authorized pursuant to Section 218.385, Florida Statutes. The Issuer hereby finds that the requirements of Section 5 of the Authorizing Resolution have been satisfied.

The interest rates on the Bonds shall be established as provided in the Indenture but shall not exceed the lesser of 12%, except upon the occurrence and continuance of an event of default under the Indenture, and in no event shall the interest rates on the Bonds exceed the maximum rates permitted by law. The Bonds shall be sold for a price not less than 90% of the principal amount thereof, plus accrued interest, if any, with the exact price to be set forth in the final bond purchase agreement. The form of Underwriter's Negotiated Sale Disclosure Statement attached hereto as Exhibit A, which, by this reference thereto, is incorporated herein, is hereby accepted and placed on record in the minutes of the Issuer.

The Chairman, Vice-Chairman or Executive Director of the Issuer is hereby authorized to enter into such bond purchase agreement for the sale of the Bonds as the Borrower may recommend and the Executive Director of the Issuer may approve, with such provisions or modifications not inconsistent with this Resolution as may be approved by the officer executing the same, such approval to be presumed by his execution thereof.

Section 3. Description of Bonds.

The Bonds shall be issued in fully registered form, shall be dated, shall mature on the date or dates, and shall bear interest in the manner as shall be set forth in the Indenture.

Section 4. Redemption Provisions.

The Bonds shall be subject to redemption prior to maturity upon the terms and in the manner as shall be set forth in the Indenture.

Section 5. Approval of Documents.

The Indenture in substantially the form attached hereto as Exhibit B, which, by this reference thereto, is incorporated herein, the other documents referred to therein, the Loan Agreement in substantially the form attached hereto as Exhibit C, which, by this reference thereto, is incorporated herein, a tax certificate, and other documents necessary or desirable to implement the financing of the Senior Living Facility (collectively, the "Bond Documents"), are hereby approved and shall be executed by the Chairman, Vice-Chairman, or Executive Director of the Issuer, with such provisions or modifications not inconsistent with this Resolution as may be approved by the officers executing the same, such approval to be presumed by their execution thereof.

Section 6. Final Official Statement.

The use and distribution by the Underwriter of an Official Statement (the "Official Statement") substantially in the form attached hereto as Exhibit D, which, by this reference thereto, is incorporated herein, in connection with the offering and sale of the Bonds is hereby acknowledged. The sections of the Official Statement relating to the Issuer shall be subject to such changes, modifications, insertions or omissions as may be approved by the authorized officers of the Issuer including incorporation of the provisions recommended by legal counsel to the Issuer to comply with applicable securities laws, and the sections of the Official Statement relating to the Issuer are hereby approved and adopted by the Issuer. The Issuer is acting solely as a conduit issuer of the Bonds. The Issuer is authorized to deem the information contained in the Official Statement under the subheading entitled "Short Statement – The Issuer," under the heading "THE ISSUER," and under the subheading "LITIGATION – The Issuer," as approved by this Resolution, "final" as of the date hereof, solely for the purposes and within the meaning of paragraph (b)(1) of Rule 15c2-12 of the United States Securities and Exchange Commission in effect from time to time, and any successor provisions to such rule. The final Official Statement shall be substantially in the attached form, with such changes, modifications, insertions and omissions as may be determined by the Underwriter and the Borrower. The use and distribution by the Underwriter of the final Official Statement in connection with the offering and sale of the Bonds is hereby acknowledged.

Section 7. Designation of Professional Advisors.

The Issuer hereby designates and approves Burr & Forman LLP, Orlando, Florida, as Bond Counsel; Michael J. Stebbins, P.L., Pensacola, Florida, as Issuer's Counsel; Bryant Miller Olive P.A., Tampa, Florida, as Special Counsel and such other professional advisors as the Chairman, Vice-Chairman or Executive Director may designate.

Section 8. Designation of Trustee, Paying Agent and Registrar.

U.S. Bank National Association is hereby designated and approved as Trustee, Paying Agent and Registrar for the Bonds.

