

AGREEMENT OF RESIGNATION, APPOINTMENT AND ACCEPTANCE

by and among

MANUFACTURERS AND TRADERS TRUST COMPANY

and

WELLS FARGO BANK, N.A.

and

THE CITY OF OVERLAND PARK, KANSAS

and

KANSAS CAMPUS LLC

and

ERICKSON RETIREMENT COMMUNITIES, LLC

Dated as of: October ____, 2009

**AGREEMENT OF RESIGNATION, APPOINTMENT AND
ACCEPTANCE BY AND AMONG MANUFACTURERS AND
TRADERS TRUST COMPANY, WELLS FARGO BANK, N.A.,
THE CITY OF OVERLAND PARK, KANSAS, KANSAS CAMPUS,
LLC AND ERICKSON RETIREMENT COMMUNITIES, LLC**

THIS AGREEMENT OF RESIGNATION, APPOINTMENT AND ACCEPTANCE made and entered into as of this ___ day of October, 2009 (this “Agreement”), by and among **MANUFACTURERS AND TRADERS TRUST COMPANY**, a New York banking corporation with corporate trust powers having a corporate trust office at Manufacturers and Traders Trust Company, 25 S. Charles Street, 16th Floor, Baltimore, Maryland 21201 (the “Resigning Trustee”), **WELLS FARGO BANK, N.A.**, a national banking association duly organized and existing under the laws of the United States, (“Wells Fargo”), the **CITY OF OVERLAND PARK, KANSAS**, a municipal corporation and political subdivision duly organized and existing under the laws of the State of Kansas (the “Issuer”), **KANSAS CAMPUS, LLC**, a Maryland limited liability corporation and **ERICKSON RETIREMENT COMMUNITIES, LLC**, a Maryland limited liability corporation (Kansas Campus and Erickson Retirement Communities are collectively referred to herein as the “Corporation”)

BACKGROUND*

WHEREAS, pursuant the Trust Indenture dated as of November 1, 2006 (the “Indenture”), by and between the Issuer and the Resigning Trustee, the Resigning Trustee was appointed as Trustee, Paying Agent and Bond Registrar thereunder (collectively, the “Trustee”) with respect to the Issuer’s \$14,950,000 Transportation Development District Special Assessment Bonds Series 2006 (Tallgrass Creek Project) (the “Bonds”);

WHEREAS, the Indenture provides that the Trustee may at any time resign and be discharged of the duties and obligations thereunder by giving written notice and that such resignation shall take effect upon the appointment of a successor by the Issuer as provided in **Section 8.07** of the Indenture and the acceptance of such appointment by such successor; and

WHEREAS, the Resigning Trustee wishes to resign as the Trustee under the Indenture and for all other purposes of the Bonds, the Issuer wishes to appoint Wells Fargo as successor Trustee, and Wells Fargo wishes to accept appointment as the Trustee under the Indenture; and

WHEREAS, the Issuer and the Corporation are in receipt of a letter from the Resigning Trustee, dated September 15, 2009, a copy of which is attached hereto as **Exhibit A** and made a part hereof, resigning as Trustee under the Indenture; and

WHEREAS, the Issuer has appointed Wells Fargo to serve as successor Trustee under the Indenture; and

WHEREAS, pursuant to **Section 8.07 (e)** of the Indenture, the Issuer shall mail notice of any such appointment to each holder of Bonds then Outstanding as listed in the Bond Register. Such notice shall include the name and address of the corporate trust office of the successor Trustee; and

WHEREAS, **Section 8.08** of the Indenture provides that any successor Trustee appointed under the provisions of **Section 8.07** thereof shall execute, acknowledge and deliver to its predecessor and the Issuer an instrument in writing accepting such appointment, and thereupon such successor shall become fully

* Capitalized terms, not otherwise defined herein, shall have the meanings ascribed thereto in the Indenture.

