

**STATE AGENCY ACTION REPORT  
ON APPLICATION FOR CERTIFICATE OF NEED**

**A. PROJECT IDENTIFICATION**

**1. Applicant/CON Action Number**

**4-1 CON LLC/CON #10269**

10800 Biscayne Boulevard, Suite 600  
Miami, Florida 33161

Authorized Representative: Abraham Shaulson  
(305) 864-9191

**Five Points Health Care, Ltd./CON #10270**

P.O. Box 15369  
Fernandina Beach, Florida 32035

Authorized Representative: Steven W. Sell  
(904) 321-1909

**2. Service District/Subdistrict**

District 4/Subdistrict 4-1 (Nassau and North Duval Counties)

**B. PUBLIC HEARING**

A public hearing was not held or requested regarding any of the proposed projects.

**Letters of Support**

**4-1 CON LLC (CON #10269):** The Agency received no letters of support nor did the applicant submit any letters of support for the proposed project.

**Five Points Health Care, Ltd. (CON #10270):** The Agency received a few letters of support submitted by the applicant. Two letters were written by local health care providers, including one from Russell E. Armistead Jr., CEO of UF Health Jacksonville. One letter was composed by the Honorable Mia L. Jones, Florida House of Representatives and the last letter was written by a developer in the River City Marketplace area.

**C. PROJECT SUMMARY**

**4-1 CON LLC (CON #10269),** an affiliate of the principals E.M.I. Inc. and Millennium Management, LLC, proposes to establish a new 111-bed community nursing home in District 4/Subdistrict 4-1, North Duval County.

Millennium Management, LLC states that it owns SNFs (skilled nursing facilities) in Florida, two of which are located in Subdistrict 4-1:

- Jacksonville Nursing and Rehab Center
- Lanier Manor

The reviewer notes that in another application for the current batching cycle, Millennium Management and E.M.I. are affiliated with 38 SNFs:

- Arbor Trail Rehab and Skilled Nursing Center
- Atlantic Shores Nursing and Rehab Center
- Bonifay Nursing and Rehab Center
- Boulevard Rehabilitation Center
- Boynton Beach Rehabilitation Center
- Braden River Rehabilitation Center LLC
- Coral Gables Nursing and Rehabilitation Center
- Fountain Manor Health and Rehabilitation Center
- Golden Glades Nursing and Rehab Center
- Hialeah Nursing and Rehab Center
- Hunters Creek Nursing and Rehab Center
- Jacksonville Nursing and Rehab Center
- Lake View Care Center at Delray
- Oasis Health and Rehabilitation Center
- Lanier Manor
- MacClenny Nursing and Rehab Center
- Mediana Nursing and Rehab Center
- Menorah House
- Metro West Nursing and Rehab Center
- Moultrie Creek Nursing and Rehab Center
- North Dade Nursing and Rehab Center
- Ocala Oaks Rehabilitation Center

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- Orange City Nursing and Rehab Center
- Palm City nursing and Rehab Center
- Pinellas Point Nursing and Rehab Center
- Port Orange Nursing and Rehab Center
- Riviera Palms Rehabilitation Center
- Royal Care of Avon Park
- Royal Oaks Nursing and Rehab Center
- Sarasota Point Rehabilitation Center
- South Dade Nursing and Rehabilitation Center
- Terrace of Jacksonville, The
- Terrace of Kissimmee, The
- Terrace of St. Cloud, The
- Tiffany Hall Nursing and Rehabilitation Center
- Tuskawilla Nursing and Rehab Center
- West Broward Rehabilitation and Healthcare
- Watercrest Care Center

The project involves 73,053 gross square feet (GSF) of new construction. The construction cost is \$13,150,000. Total project cost is \$18,183,714. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant does not wish to accept any conditions for the proposed project.

**Five Points Health Care, Ltd. (CON #10270)**, hereafter referred to as Five Points or the applicant, a Florida limited partnership, proposes to establish a new 111-bed community nursing home in District 4/Subdistrict 4-1, North Duval County. The proposed facility will be named River City Rehab. River City Rehab will be managed by Health Care Managers, Inc., a related party management company that is also headquartered in Fernandina Beach, Florida.

Five Points is the licensed provider of two SNFs in Florida, which are also managed by Health Care Managers, Inc.:

- Lakeside Nursing and Rehabilitation Center, Jacksonville
- Park Ridge Nursing Center, Jacksonville

The project involves 75,700 GSF of new construction. The construction cost is \$12,869,000. Total project cost is \$17,772,558. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant does not wish to accept any conditions for the proposed project.

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**Total GSF and Project Costs of Co-Batched Applicants**

<b>Applicant</b>	<b>CON #</b>	<b>Project</b>	<b>GSF</b>	<b>Costs \$</b>	<b>Cost Per Bed</b>
4-1 CON LLC	10269	New 111-Bed Facility	73,053	\$18,183,714	\$163,817
Five Points	10270	New 111-Bed Facility	75,700	\$17,772,558	\$160,113

Source; CON applications #10269 and 10270, Schedule 1 and 9

**D. REVIEW PROCEDURE**

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes; and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code. These criteria form the basis for the goals of the review process. The goals represent desirable outcomes to be attained by successful applicants who demonstrate an overall compliance with the criteria. Analysis of an applicant's capability to undertake the proposed project successfully is conducted by evaluating the responses and data provided in the application, and independent information gathered by the reviewer.

Applications are analyzed to identify strengths and weaknesses in each proposal. If more than one application is submitted for the same type of project in the same district, applications are comparatively reviewed to determine which applicant(s) best meets the review criteria.

Rule 59C-1.010(3)(b), Florida Administrative Code, prohibits any amendments once an application has been deemed complete. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the Certification of the Applicant.

As part of the fact-finding, the consultant, Lucy Villafrate analyzed the application with consultation from the financial analyst, Felton Bradley, Bureau of Central Services, who evaluated the financial data and Said Baniahmad of the Office of Plans and Construction, who reviewed the application for conformance with the architectural criteria.

**E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA**

The following indicate the level of conformity of the proposed project with the criteria and application content requirements found in Florida Statutes, sections 408.035 and 408.037; applicable rules of the State of Florida, Chapter 59C-1 and 59C-2, Florida Administrative Code.

**1. Fixed Need Pool**

**a. Does the project proposed respond to need as published by a fixed need pool? Or does the project proposed seek beds or services in excess of the fixed need pool? Rule 59C-1.008 (2), Florida Administrative Code.**

In Volume 40, Number 193 of the Florida Administrative Register dated October 3, 2014, a fixed need pool of 111 beds was published for Subdistrict 4-1 for the July 2017 Planning Horizon. Subdistrict 4-1 is comprised of Nassau and North Duval Counties.

After publication of this fixed need pool, zero existing subdistrict facilities filed exemption requests or filed expedited CON reviews to increase or add community nursing home beds.

As of November 19, 2014, Subdistrict 4-1 had 1,125 licensed and zero approved community nursing home beds. During the 12-month period ending June 30, 2014, Subdistrict 4-1 experienced 91.67 percent utilization at nine existing facilities. Below is a table illustrating nursing home patient days and occupancy within Subdistrict 4-1.