Section 9. Authorization of all Other Necessary Action.

The Chairman, Vice-Chairman, Secretary, Executive Director, Issuer's Counsel, Bond Counsel, and Special Counsel for the Issuer are each designated agents of the Issuer in connection with the issuance and delivery of the Bonds, and are authorized and empowered, collectively or individually, to take all action and steps to execute and deliver any and all instruments, documents, investments or contracts on behalf of the Issuer which are necessary or desirable in connection with the sale, execution and delivery of the Bonds and the Bond

Documents which are not inconsistent with the terms and provisions of this Resolution and other actions relating to the Bonds and the Bond Documents heretofore taken by the Issuer.

Section 10. No Third Party Beneficiaries.

Unless specifically noted, nothing in this Resolution or in the Bond Documents, express or implied, is intended or shall be construed to confer upon any person other than the Issuer, the Borrower, the holders of the Bonds, the Underwriter and the Trustee any right, remedy or claim, legal or equitable, under and by reason of any provision of this Resolution or of the Bond Documents. This Resolution and the Bond Documents are for the sole and exclusive benefit of the Issuer, the Company, the holders of the Bonds, the Underwriter and the Trustee.

Section 11. Approval of Allocation of Volume Cap.

The allocation of a portion of the Issuer's carryforward private activity bond volume cap allocation in an amount not to exceed \$46,000,000 to the Bonds is hereby approved. The officers, employees and agents of the Issuer are hereby authorized and directed to execute any instruments and take any other action as may be necessary to effectuate such extension.

Section 12. Severability.

In case any one or more of the provisions of this Resolution, the Bond Documents or the Bonds shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Resolution, the Bond Documents or the Bonds, as the case may be, and they shall be construed and enforced without consideration of such illegal or invalid provisions.

Section 13. No Personal Liability.

No covenant, stipulation, obligation or agreement contained in this Resolution or contained in the Bond Documents, the Bonds, or any instrument contemplated by each shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, member, agent or employee of the Issuer in his or her individual capacity, and no member of the Issuer executing the Bonds or other documents related to the issuance of the Bonds including those approved by this Resolution shall be liable personally for such documents or the obligations under each, or be subject to any personal accountability by reason of his or her delivery or execution of such documents on behalf of the Issuer.

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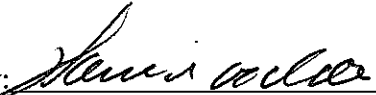
Section 14. Repealer.

All provisions of resolutions of the Issuer in conflict with the provisions of this Resolution are, to the extent of such conflict, superseded and repealed.

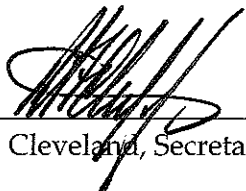
Section 15. Effective Date. This Resolution shall take effect immediately upon its adoption.

Adopted this 23rd day of August, 2016.

CAPITAL TRUST AGENCY

By:  _____
Harrison Wilder, Vice-Chairman

Attested this 23rd day of August, 2016.

By:  _____
Robert F. Cleveland, Secretary

CERTIFICATE OF SECRETARY

I, Robert F. Cleveland, Secretary to the Capital Trust Agency do hereby certify that the above and foregoing is a true and correct copy of a resolution and supporting exhibits as the same were duly adopted and passed at a public meeting of the Capital Trust Agency on the 23rd day of August, 2016, and as the same appears on record in my office.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 23rd day of August, 2016.