Exhibit A to Resolution No. 3780

vested with all moneys, estates, properties, rights, immunities, powers, duties, obligations and trusts of its predecessor thereunder without any further act, deed or conveyance, with like effect as if originally appointed as Trustee, provided that, the Trustee then ceasing to act shall nevertheless, on request of the Issuer or of such successor, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the rights, immunities, powers and trusts of such predecessor Trustee and all the right, title and interest of such Trustee in and to any property held by it under the Indenture, and shall pay over, assign and deliver to such successor any moneys or other properties subject to the trusts and conditions therein set forth; and

WHEREAS, Section 8.08 of the Indenture further provides that should any deed, conveyance or instrument in writing be required by the Issuer or such successor Trustee for more fully and certainly vesting in and confirming to it any such moneys, estates, properties, rights, powers, duties or obligations, any and all such deeds, conveyances and instruments in writing, on request and so far as may be authorized by law, shall be executed, acknowledged and delivered by the predecessor Trustee; and

WHEREAS, Wells Fargo is willing to accept the appointment as successor Trustee under the Indenture, for the Bonds, said appointment to be effective as of the date hereof;

WHEREAS, this Agreement is intended to be the instruments contemplated by **Sections 8.07** and **8.08** of the Indenture.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby consent and agree as follows:

**ARTICLE I
RESIGNATION AND ASSIGNMENT**

Section 1.01. Resignation of the Resigning Trustee. The Resigning Trustee hereby resigns as Trustee, Bond Registrar, Paying Agent under the Indenture. The resignation of the Resigning Trustee as Trustee under the Indenture, and its discharge from the trusts created thereunder, shall be effective as of October ____ 2009.

Section 1.02. Notice of Resignation. In accordance with the Indenture, the Resigning Trustee hereby acknowledges and confirms that it has mailed its notice of resignation as Trustee under the Indenture, to the Issuer and the Corporation in accordance with **Section 8.07** of the Indenture. A copy of said resignation notice is attached hereto as **Exhibit A**.

Section 1.03. Representation and Warranty. The Resigning Trustee hereby represents and warrants to the Corporation and Wells Fargo that:

- (a) No covenant or condition contained in the Indenture has been waived by the Resigning Trustee;
- (b) There is no action, suit, or proceeding pending or, to the best of the knowledge of the responsible officers of the Resigning Trustee assigned to its corporate trust department, threatened against the Resigning Trustee before any court or governmental authority arising out of any action or omission by the Resigning Trustee as Trustee under the Indenture;

Exhibit A to Resolution No. 3780

- (c) [To the best knowledge of the Resigning Trustee], no event has occurred or continuing which is, or after notice or lapse of time would become, an Event of Default under the Indenture;
- (d) This Agreement has been duly authorized, executed and delivered on behalf of the Resigning Trustee;
- (e) The Resigning Trustee has made or promptly will make available to Wells Fargo originals, if available, or copies in its possession, of all documents relating to the Trust Estate created by the Indenture (the "Trust Estate") and all information in the possession of its corporate trust department relating to the administration and status of the Trust Estate, including, but not limited to, the items listed on **Exhibit C** attached hereto;
- (f) As of the effective date of this Agreement, the Resigning Trustee will hold no moneys or property under the Indenture; provided that, this representation and warranty shall not be deemed to apply to any investment obligations in which moneys on deposit in or credited to any of the funds and accounts held by the Resigning Trustee under the Indenture were invested that, by their terms, will pay investment earnings to the Resigning Trustee after the effective date of this Agreement. To the extent the Resigning Trustee receives any such investment earnings after the effective date of this Agreement, the Resigning Trustee will promptly transfer such investment earnings to Wells Fargo by immediately available funds and provide an indication in writing to Wells Fargo as to which funds or accounts established under the Indenture such investment earnings correlate; and
- (g) As of the date first named above, the principal amount outstanding on the Bonds is \$_____. Interest on the Bonds has been paid through _____.

Section 1.04. Assignment. The Resigning Trustee hereby assigns, transfers, delivers and confirms to Wells Fargo all the moneys, estates, properties, rights, immunities, powers, duties, obligations and trusts of the Resigning Trustee in and to the Trust Estate created under the Indenture, , with like effect as if Wells Fargo was originally appointed Trustee under the Indenture. The Resigning Trustee shall execute and deliver such further instruments and shall do such other things as Wells Fargo may reasonably require so as to more fully and certainly vest and confirm in Wells Fargo all such moneys, estates, properties, rights, immunities, powers, duties, obligations and trusts, including (without limitation), if applicable, UCC-3 financing statements prepared by the Resigning Trustee or its counsel assigning any and all financing statements executed and delivered in connection with the issuance of the Bonds.

Section 1.05. Limitation of Liability of Resigning Trustee. The Resigning Trustee shall have no liability or responsibility for any matters occurring on or after the effective date of this Agreement in connection with the Bonds, and the Resigning Trustee shall not be liable to any person for any costs, claims, liabilities, losses or damages whatsoever incurred or suffered by such person arising out of any action or omission of Wells Fargo on or after the effective date of this Agreement, except with respect to the obligation of the Resigning Trustee set forth in **Section 1.03(f)** hereof.