**Nassau and Duval Counties Nursing Home Patient Days and Occupancy July 1, 2013-June 30, 2014**

<b>Facility</b>	<b>Comm. Nursing Home Bed Inventory</b>	<b>Bed Days</b>	<b>Patient Days</b>	<b>Total Occupancy</b>	<b>Medicaid Occupancy</b>
Cathedral Gerontology Center, Inc.	120	43800	37930	86.60%	74.12%
Edgewood Nursing Center	60	21900	20716	94.59%	83.03%
Harts Harbor Health Care Center	180	65700	63021	95.92%	77.45%
Jacksonville Nursing and Rehabilitation	163	59495	56684	95.28%	77.37%
Lakeside Nursing and Rehabilitation Center	122	44530	40175	90.22%	62.00%
Lanier Manor	120	43800	39750	90.75%	84.24%
Summer Brook Health Care Center	120	43800	41984	95.85%	88.43%
Life Care Center of Hilliard	120	43800	39393	89.94%	66.42%
Quality Health of Fernandina Beach	120	43800	36772	83.95%	64.81%
<b>Total</b>	<b>1125</b>	<b>410625</b>	<b>376425</b>	<b>91.67%</b>	<b>75.31%</b>

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2014 Batching Cycle

The reviewer notes the current and projected population of the individual counties in Subdistrict 4-1, District 4 and the State for the planning horizon.

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**Current and Projected Population Growth Rate  
Subdistrict 4-1, District 4, and Florida  
January 2014 and January 2017**

County	January 1, 2014 Population			January 1, 2017 Population		
	0-64	65+	Total	0-64	65+	Total
Nassau	61,711	13,724	75,435	64,434	16,114	80,548
Duval	770,113	110,370	880,483	780,535	123,795	904,330
Subdistrict 4-1	831,824	124,094	955,918	844,969	139,909	984,878
District 4	1,665,038	325,353	1,990,391	1,717,121	365,672	2,082,793
Florida	15,881,702	3,548,756	19,430,458	16,349,888	3,891,621	20,241,509
County	2014-2017 Increase			2014-2017 Growth Rate		
	0-64	65+	Total	0-64	65+	Total
Nassau	2,723	2,390	5,113	4.41%	17.41%	6.78%
Duval	10,422	13,425	23,847	1.35%	12.16%	2.71%
Subdistrict 4-1	13,145	15,815	28,960	1.58%	12.74%	3.03%
District 4	52,083	40,319	92,402	3.13%	12.39%	4.64%
Florida	468,186	342,865	811,051	2.95%	9.66%	4.17%

Source: Florida Agency for Health Care Administration Population Estimates, September 2013

The community nursing home beds per 1,000 residents for the age 65 and older cohort in the subdistrict are shown below.

**Beds per 1,000 Residents Age 65 and Older**

County	Community Beds	2014 Pop. Aged 65+	2014 Beds per 1,000	2017 Pop. Aged 65+	2017 Beds per 1,000
Nassau	240	13,724	17	16,114	15
Duval	885	110,370	8	123,795	7
Subdistrict 4-1	1,125	124,094	9	139,909	8
District 4	9,355	325,353	29	365,672	26
Florida	80,050	3,548,756	23	3,891,621	21

Source: Florida Agency for Health Care Administration Population Estimates, September 2013 and Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2014 Batching Cycle

**4-1 CON LLC (CON #10269)** indicates that during the period April 2013 to March 2014, 8.9 percent of the total number of resident discharges from North Duval County were discharged from short-term acute care hospitals in Florida to SNFs. The applicant analyzes discharges by service line, stating that E.M.I. is aware of these patient types and has developed specific programs and services to address their unique needs. See the table below.

**North Duval County Resident Discharges to Skilled Nursing  
from Short-Term Acute Care Hospitals  
Second Quarter of 2013 through the First Quarter of 2014**

Service Line	Total Discharges	Discharges to SNF	
		Number	Percent
Total Discharges	36,231	3,231	8.9%
Septicemia	1,242	294	23.7%
Hip/Knee Replacement	700	294	42.0%
Renal Failure	1,131	166	14.7%
Stroke/CVA/TIA	723	126	17.4%
Kidney/UTI	527	100	19.0%
Heart Failure	840	97	11.5%
Respiratory Failure/COPD	1,346	86	6.4%

Source: CON application #10269, page 1-9, based on Agency inpatient discharge database and Legacy Consulting Group analysis

The applicant believes need for the proposed project is clearly demonstrated by these main points:

- The subdistrict has significant numbers of discharges in service lines and disease categories such as septicemia, renal failure and respiratory failure/COPD, which will further increase demand for skilled nursing care
- The recent reversal of the long-standing moratorium on the new skilled nursing home beds means that new, more modern facilities are needed to keep pace with technological and clinical developments in health care delivery

**Five Points Health Care, Ltd. (CON #10270)** states that Subdistrict 4-1 contains both north Duval County, which consists of nine ZIP codes and Nassau County. The applicant asserts that it has selected to locate River City Rehab in north Duval County for the following reasons:

- Existing SNFs in north Duval County are experiencing higher average occupancy levels than existing SNFs in Nassau County
- The applicant intends to locate in very close proximity to the approved UF Health North hospital, which is being developed in North Jacksonville and is scheduled to open in 2017
- North Duval County is more populous than Nassau County
- Available hospital discharge data support a north Duval location

Five Points indicates that acquisition of the site will occur following approval of the project, but it estimates that there is currently well over 100 acres of vacant land available in several parcels located within one mile of the UF Health North campus. The applicant maintains that its proposed location is also in close proximity to two major interstates that serve the subdistrict and greater Jacksonville. Five Points notes that additionally, River City Rehab will be located on a bus line or in very close proximity to a bus line operated by the Jacksonville Transit

Authority. The applicant maintains that disaster preparedness issues will also be considered in the selection.

- b. **If no Agency policy exists, the applicant will be responsible for demonstrating need through a needs assessment methodology, which must include, at a minimum, consideration of the following topics, except where they are inconsistent with the applicable statutory or rule criteria:**

**Each co-batched applicant** is responding to the Agency's published fixed need pool, so this criterion is not applicable.

## 2. **Agency Rule Preferences**

**Please indicate how each applicable preference for the type of service proposed is met. Chapter 59C-1.036, Florida Administrative Code.**

Chapter 59C-1.036 of the Florida Administrative Code does not contain preferences relative to community nursing home beds nor does the Agency publish specific preferences for these facilities. However, the rule does contain standards the Agency utilizes in assessing an applicant's ability to provide quality care to the residents.

- a. **Geographically Underserved Areas. In a competitive certificate of need review within the nursing home subdistrict as defined in 59C-2.200, Florida Administrative Code, the Agency shall award a certificate of need if the applicant meets all applicable criteria for a geographically underserved area as specified in subsection 408.032(18), Florida Statutes, and if the applicant meets the applicable statutory certificate of need review criteria specified in section 408.035, Florida Statutes, including bed need according to the relevant bed need formula contained in this rule. If the applicant is awarded a certificate of need based on the provisions of this paragraph, the applicant shall agree that the nursing facility will be located in a county without a nursing facility, or in the center of an area within the subdistrict of a radius of at least 20 miles which meets the definition of a geographically underserved area. The center of the geographically underserved area shall be the proposed nursing home location in the application.**

None of the applications were submitted to remedy a geographically underserved area as defined above.



- b. **Proposed Services. Applicants proposing the establishment of Medicare-certified nursing facility beds to be licensed under Chapter 400, Florida Statutes, shall provide a detailed description of the services to be provided, staffing pattern, patient characteristics, expected average length of stay, ancillary services, patient assessment tools, admission policies and discharge policies.**

**4-1 CON LLC (CON #10269)** states that the proposed facility will be built, equipped and staffed to accommodate short-term rehabilitation and long-term skilled nursing care.