By: _____
Secretary




EXHIBIT A

FORM OF NEGOTIATED SALE DISCLOSURE STATEMENT

[DATE]

Capital Trust Agency
Gulf Breeze, Florida

Living Waters, LLC
Birmingham, Alabama

Re: \$_____ Capital Trust Agency Senior Living Revenue Bonds (Lady Lake Senior Living Facility Project) (the "Series 2016 Bonds")

Ladies and Gentlemen:

Pursuant to Chapter 218.385, Florida Statutes, and in reference to the issuance of Bonds as set forth above, Piper Jaffray & Co. (the "Underwriter"), makes the following disclosures to Capital Trust Agency (the "Issuer") and Living Waters, LLC, a Delaware limited liability company (the "Borrower"). All capitalized terms not otherwise defined herein shall have the respective meanings specified in the Bond Purchase Agreement dated the date hereof among the Underwriter, the Issuer and the Borrower (the "Bond Purchase Agreement"). The Underwriter is acting as underwriter in connection with the offering or sale of the Series 2016 Bonds. The underwriting fees to be paid to the Underwriter in the Bond Purchase Agreement are equal to [____]% of the total face amount of the Series 2016 Bonds.

(a) The expenses estimated to be incurred by the Underwriter in connection with the issuance of the Series 2016 Bonds are itemized on Schedule A hereto.

(b) Names, addresses and estimated amounts of compensation of any person who is not regularly employed by, or not a partner or officer of, the Underwriter and who enters into an understanding with either the Issuer or the Underwriter, or both, for any paid or promised compensation or valuable consideration directly, expressly or impliedly, to act solely as an intermediary between the Issuer and the Underwriter for the purpose of influencing any transaction in the purchase of the Series 2016 Bonds:

[None]

(c) The amount of underwriting spread expected to be realized is \$[_____] per \$1,000 of Series 2016 Bonds and consists of the following components including the management fee indicated:

	<u>Per \$1,000</u>
Management Fee	
Average Takedown	
Expenses	
Total	

(d) No fee, bonus or other compensation is estimated to be paid by the Underwriter in connection with the issuance of the Series 2016 Bonds, to any persons not regularly employed or retained by the Underwriter (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes, as amended), except as specifically enumerated as expenses to be incurred and paid by the Underwriter, as set forth in Schedule A attached hereto.

(e) The name and address of the Underwriter connected with the Series 2016 Bonds is:

Piper Jaffray & Co.
4250 Lakeside Drive, Suite 216
Jacksonville, Florida 32210

(f) *Truth in Bonding Statement.* The Series 2016 Bonds are being issued for the purpose of: (1) acquiring, constructing, developing, furnishing and equipping of an approximately 165,000 square foot, 165-unit senior living facility, which includes 116 independent living units containing 145 beds, 27 assisted living units containing 29 beds, 22 memory care units containing 24 beds and related common areas to be located in Lady Lake, Florida; (2) funding capitalized interest on the Series 2016 Bonds; (3) funding necessary debt service reserves; and (4) paying costs of issuance of the Series 2016 Bonds associated with the issuance of the Series 2016 Bonds. This debt or obligation is expected to be repaid over a period of [__] years. Total interest paid over the life of the debt or obligation, assuming an interest rate (total interest cost) of [_____%] per annum, will be approximately \$[AMOUNT].

The source of repayment and security for this proposal to issue the Series 2016 Bonds is exclusively limited to certain revenues derived from the Borrower pursuant to the Loan Agreement. Because (a) such revenues may not be used by the Issuer for any purpose other than the purposes set forth in the Indenture, (b) the Issuer has no taxing power and the taxing power of the Issuer and the State of Florida is not pledged or involved in the Series 2016 Bonds, (c) the Series 2016 Bonds and the interest thereon do not constitute a debt of the Issuer within the meaning of any constitutional or statutory provision, and (d) the faith and credit of the Issuer are not pledged to the payment of the principal of or the interest on the Series 2016

Bonds, authorizing this debt or obligation will not result in any moneys not being available to the Issuer to finance other transactions each year for the [] year term of the Series 2016 Bonds. We understand that the Issuer does not require any further disclosure from the Underwriter pursuant to Section 218.385, Florida Statutes.

PIPER JAFFRAY & CO.

BY: _____
Title:

SCHEDULE A

[INSERT SCHEDULE OF EXPENSES]

EXHIBIT B
FORM OF INDENTURE

EXHIBIT C
FORM OF LOAN AGREEMENT

EXHIBIT D
FORM OF OFFICIAL STATEMENT