ARTICLE II THE CORPORATION AND THE ISSUER

Section 2.01. Representation and Warranty. The Corporation hereby represents and warrants to the Resigning Trustee, the Issuer and Wells Fargo that no Event of Default and no event, the occurrence of which could become an Event of Default following notice, the passage of time, or both, has occurred or is

Exhibit A to Resolution No. 3780

continuing under the Indenture and, [to the best of its knowledge], there are no circumstances which may give rise to such Event of Default.

Section 2.02. Acceptance and Appointment of Trustee. The Issuer accepts the resignation of the Resigning Trustee as Trustee and, pursuant to **Article VIII** of the Indenture, hereby appoints Wells Fargo as Trustee under the Indenture and confirms to Wells Fargo all the rights, powers, trusts and duties of the Trustee under the Indenture and with respect to all property and money held or to be held under the Indenture. The Corporation and the Issuer each agree to execute and deliver such further instruments and to do such other things as Wells Fargo may reasonably require so as to more fully and certainly vest and confirm in Wells Fargo all the rights, powers, trusts and duties hereby assigned, transferred, delivered and confirmed to Wells Fargo.

Section 2.03. Notice. Pursuant to **Section 8.07 (e)** of the Indenture, the Issuer will notify each holder of the Bonds then Outstanding as listed in the Bond Register in the form attached as **Exhibit B**.

ARTICLE III APPOINTMENT OF SUCCESSOR TRUSTEE

Section 3.01. Appointment of Wells Fargo. Pursuant to the authority vested in it in accordance with the Indenture, the Issuer hereby appoints Wells Fargo as successor Trustee under the Indenture, with all rights, powers, trusts, duties and obligations of the Trustee under the Indenture, such appointment to be effective as of October ___ 2009

Section 3.02. Acceptance by Wells Fargo of its Duties as Successor Trustee, Bond Registrar, Paying Agent. Wells Fargo hereby accepts its appointment as successor Trustee under the Indenture and agrees to perform and assume all the rights, powers, trusts, duties and obligations imposed upon it in such capacity by the Indenture.

Section 3.03. Representations of Wells Fargo. Wells Fargo hereby represents and warrants to the Resigning Trustee, the Corporation and the Issuer that it is qualified and eligible under the Indenture, including (without limitation), **Section 8.06** of the Indenture, to act as Trustee and that it is authorized by law to act as Trustee under the Indenture.

Section 3.04. Limitation of Liability of Wells Fargo. Wells Fargo, as successor Trustee, shall have no liability or responsibility for any matters occurring prior to the effective date of this Agreement in connection with the Bonds and Wells Fargo, as successor Trustee, shall not be liable to any person for any costs, claims, liabilities, losses or damages whatsoever incurred or suffered by such person arising out of any action or omission of the Resigning Trustee from the date of issuance of the Bonds through the date prior to the effective date of this Agreement.

Section 3.05. Office of Wells Fargo. Any and all references in the Indenture to the “principal corporate trust office of the Trustee”, the “Designated Office” or other similar terms shall be deemed with respect to Wells Fargo to refer to the corporate trust office of Wells Fargo at Wells Fargo, N.A., Corporate Trust Services, 9062 Old Annapolis Road, MAC N2702-011, Columbia, MD 21045, until Wells Fargo, as successor Trustee, provides notice of any other office in accordance with the provisions of the Indenture.

**ARTICLE IV
MISCELLANEOUS**

Section 4.01. Counterparts. This Agreement may be executed in a number of counterparts, each of which shall constitute an original, but such counterparts shall together constitute but one and the same instrument. This Agreement may be executed by manual or, if authorized by applicable law, facsimile signatures and either method shall constitute a valid and binding agreement on the part of the parties hereto.

Section 4.02. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such finding shall not invalidate or render unenforceable any other provision hereof.

Section 4.03. Captions. The sections, titles or captions contained in this Agreement are inserted only as a matter of convenience and reference, and in no way define, limit or extend or describe the scope of this Agreement or the intent of any provision hereof.

Section 4.04. Binding. This Agreement and the provisions hereof shall apply to and bind and inure to the benefit of the parties hereto and their successors and assigns.