4-1 CON LLC asserts that the proposed facility will be staffed with caregivers who possess the clinical expertise to care for residents with a wide range of clinical needs. The applicant insists the physical plant will incorporate a neighborhood design that promotes a residential atmosphere and minimizes the perception of an institutionalized environment. 4-1 CON LLC notes that patient services will include, but not be limited to:

- Behavioral health and cardiac services
- Infectious disease treatment
- Infusion therapy
- Oncology/cancer care
- Orthopedic services
- Outpatient rehabilitation
- Physical, occupational and speech therapy
- Registered Dietician services
- Respiratory therapies
- Stroke Rehabilitation
- Wound care program

The applicant states that other services and amenities that will provide support, comfort and security include the following:

- 24-7 RN coverage
- 24-hour visitation
- Community outings
- Medical transportation assistance
- Multi-lingual staff
- Pet therapy
- Pharmacy and laboratory services
- Spa and laundry services
- State of the art therapy gym and equipment
- Structured activities seven days a week
- Wireless Internet service

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4-1 CON LLC indicates that the Care Planning program, established by an interdisciplinary Performance Improvement Committee, with the support and approval of the administration, has the responsibility for monitoring all aspects of resident care and services throughout the continuum of care to continuously improve and facilitate positive resident outcomes. The applicant insists that a detailed care plan will be developed for each resident and will incorporate goals and objectives that lead to the resident's highest possible level of independence.

The applicant asserts that prior to admission to the proposed facility residents will receive a detailed clinical assessment. 4-1 CON LLC states that upon admission, the Nursing Services Department will provide an orientation and the resident or representative will sign an Admissions Agreement.

4-1 CON LLC notes that all caregivers will be educated about the facility's Resident's Rights policies. The applicant asserts that prior to or upon admission, the Social Services Director or designee will provide written information to the resident concerning his or her rights to make decisions concerning medical care.

Samples of the Pre-Admission Form, Admissions Agreement and Resident Rights training tools can be found in Exhibit 2-1, Exhibit 2-2 and Exhibit 2-3 of CON application #10269, respectively.

The applicant indicates that a physician's order will be obtained for all discharges and that the post-discharge plan will be developed by the care plan team with assistance from the resident and family. The applicant asserts that Social Services will review the plan with the resident and family prior to discharge.

4-1 CON LLC believes that the new facility will be primarily utilized to provide short-term rehabilitation, where the primary payer is Medicare and stays are between 21 and 40 days. The applicant contends that shorter stays are reflective of the need for rehabilitative care in the local area. The reviewer notes that the applicant does not provide evidence in this section of a need for rehabilitative care in the local area, but that the applicant does provide a brief overview of discharge data earlier in the application.

The applicant provides the following table illustrating the projected admissions, patient days, average length of stay (ALOS) and average daily census (ADC) for the first two years of operation for the proposed 111-bed facility.

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**Projected Admissions, Patient Days, ALOS and ADC**

	<b>Year One</b>	<b>Year Two</b>
Admissions	237	428
Patient Days	20,208	36,464
ALOS	85	85
ADC	55	100

Source: CON application #10269, page 2-5

Schedule 6 illustrates that FTEs for year one (ending June 30, 2018) total 77.90 and total 123.70 for year two (ending June 30, 2019). The proposed project's year one and year two FTEs are shown in the table below.

<b>4-1 CON LLC (CON application #10269) Projected Year One and Year Two Staffing</b>		
	<b>Year One FTEs</b>	<b>Year Two FTEs</b>
<b>Administration</b>		
Administrator	1.00	1.00
Director of Nursing	1.00	1.00
Admissions Director	2.00	2.00
Bookkeeper	1.00	1.00
Ward Clerk	1.40	2.80
Medical Records Clerk	1.00	1.00
Other: Assistant DON, Central Supply Clerk, Receptionist	4.50	4.50
<b>Physicians</b>		
Unit/Program Director	1.00	1.00
<b>Nursing</b>		
RNs	4.20	7.00
LPNs	7.00	12.60
Nurses' Aides	25.20	49.00
Other: Restorative Aides	2.80	5.60
<b>Dietary</b>		
Dietary Supervisor	2.00	2.00
Cooks	2.80	2.80
Dietary Aides	5.60	7.00
<b>Social Services</b>		
Social Service Director	1.00	2.00
Activity Director	1.00	1.00
Activities Assistant	1.40	2.80
Other: MDS Coordinator	2.00	3.00
<b>Housekeeping</b>		
Housekeeping Supervision	1.00	1.00
Housekeepers	4.20	8.40
<b>Laundry</b>		
Laundry Aides	2.80	2.80
<b>Plant Maintenance</b>		
Maintenance Supervisor	1.00	1.00
Maintenance Assistance	1.00	1.40
<b>Total</b>	<b>77.90</b>	<b>123.70</b>

Source: CON application #10269, Schedule 6

**Five Points Health Care, Ltd. (CON #10270)** indicates that River City Rehab will be certified for both Medicare and Medicaid. Five Points states that it will provide a full range of services to all of its residents:

- Care planning
- Nursing and physician services
- Hospice, respite, Alzheimer's and dementia care
- Dietary services
- Activities
- Transportation and support services

The applicant maintains that patient characteristics at River City Rehab will vary depending on needs, but are broadly classified into residents requiring short-term rehabilitation, residents with complex medical conditions, residents needing long-term care and residents needing end-of-life palliative care.

Five Points insists that Medicare Part A residents will comprise the majority of admissions to the facility following their discharge from an acute care hospital. The applicant reports that when admitted to the facility, Medicare Part A residents will fall into one of eight broad categories of service.

The applicant maintains that based on analysis of discharge data by greater Jacksonville hospitals for the fiscal year ending March 31, 2014, the following is a list of the top eight medical services for subdistrict residents discharges. Five Points asserts that these eight medical services comprise about 88 percent of the total discharges for the period:

- Orthopedics and rehabilitation
- Surgery
- Respiratory
- General medicine
- Nephrology
- Cardiology
- Neurology
- Gastroenterology

The applicant maintains that it will provide a full range of physical, occupational and speech therapy services to meet the rehabilitative needs of each resident. Five Points asserts that it will contract with Select Medical Rehabilitation Services and provides additional information on these therapy programs in Exhibit 5 of CON application #10270.

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Five Points notes that other ancillary services will include but not be limited to:

- Pharmaceuticals
- Medical supplies
- Lab, radiological and other diagnostic services
- Respiratory and audiologist services
- Other ancillary services are needed in the care plan delivery

Five Points indicates that the primary patient assessment tool will be the Minimum Data Set (MDS) Form--which contains a group of screening, clinical and functional status elements that measure such things as cognitive condition, communication/hearing patterns, physical functioning and structural problems and disease diagnosis in the assessment of skilled care residents. The applicant states that the frequency of assessments will comply with licensure regulations.

The applicant asserts that River City Rehab will have strict admissions policies to accurately screen inquiries to assure the appropriateness of facility placement and to assure medical necessity of services. Five Points explains that the Care Planning Committee will have formal responsibility for appropriateness review after resident admission.

Five Points notes that River City Rehab will develop a discharge plan for each resident--patients will be discharged only by physician order. The applicant states that the Director of Social Services develops and maintains a network with community and institutional discharge planning options. Five Points emphasizes that it already has established relationships with the greater Jacksonville continuum of health care and long-term care through operation of its two existing SNFs.

The applicant provides the following table detailing its projected ALOS:

**River City Rehab, Projected ALOS**

	<b>ALOS in Days in Year One</b>	<b>ALOS in Days in Year Two</b>
Private Pay	120	120
Medicaid	180	180
Medicare	30	30
Managed Care	30	30
Hospice	60	60

Source: CON application #10270, page 13

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Schedule 6 illustrates that FTEs for year one (ending March 31, 2018) total 88.83 and total 117.50 for year two (ending March 31, 2019). The proposed project's year one and year two FTEs are shown in the table below.

<b>Five Points Health Care, Ltd. (CON application #10270) Projected Year One and Year Two Staffing</b>		
	<b>Year One FTEs</b>	<b>Year Two FTEs</b>
<b>Administration</b>		
Administrator	1.00	1.00
Director of Nursing	1.00	1.00
Admissions Director	2.00	2.00
Bookkeeper	1.00	1.00
Secretary/Ward Clerk	1.50	2.00
Medical Records Clerk	1.00	1.00
ADON	1.00	1.00
Staff Development Coordinator	1.00	1.00
MDS/Care Planning Coordinator	1.50	1.50
Office Manager	1.00	1.00
Manager-Human Resources	1.00	1.00
<b>Nursing</b>		
RNs	4.20	4.20
LPNs	11.27	16.10
Nurses' Aides	32.83	49.00
Central Supply Clerk	1.00	1.00
Restorative Aids	2.10	2.80
<b>Dietary</b>		
Dietary Supervisor	1.00	1.00
Cooks	3.50	3.50
Dietary Aides/Servers	4.90	7.00
<b>Social Services</b>		
Social Service Director	1.00	1.00
Social Service Assistant	0.75	1.00
Activity Director	1.00	1.00
Activities Assistant	1.13	1.50
<b>Housekeeping</b>		
Housekeeping Supervision	0.50	0.50
Housekeepers/Floor Techs	5.39	7.70
<b>Laundry</b>		
Laundry Supervisor	0.50	0.50
Laundry Aides	1.96	2.80
<b>Plant Maintenance</b>		
Maintenance Supervisor	1.00	1.00
Maintenance Assistance	1.80	2.40
<b>Total</b>	<b>88.83</b>	<b>117.50</b>

Source: CON application #10270, Schedule 6

- c. Quality of Care. In assessing the applicant's ability to provide quality of care pursuant to s. 408.035 (1) (c), Florida Statutes, the Agency shall evaluate the following facts and circumstances:**

1. **Whether the applicant has had a Chapter 400, Florida Statutes, nursing facility license denied, revoked or suspended within the 36 months prior to the current application.**

**Each co-batched applicant** states that they are a newly created entity and therefore this criterion does not apply.

2. **Whether the applicant has had a nursing facility placed into receivership at any time during the period of ownership, management or leasing of a nursing facility in the 36 months prior to the current application?**

**Each co-batched applicant** states that they are a newly created entity and therefore this criterion does not apply.

3. **The extent to which the conditions identified within subparagraphs 1 and 2 threatened or resulted in direct significant harm to the health, safety or welfare of the nursing facility residents.**

**Each co-batched applicant** indicates that this provision is not applicable.

4. **The extent to which the conditions identified within subparagraph 3 were corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory to the Agency.**

**Each co-batched applicant** indicates that this provision is not applicable.

5. **Rule 59C-1.036 (4) (f) Harmful Conditions. The Agency shall question the ability of the applicant to provide quality of care within any nursing facility when the conditions identified in the subparagraph (e) 1 and (e) 2 result in the direct, significant harm to the health, safety or welfare of a nursing facility resident, and were not corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory with the Agency.**

**Each co-batched applicant** indicates that this provision is not applicable, since there have been no violations.

- d. **Rule 59C-1.036 (5) Utilization Reports. Within 45 days after the end of each calendar quarter, facilities with nursing facility beds licensed under Chapter 400, Florida Statutes shall report to the Agency, or its designee, the total number of patient days, which occurred in each month of the quarter, and the number of such days that were Medicaid patient days.**

**Each co-batched applicant** states that it will provide the required data to the applicable local health council and to the Agency.

**3. Statutory Review Criteria**

- a. **Is need for the project evidenced by the availability, quality of care, accessibility and extent of utilization of existing health care facilities and health services in the applicants' service area? ss. 408.035 (1)(b) and (e), Florida Statutes.**

There are 79 licensed community nursing homes with a total of 9,355 community nursing home beds in District 4. Subdistrict 4-1 is composed of Nassau and North Duval Counties and has nine licensed community nursing homes with a total of 1,125 community nursing home beds. The subdistrict averaged 91.67 percent total occupancy for the 12-month period ending June 30, 2014.

**4-1 CON LLC (CON #10269)** indicates that a specific location for the proposed facility has not been determined, but that it will be located within north Duval County such that access and availability to care are key considerations.

4-1 CON LLC notes that the overall SNF occupancy rate in north Duval County was 93.0 percent in the 12-month period ending June 30, 2014, which is slightly higher than the larger District 4's overall occupancy rate (88.4 percent) for the same period.

The applicant declares that as a result of growing population and a fixed bed supply, the bed rates for persons 65+ and 75+ have declined steadily over the last several years, indicating a need for additional beds in the subdistrict. The reviewer notes that the applicant does not provide data illustrating this trend.

The applicant asserts that the proposed facility will be constructed with 37 private rooms (including 28 private suites) and 37 semi-private rooms. 4-1 CON LLC provides data on page 3-3 of CON application #10269 illustrating the types of rooms (private, semi-private, three-bed and four



beds) offered at the community nursing homes in Subdistrict 4-1. The applicant states this data demonstrate that its proposed facility will have more private rooms than any other facility in the subdistrict.

4-1 CON LLC states that the applicant's association with an experienced provider like E.M.I. ensures the delivery of the highest quality health care as well as adherence to Chapter 400, Part II, Florida Statutes, and Rule 59A-4, Minimum Standards for Nursing Homes. The applicant provides its mission statement on page 3-3 of CON application #10269: *"It is our mission to provide the best care possible to our clients. Our goal is to hire the most qualified managers and staff available. Each day we will strive to be the best caregiver in the area."*

4-1 CON LLC states that although site selection continues--population demographics, locations of existing nursing homes, hospitals and roadways are being factored in so that the proposed site will improve access.

The applicant provides maps of Subdistrict 4-1 illustrating the current population aged 65+ and delineating existing nursing homes and hospitals on pages 3-5, 3-6 and 3-7 of CON application #10269. 4-1 CON LLC insists these maps demonstrate the following:

- There are a number of SNFs in north Duval County, generally concentrated around short-term acute care hospitals
- There is a noticeable lack of available skilled nursing care in the western and eastern portions of north Duval County
- Senior population growth is expected to be the heaviest in central and eastern portions of north Duval County

4-1 CON LLC states that since hospitals are referral sources to nursing homes, proximity to area hospitals will be considered in determining an appropriate site. The applicant indicates that short-term acute care facilities in north Duval County discharged 3,356 patients to SNFs during the 12-month period ending March 2014. 4-1 CON LLC reports that the regions of north Duval County included within ZIP codes 32208, 32209 and 32218 had the highest volume of cases, collectively accounting for 65 percent of all discharges during this period.

The applicant declares that no economic barriers to admission to the proposed facility will exist. The applicant states that it will accept a variety of payers, will be certified for both Medicare and Medicaid and that private pay residents will also be accommodated.

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4-1 CON LLC contends that facilities with high occupancy rates reduce access to needed beds because beds that are occupied are not available to those in need. The applicant states that the prevailing standard in skilled nursing care is semi-private accommodation. 4-1 CON LLC believes that factors such as isolation status for communicable diseases significantly affects bed availability in a semi-private care setting, as patients under isolation precautions are often placed in a private bed status, with the adjacent bed remaining unoccupied.

The applicant notes that six of the nine SNFs in Subdistrict 4-1 (67 percent) have an occupancy rate of 90 percent or higher. 4-1 CON LLC indicates that seven Millennium-affiliated facilities are located within District 4 and are currently operating at a mean occupancy rate of 90.9 percent in 2014. The applicant provides a detailed table of occupancy measures at these seven facilities for the last five calendar years on page 3-11 of CON application #10269. The reviewer notes that occupancy rates have declined in all but one of these facilities over the past five years.

4-1 CON LLC believes that without the addition of skilled nursing beds to Subdistrict 4-1, occupancy rates would rise to overcapacity. The applicant states that the bed rate per capita (for persons 65 and older) in Subdistrict 4-1 is 9.24 for the baseline year of July 2014. 4-1 CON LLC indicates that assuming this rate is held constant and applied to the projected senior population for July 2017 and July 2018, occupancy rates in these years would reach 104.4 percent and 109.0 percent, respectively. See the table below.