Section 4.05. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

Section 4.06. Notices. All notices required to be provided under this Agreement shall be sent registered mail, return receipt requested, to the address listed below:

TO THE RESIGNING TRUSTEE: 25 S. Charles Street
16th Floor
Baltimore, MD 21201
Attention: Corporate Trust

TO THE SUCCESSOR TRUSTEE: Wells Fargo Bank, N.A.
Corporate Trust Services
9062 Old Annapolis Road
MAC N2702-011
Columbia, MD 21045

TO THE ISSUER: City of Overland Park, Kansas
8500 Santa Fe Drive
Overland park, KS 66212
Attention: Deputy City Manager

TO THE CORPORATION: Kansas Campus, LLC
Erickson Retirement Communities, LLC
c/o Erickson Retirement Communities
701 Maiden Choice Lane
Baltimore, Maryland 21228
Attention: General Counsel

Exhibit A to Resolution No. 3780

Section 4.07. Survival of Representations and Warranties. All representations, warranties, covenants and agreements of the Resigning Trustee, Wells Fargo, the Corporation, and the Issuer contained in this Agreement shall remain in full force and effect and survive the execution and delivery of this Agreement and the consummations of the transactions contemplated herein.

Section 4.09. Definitions. Except as otherwise expressly provided or unless the context otherwise requires, capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

Section 4.10. Effective Date. This Agreement and the resignation and acceptance effected hereby shall be effective as of the close of business on October ____, 2009.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

MANUFACTURERS AND TRADERS TRUST COMPANY

By: _____
Robert D. Brown
Administrative Vice President

ATTEST:

By: _____
Name: _____
Title: _____

WELLS FARGO BANK, N.A.

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

CITY OF OVERLAND PARK, KANSAS

By: _____
Carl Gerlach
Mayor

ATTEST:

By: _____
Marian Cook
City Clerk

KANSAS CAMPUS, LLC

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

ERICKSON RETIREMENT COMMUNITIES, LLC

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

Exhibit A to Resolution No. 3780

EXHIBIT A

RESIGNATION LETTER

EXHIBIT B

NOTICE OF APPOINTMENT OF AND ACCEPTANCE BY SUCCESSOR TRUSTEE

To the Holders of \$14,950,000 Transportation Development District Special Assessment Bonds Series 2006 (Tallgrass Creek Project) (collectively, the “Bonds”)

CUSIP Numbers: _____¹

The City of Overland Park, Kansas hereby notifies you of the resignation of Manufacturers and Traders Trust Company (the “Resigning Trustee”), as Trustee under the Trust Indenture dated as of November 1, 2006 (the “Indenture”), between the City of Overland Park, Kansas and the Resigning Trustee pursuant to which the Bonds were issued and are outstanding.

Section 8.07 of the Indenture further provides that upon the resignation of any predecessor Trustee, a successor Trustee may be appointed by the Issuer. In accordance with **Section 8.07** of the Indenture, the City of Overland Park, Kansas has appointed Wells Fargo Bank, N.A., whose Corporate Trust Office is located at 9062 Old Annapolis Road, MAC N2702-011, Columbia, MD 21045, as successor Trustee under the Indenture, which appointment has been accepted and became effective as of October ____, 2009.

_____, 2009

City of Overland Park, Kansas

¹ The CUSIP numbers are used herein for the convenience of the Bondholders only. No representation is made as to the correctness or accuracy of the foregoing CUSIP numbers or the CUSIP numbers printed on the Bonds. All capitalized terms not defined herein have the meanings given to them in the Indentures.

EXHIBIT C

DOCUMENTS TO BE DELIVERED BY THE RESIGNING TRUSTEE

- (1) Executed copy of the Indenture.
- (2) File of closing documents.
- (3) Copies of the most recent of each of the SEC reports, if any, delivered pursuant to the Indenture.
- (4) A copy of the most recent Compliance Certificate, if any, delivered pursuant to the Indenture.
- (5) Certified lists of Holders of the Bonds as of the effective date of this Agreement, certificate detail and all “stop transfers” and the reason for such “stop transfers” (or, alternatively, if there are a substantial number of registered holders, the computer tape reflecting the identity, address, tax identification number, and detailed holdings of each such holder).
- (6) Copies of any official notices sent by the Resigning Trustee to all holders pursuant to the terms of the Indenture during the past twelve months and a copy of the most recent Trustee’s annual report to holders.
- (7) Bond debt service records.
- (8) Trust account statements for a one-year period preceding the date of this Agreement.
- (9) All unissued Bonds inventory or DTC FAST held global certificates.
- (10) Such other documents as Wells Fargo may reasonably require.