**Forecast for Nursing Home Subdistrict 4-1  
in July 2017 and July 2018**

<b>Factor</b>	<b>Baseline July 2014</b>	<b>July 2017</b>	<b>July 2018</b>
65+ Population	40,733	46,408	48,451
Subdistrict 4-1 Days	376,425	428,869	447,749
Licensed SNF Beds	1,125	1,125	1,125
Licensed Bed Days	410,625	410,625	410,625
Occupancy	91.7%	104.4%	109.0%

Source: CON application #10269, page 3-12, based on Florida Population Estimates and Projections by Agency District, 2010 to 2030, published September 2013

The reviewer notes that the applicant's above assumptions cannot be verified because the cited population data source they are based from does not illustrate population totals at the subdistrict level.

4-1 CON LLC predicts that the proposed facility will reach an overall occupancy rate of 50 percent in the first year during the fill-up period and is anticipated to reach 90 percent by the first quarter of the second year. See the table below.

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**Forecast for 4-1 CON LLC  
Years One and Two of the Project**

<b>Factor</b>	<b>7/17 to 6/18</b>	<b>7/18 to 6/19</b>
Resident Days	20,209	36,464
Beds, Community	111	111
Bed Days	40,515	40,515
Medicaid Days	11,290	20,372
Occupancy	50.0%	90.0%
Medicaid Occupancy	55.9%	55.9%

Source: CON application #10269, page 3-13

**Five Points Health Care, Ltd. (CON #10270)** indicates that the residents of the subdistrict benefit from access to several quality facilities. Five Points provides the following summary of the star ratings from Medicare.gov Nursing Home Compare as of November 21, 2014. The reviewer added the Florida Nursing Home Guide star ratings as well.

**District 4-1, Medicare.gov and FloridaHealthFinder.gov  
Star Rating – 11/21/2014**

<b>Facility</b>	<b>CMS Star Rating</b>	<b>FloridaHealthFinder.gov Rating</b>
<b>North Duval County</b>		
Cathedral Gerontology Center, Inc.	Four Stars	Two Stars
Edgewood Nursing Center	Three Stars	One Star
Harts Harbor Health Care Center	Three Stars	Two Stars
Jacksonville Nursing and Rehab	Four Stars	Four Stars
Lakeside Nursing and Rehab	Five Stars	Four Stars
Lanier Manor	Four Stars	One Star
Summer Brook Health Care Center	Four Stars	Two Stars
<b>Nassau County</b>		
Life Care Center of Hilliard	Five Stars	Four Stars
Quality Health of Fernandina Beach	Three Stars	One Star

Source: CON application #10270, page 18 and the Nursing Home Guide as published on FloridaHealthFinder.gov on January 28, 2015

The applicant believes that the opening of River City Rehab will add another option for area residents to receive high quality nursing care services in addition to those facilities already available.

Five Points includes an analysis of population estimates for Subdistrict 4-1 by allocating a portion of the Duval County total population and elderly population to north Duval County in Exhibit 6. The applicant concludes that percent increase in population from 2014 to 2017 for total, 65+ and 75+ will be 3.8 percent, 14.1 percent and 11.3 percent, respectively.

Next Five Points examines actual, estimated and projected population for its intended ZIP code, 32218. The applicant finds that the percent increase in population from 2015 to 2020 in ZIP code 32218 for total population, 65+ and 75+ will be 7.9 percent, 30.9 percent and 27.4

percent, respectively. Five Points states that ZIP code 32218 has been experiencing and will continue to experience significant growth in its elderly population.

The applicant maintains that the northern section of north Duval County is comprised of two ZIP codes--32218 and 32226. Five Points reports that the percent increase in population from 2015 to 2020 in these two ZIP codes combined for total population, 65+ and 75+ will be 8.7 percent, 32.2 percent and 29.7 percent, respectively.

Five Points includes an analysis of discharge data by medical service status in Exhibit 7. The applicant finds that of the residents in the subdistrict with Medicare certification discharged to SNFs for the fiscal year ending March 31, 2014 by greater Jacksonville hospitals, 79 percent resided in north Duval County while 21 percent resided in Nassau County. The applicant notes that both competing applications in this batch are in north Duval County, so following approval of these 111 beds, 81 percent of the bed inventory will be in north Duval County and 19 percent will be in Nassau County. Five Points insists that this geographic percentage allocation of beds is reasonably consistent with the resident discharge statistics shown above.

Next the applicant includes an analysis of discharge data by hospital in Exhibit 8. Five Points finds that for the 12-month period ending March 31, 2014, all hospitals discharged 11,634 Duval County and 870 Nassau County residents to SNFs--the applicant calculates that 28 percent of the total Duval County residents discharged resided in north Duval County. When examining discharges by the two acute care hospitals in Subdistrict 4-1, the applicant reports that:

- UF Health Jacksonville discharged 1,680 residents with Medicare certification to SNFs in Duval County and 97 residents to SNFs in Nassau County
- Baptist Medical Center-Nassau discharged nine residents with Medicare certification to SNFs in Duval County and 220 residents to SNFs in Nassau County

Five Points analyses discharge data by payer source for this same time period, indicating that the following are the top three payer sources:

- Medicare and Medicare Managed Care--83.9 percent of discharges
- Medicaid and Medicaid Managed Care--7.0 percent of discharges
- Insurance/Managed Care--4.5 percent of discharges

The applicant points that it has identified Medicare residents as representing a majority of its admissions. Five Points insists that River City Rehab will also provide access to Medicaid and managed care

residents discharges from hospitals. The applicant believes that the low managed care percentage is attributable to the fact that a greater percentage of persons admitted from hospitals are on Medicare versus those covered by a private managed care plan.

The applicant indicates that it sought input from hospital case managers at UF Health Jacksonville and Baptist Medical Center Jacksonville and they identified the following three diagnoses that currently create placement difficulties in North Jacksonville:

- Patients on dialysis
- Patients with wounds and requiring a wound vac
- Patients with tracheostomies

Five Points maintains that River City Rehab will be staffed and equipped to care for residents admitted with any of the diagnoses listed above.

The applicant maintains that it intends to locate in very close proximity to UF Health North medical campus. Five Points states that this campus will be home to an outpatient medical complex and a new 92-acute care hospital--UF Health North opening in 2017--as a result of the relocation of a portion of the acute care beds from the UF Jacksonville Hospital. The applicant asserts that if in fact out-of-service beds at UF Health Jacksonville are relocated to UF Health North, the effective number of licensed and in-service acute care beds available in the subdistrict will increase as a result of the opening of this new hospital. Five Points notes that its application includes a letter of the support from the CEO of UF Health Jacksonville.

Five Points states that Exhibit 11 includes three aerial photos taken on January 19, 2014 from a variety of distances near the UF Health North campus, indicating they highlight the following:

- The availability of significant vacant acreage in close proximity to the UF Health North medical campus, with much of this acreage available for acquisition
- The proposed location in relation to primary traffic arteries in the area
- The proposed location in relationship to heavily populated areas in the subdistrict

The applicant provides a table illustrating Subdistrict 4-1's utilization for the six-month period January 2014-June 2014 on page 25 of CON application #10270. The reviewer confirms these data in the Agency's *Florida Nursing Home Bed Need Projections by District and Subdistrict*, published October 3, 2014. Five Points declares the following are findings from the table:

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- The average SNF occupancy in the subdistrict is 91.7 percent
- Among the two geographic areas within the subdistrict, north Duval County SNFs are experiencing higher overall average occupancy than Nassau County
- Five Points intends to locate River City Rehab in ZIP code 32218-- as shown in the table below, there are three existing SNFs in this ZIP code and their average occupancy exceed the average occupancy for all subdistrict facilities

**Facilities Located in ZIP Code 32218  
Utilization-January 2014-June 2014**

<b>Located in ZIP code 32218</b>	<b>Number of Beds</b>	<b>Bed Days</b>	<b>Patient Days</b>	<b>Average Occupancy</b>
Harts Harbor Health Care	180	32,580	31,041	95.3%
Jacksonville Nursing and Rehab	163	29,503	28,244	95.7%
Lakeside Nursing and Rehab	122	22,082	19,978	90.5%
<b>Total-Facilities in 32218</b>	<b>465</b>	<b>84,165</b>	<b>79,263</b>	<b>94.2%</b>

Source: CON application #10270, page 25

- b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality of care? Is the applicant a Gold Seal Program nursing facility that is proposing to add beds to an existing nursing home? ss. 408.035 (1) (c) and (j), Florida Statutes.**

**4-1 CON LLC (CON #10269)** states that as a newly formed corporation, it does not have a history of providing health care services in Florida. The applicant indicates that E.M.I. Inc., who 4-1 CON LLC asserts has significant experience, will select a qualified administrator and other key staff positions to manage the new facility.

The applicant reports that four of its SNFs in District 4 have received the Bronze Quality American Health Care Association/National Center for Assistive Living (AHCA/NCAL) award.

4-1 CON LLC states that through Millennium Management’s expertise and skills, it will develop quality initiatives and improvement programs consistent with the Center for Medicare and Medicaid Services’ Quality Assurance and Performance Improvement (QAPI) programs. A full copy of the applicant’s Quality Assessment and Assurance (QAA) plan is provided Exhibit 4-1 of CON application #10269.

4-1 CON LLC states that a Plan, Do, Check, Act methodology will be utilized to plan, design, measure, assess and improve functions and processes related to resident care and safety throughout the organization. The elements of this process are described in detail on pages 4-4 and 4-5 of CON application #10269.

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The applicant feels it is important to promote resident participation and optimal quality standards. 4-1 CON LLC indicates that the proposed facility will allow a balance of private and common areas for residents. The applicant maintains that resident staff communication systems increase the efficiency of operations and quality of care.

4-1 CON LLC discusses its goal of offering services targeted to residents' needs. The applicant states that each resident will undergo a comprehensive assessment upon admission that will help provide a program of care with goals set with participation from the resident and his or her family. 4-1 CON LLC indicates that the proposed facility will provide discharge planning to assure that when short-term residents' stays end, their transitions are complete and they can resume a more independent lifestyle. The applicant concludes that through a new physical plant, equipment and services for residents, the proposed facility is expected to provide the highest quality of care possible.

The 38 nursing homes associated with one of the parent companies, Millennium Management, are identified on pages 2-3 of this State Agency Action Report. Agency complaint records indicate that these affiliated nursing homes, for the three-year period ending November 19, 2014, had 110 substantiated complaints at 35 of its 38 facilities. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below:

<b>Nursing Homes affiliated with Millennium Management</b>	
<b>Complaint Category</b>	<b>Number Substantiated</b>
Quality of Care/Treatment	54
Resident/Patient/Client Rights	17
Resident/Patient/Client Assessment	12
Administration/Personnel	10
Physical Environment	9
Nursing Services	9
Admission, Transfer and Discharge Rights	9
Infection Control	8
Dietary Services	5
Resident/Patient/Client Abuse	5
Misappropriation of Property	3
Physician Services	2
Unqualified Personnel	2
Resident/Patient/Client Neglect	1
Life Safety Code	1

Source: Florida Agency for Health Care Administration Complaint Records

Agency records indicate that E.M.I is affiliated with 11 SNFs in Florida:

- Riverwood Health and Rehabilitation Center
- Terrace Health and Rehabilitation Center
- Citrus Hills Health and Rehabilitation Center

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- Isle Health and Rehabilitation Center
- Woodland Grove Health
- The Gardens Health
- Villa Health and Rehabilitation Center
- Oceanside Extended Care Center
- Fair Havens Center
- Harmony Health Center
- The Nursing Center at Mercy

Agency complaint records indicate that these affiliated nursing homes, for the same time period, had 43 substantiated complaints for 11 facilities. See below.

<b>Nursing Homes affiliated with E. M. I. Inc.</b>	
<b>Complaint Category</b>	<b>Number Substantiated</b>
Quality of Care/Treatment	19
Resident/Patient/Client Rights	8
Admission, Transfer and Discharge Rights	7
Administration/Personnel	5
Physical Environment	4
Unqualified Personnel	3
Resident/Patient/Client Assessment	3
Nursing Services	1
Physician Services	1
Falsification of Records/Reports	1
Billing/Refunds	1
Infection Control	1
State Licensure	1
Resident/Patient/Client Abuse	1

Source: Florida Agency for Health Care Administration Complaint Records

**Five Points Health Care, Ltd. (CON #10270)** states that it is the licensed provider of the following two SNFs, indicating their star ratings on Medicare.gov Nursing Home Compare:

- Lakeside Nursing and Rehabilitation Center--five stars
- Park Ridge Nursing Center--four stars

The applicant asserts that Medicare.gov is a better indicator of quality ratings for individual facilities than the Nursing Home Guide on FloridaHealthFinder.gov. Five Points cites the following text from FloridaHealthFinder.gov,

*“All of the nursing homes in a particular region could perform better than the statewide average. Therefore, a low rank does not necessarily indicate a ‘low quality’ facility.”*

The reviewer notes that Lakeside Nursing and Rehabilitation Center and Park Ridge Nursing Center currently have star ratings of four stars and three stars, respectively, if a possible five stars on FloridaHealthFinder.gov.



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Five Points indicates that River City Rehab’s QAPI process will be similar to the program already in place at the SNFs operated by Five Points. The applicant insists that River City Rehab will have a strategic quality plan which ensures that a planned, systematic, facility-wide performance improvement process exists. Five Points declares that the overall objective of the performance improvement process is to support efforts to continuously improve work processes and delivery systems.

The applicant provides an overview of its QAPI process on pages 26 to 28 and also includes additional information in Exhibit 13 of CON application #10270.

Five Points maintains that the following are some additional measures in addition to the QAPI that will contribute to the delivery of quality care:

- Licensure and certification surveys
- Stable management and well trained staff
- Staffing levels
- Programs offered by industry associations

Agency complaint records indicate that the affiliated nursing homes associated with the parent company, for the three-year period ending November 19, 2014, had two substantiated complaints at two facilities. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below:

<b>Nursing Homes affiliated with Five Points Health Care, Ltd. and Five Points Managers, Inc.</b>	
<b>Complaint Category</b>	<b>Number Substantiated</b>
Physical Environment	1
Quality of Care / Treatment	1

Source: Florida Agency for Health Care Administration Complaint Records

- c. What resources, including health manpower, management personnel and funds for capital and operating expenditures, are available for project accomplishment and operation? ss. 408.035 (1)(d), Florida Statutes.**

**4-1 CON LLC (CON #10269):**

**Analysis:**

The purpose of our analysis for this section is to determine if the applicant has access to the funds necessary to fund this and all capital projects. Our review includes an analysis of the short and long-term position of the applicant, parent or other related parties who will fund the project. The applicant is a development stage company, meaning

there is no operational data to be analyzed for the purposes of this review. The applicant indicated that funding will be provided by a third-party source and by equity contributions from an affiliate.

**Capital Requirements and Funding:**

The applicant provided a development stage audit. The audit indicates that the applicant has very little assets, liabilities, net worth and revenue. The applicant indicates on Schedule 2 capital projects totaling \$18,183,714 which includes this project. The applicant indicates on Schedule 3 of its application that funding for the project will be 25 percent equity contribution from an affiliate (Mr. Esformes) and 75 percent debt financing from a bank. The applicant's parent company currently has five CON applications under review including this one. The applicant provided a letter of interest (unsigned) indicating an interest in funding the equity portion of the project, and a compiled (unaudited) statement of Mr. Esformes as proof of financial ability to fund the equity portion. Although the application indicates that audited financial are included, the financial statements submitted were a compilation, not audited financial statements. Per the CPA's compilation report – "The object of a compilation is to assist Morris I. Enformes in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statement." Unaudited financial statements cannot be relied upon for proof of funding without third-party verification of the assets and liabilities presented. The Private Bank provided a letter of interest in financing this project. A letter of interest does not constitute a firm commitment to lend.

Given that the equity portion of the funding is supported by an unsigned letter and unaudited financial statements and the debt portion is supported by a letter of interest and not a firm commitment to lend, we have no basis to conclude that funding will be available for this project.

**Conclusion:**

Funding for this project is in question.

**Five Points Health Care, Ltd. (CON #10270):**

**Analysis:**

The purpose of our analysis for this section is to determine if the applicant has access to the funds necessary to fund this and all capital projects. Our review includes an analysis of the short and long-term position of the applicant, parent or other related parties who will fund the project. The analysis of the short and long-term position is intended to provide some level of objective assurance on the likelihood that

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funding will be available. The stronger the short-term position, the more likely cash on hand or cash flows could be used to fund the project. The stronger the long-term position, the more likely that debt financing could be achieved if necessary to fund the project. We also calculate working capital (current assets less current liabilities) a measure of excess liquidity that could be used to fund capital projects.

Historically we have compared all applicant financial ratios regardless of type to bench marks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities. The below is an analysis of the audited financial statements of Five Points Healthcare, Ltd. and where the two short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

<b>FIVE POINTS HEALTHCARE, LTD</b>		
	<b>Current Year</b>	<b>Previous Year</b>
Current Assets	\$3,255,559	\$3,063,709
Total Assets	\$15,674,474	\$15,646,867
Current Liabilities	\$1,582,145	\$1,307,562
Total Liabilities	\$11,866,555	\$11,971,990
Net Assets	<b>\$3,807,919</b>	<b>\$3,674,877</b>
Total Revenues	\$18,293,692	\$17,531,116
Excess of Revenues Over Expenses	\$1,633,042	\$1,934,787
Cash Flow from Operations	\$2,035,031	\$2,149,313
<b>Short-Term Analysis</b>		
Current Ratio (CA/CL)	2.1	2.3
Cash Flow to Current Liabilities (CFO/CL)	128.62%	164.38%
<b>Long-Term Analysis</b>		
Long-Term Debt to Net Assets (TL-CL/NA)	270.1%	290.2%
Total Margin (ER/TR)	8.93%	11.04%
<b>Measure of Available Funding</b>		
Working Capital	<b>\$1,673,414</b>	<b>\$1,756,147</b>

<b>Position</b>	<b>Strong</b>	<b>Good</b>	<b>Adequate</b>	<b>Moderately Weak</b>	<b>Weak</b>
Current Ratio	above 3	3 - 2.3	2.3 - 1.7	1.7 – 1.0	< 1.0
Cash Flow to Current Liabilities	>150%	150%-100%	100% - 50%	50% - 0%	< 0%
Debt to Equity	0% - 10%	10%-35%	35%-65%	65%-95%	> 95% or < 0%
Total Margin	> 12%	12% - 8.5%	8.5% - 5.5%	5.5% - 0%	< 0%

**Capital Requirements and Funding:**

The applicant indicates on Schedule 2 capital projects totaling \$36,801,498 which includes CON application #10230. CON application #10230 is an approved project for a replacement and relocation of Park Ridge Nursing Center in Jacksonville. The applicant indicates on Schedule 3 of its application that funding for the project will be provided by cash on hand (\$922,558) and non-related company financing (16,850,000). The applicant provided their audited financial statements to serve as proof of funds. Ameris Bank provided a letter indicating a willingness to loan up to 95 percent of the project cost subject to final approval. In addition to the proposed funding listed above, the owners (Charles and Roxanne Wilson) are pledging \$1 million to fund the capital costs over and above the financial detail above. Steven Sell, a managing partner of Five Points Health Care, Ltd, is also pledging \$500,000 to complete the project. Based on our analysis above, the applicant is highly leveraged; however the other financial ratios are adequate to good. Given that the funding is supported by a letter indicating a willingness to lend, but not a loan commitment, funding is not guaranteed.

**Conclusion:**

Funding for this project is likely but not guaranteed.

- d. What is the immediate and long-term financial feasibility of the proposal? ss. 408.035 (1) (f), Florida Statutes.**

**4-1 CON LLC (CON #10269):**

**Analysis:**

The immediate and long-term financial feasibility of the project is tied to expected profitability. The purpose of our analysis for this section is to evaluate the reasonableness of the applicant's profitability projections and ultimately whether profitability is achievable for this project. Our analysis includes an evaluation of net revenue per patient day (NRPD), cost per patient day (CPD), nurse staffing ratios and profitability. We compared the NRPD, CPD and profitability to actual operating results from skilled nursing facilities as reported on Medicaid cost reports (2012 and 2013 cost report years). For our comparison group, we selected skilled nursing facilities with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (Inflation factor was based on the new CMS Market Basket Price Index as published in the 3rd Quarter 2014, Health Care Cost Review).

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NRPD, CPD, and profitability or operating margin that fall within the group range are considered reasonable projections. Below is the result of our analysis.

	PROJECTIONS PER APPLICANT		COMPARATIVE GROUP VALUES PPD		
	Total	PPD	Highest	Median	Lowest
Net Revenues	11,347,521	311	433	330	234
Total Expenses	10,909,849	299	482	324	219
Operating Income	437,672	12	115	6	-38
Operating Margin	3.86%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	36,464	90.00%	114.77%	90.16%	66.81%
Medicaid/MDCD HMO	20,372	55.87%	69.63%	60.04%	50.73%
Medicare	6,508	17.85%	35.62%	21.14%	3.38%

**Staffing:**

Section 400.23(3)(a)(1), Florida Statutes, specifies a minimum certified nursing assistant staffing of 2.5 hours of direct care per resident per day and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident day. Based on the information provided in Schedule 6, the applicant’s projected staffing meets this requirement.

The projected NRPD and CPD fall within the group range and are considered reasonable. Profit is slightly above the highest value and may be overstated. Although likely overstated, overall profitability appears achievable.

**Conclusion:**

This project appears to be financially feasible.

**Five Points Health Care, Ltd. (CON #10270):**

**Analysis:**

The immediate and long-term financial feasibility of the project is tied to expected profitability. The purpose of our analysis for this section is to evaluate the reasonableness of the applicant’s profitability projections and, ultimately, whether profitability is achievable for this project. Our analysis includes an evaluation of net revenue per patient day (NRPD), cost per patient day (CPD), nurse staffing ratios and profitability. We compared the NRPD, CPD and profitability to actual operating results from skilled nursing facilities as reported on Medicaid cost reports (2012 and 2013 cost report years). For our comparison group, we selected skilled nursing facilities with similar Medicaid utilizations to the

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utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (inflation factor was based on the new CMS Market Basket Price Index as published in the 3rd Quarter 2014, Health Care Cost Review).

NRPD, CPD, and profitability or operating margin that fall within the group range are considered reasonable projections. Below is the result of our analysis.

	PROJECTIONS PER APPLICANT		COMPARATIVE GROUP VALUES PPD		
	Total	PPD	Highest	Median	Lowest
Net Revenues	12,152,053	320	450	343	221
Total Expenses	11,287,673	297	436	334	233
Operating Income	864,380	23	26	8	-49
Operating Margin	7.11%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	37,960	93.69%	114.77%	90.01%	67.17%
Medicaid	25,813	68.00%	79.96%	70.87%	60.04%
Medicare	8,351	22.00%	30.30%	16.20%	3.03%

**Staffing:**

Section 400.23(3)(a)(1), Florida Statutes, specifies a minimum certified nursing assistant staffing of 2.5 hours of direct care per resident per day and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident day. Based on the information provided in Schedule 6, the applicant’s projected staffing meets this requirement.

The projected NRPD, CPD and profit fall within the group range and are considered reasonable. In addition, the total cost appears to include at least the minimum staffing required. Therefore, the overall profitability appears achievable.

**Conclusion:**

This project appears to be financially feasible based on the projections provided by the applicant.

- e. **Will the proposed project foster competition to promote quality and cost-effectiveness? ss. 408.035 (1)(e) and (g), Florida Statutes.**

**Analysis:**

The type of competition that would result in increased efficiencies, service and quality is limited in health care. Cost-effectiveness through

competition is typically achieved via a combination of competitive pricing that forces more efficient cost to remain profitable and offering higher quality and additional services to attract patients from competitors. Since Medicare and Medicaid are the primary payers in the nursing home industry, price-based competition is limited. With a large portion of the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited. In addition, competitive forces truly do not begin to take shape until existing business' market share is threatened. The publication of need in this area suggests that there is an unmet and untapped customer base for a new entrant to absorb. Since nursing home services are limited to available beds and the need formula suggests excess capacity in the market to fill those beds, the impact on market share would be limited. The combination of the existing health care system's barrier to price-based competition via fixed price payers and the existence of unmet need in the district limits any significant gains in cost-effectiveness and quality that would be generated from competition.

**Conclusion:**

These projects are not likely to have a material impact on competition to promote quality and cost-effectiveness.

- f. Are the proposed costs and methods of construction reasonable? Do they comply with statutory and rule requirements? ss. 408.035 (1) (h), Florida Statutes; Ch. 59A-4, Florida Administrative Code.**

**4-1 CON LLC (CON #10269):** The applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria. The cost estimate for the proposed project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant owner. Approval from the Agency's Office of Plans and Construction is required before the commencement of any construction.

**Five Points Health Care, Ltd. (CON #10270):** The applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria. The cost estimate for the propose project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant owner. Approval from the Agency’s Office of Plans and Construction is required before the commencement of any construction.

- g. Does the applicant have a history of and propose the provision of health services to Medicaid patients and the medically indigent? Does the applicant propose to provide health services to Medicaid patients and the medically indigent? ss. 408.035 (1) (i), Florida Statutes.**

A five-year history of Medicaid patient days and occupancy for the subdistrict, district and state is provided in the table below.

**Medicaid Patient Days and Medicaid Occupancy  
in Subdistrict 4-1, District 4 and Florida**

<b>Medicaid Patient Days</b>					
<b>Facility/Area</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Subdistrict 4-1	285,375	284,012	274,648	282,641	279,977
District 4	1,891,012	1,897,118	1,886,425	1,869,824	1,839,586
Florida	15,411,373	15,530,575	15,612,015	15,733,318	15,700,197
<b>Medicaid Occupancy</b>					
<b>Facility/Area</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Subdistrict 4-1	76.41%	75.18%	73.29%	75.32%	74.20%
District 4	61.89%	61.82%	61.89%	61.76%	61.09%
Florida	61.26%	61.33%	61.56%	61.85%	61.66%

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2014 Batching Cycle

**4-1 CON LLC (CON #10269)** states that it was recently created to develop a new 111-bed facility and therefore, has no history of utilization. The applicant indicates however that its affiliated SNFs have a history of providing skilled nursing care to Medicaid patients within the local region in which the proposed facility will be located.



**CON Action Numbers: 10269 and 10270**

The applicant provides data illustrating that its seven affiliated facilities in District 4 maintained a mean Medicaid occupancy rate of 60.7 percent for the 12-month period ending June 2014. The reviewer confirms these data in the Agency’s *Florida Nursing Home Bed Need Projections by District and Subdistrict*, published October 3, 2014. Additionally, 4-1 CON LLC demonstrates that its affiliated E.M.I.-operated facilities in the State averaged Medicaid occupancy of 57.7 percent. The reviewer notes that the applicant did not include a time period for these data or a source other than “E.M.I. Internal data.”

The reviewer compiled the following Medicaid occupancy data for E.M.I.’s Florida facilities for July 1, 2013 to June 30, 2014. See the table below.

**E.M.I Florida Medicaid Occupancy  
July 1, 2013 to June 30, 2014**

<b>Facility</b>	<b>Medicaid Days</b>	<b>Total Days</b>	<b>Medicaid Occupancy</b>
Riverwood Health and Rehabilitation Center	27,430	42,300	64.85%
Terrace Health and Rehabilitation Center	23,109	43,014	53.72%
Citrus Hills Health and Rehabilitation Center	21,544	40,515	67.61%
Isle Health and Rehabilitation Center	22,985	38,801	59.24%
Woodland Grove Health	24,477	42,604	57.45%
The Gardens Health	20,641	39,420	53.52%
Villa Health and Rehabilitation Center	25,790	43,305	59.55%
Oceanside Extended Care Center	50,432	71,217	70.81%
Fair Havens Center	62,481	97,493	64.09%
Harmony Health Center	44,974	73,815	60.93%
The Nursing Center at Mercy	5,220	40,686	12.83%
<b>Total</b>	<b>329,083</b>	<b>573,170</b>	<b>56.78%</b>

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2014 Batching Cycle

4-1 CON LLC provides the following payer forecast for the first two years of operation of the proposed facility, indicating it is based on historical utilization of the applicant’s affiliates and other similarly-sized facilities within the subdistrict.

**Forecasted Admissions and Patient Days  
for 4-1 CON LLC**

<b>Payer</b>	<b>Year One</b>		<b>Year Two</b>	
	<b>Patient Days</b>	<b>Percent</b>	<b>Patient Days</b>	<b>Percent</b>
Private Pay	1,475	7.3%	2,662	7.3%
Medicaid	11,290	55.9%	20,372	55.9%
Medicare	3,607	17.8%	6,508	17.8%
Other Payers	3,836	19.0%	6,922	19.0%
<b>Total</b>	<b>20,208</b>	<b>100.0%</b>	<b>36,464</b>	<b>100.0%</b>

Source: CON application #10269, page 9-3

The applicant’s Schedule 7 indicates that Medicaid and self-pay represent 55.87 percent and 7.30 percent, respectively of year one and year two annual total patient days.

**CON Action Numbers: 10269 and 10270**

4-1 CON LLC states that it is aware of all aspects of the newly implemented Statewide Medicaid Managed Care Long-Term Care program (SMMC LTC) and will form a provider agreement with one of the LTC plans available in Subdistrict 4-1. The applicant notes that following the March 2014 initiation of SMMC LTC in District 4, the four SMMC LTC plans operating enrolled approximately 9,100 individuals.

The applicant maintains that it will enroll in, and continue to provide timely and accurate provider information to the Agency Provider Master List. 4-1 CON LLC asserts that it will also collaborate with the chosen LTC plan to identify and implement quality and performance measures to monitor the facility's clinical performance on an ongoing basis. The applicant provides a summary of available Medicaid SMMC LTC plans operating in Region 4.

**Five Points Health Care, Ltd. (CON #10270)** states it has a history of providing health services to Medicaid beneficiaries. The applicant reports that Five Points' facilities Lakeside Nursing and Rehabilitation Center and Park Ridge Nursing Center reported Medicaid utilization of 61 percent and 76 percent, respectively, for the six-month period ending June 30, 2014.

The reviewer compiled the following Medicaid occupancy data for Five Points operated Florida facilities for July 1, 2013 to June 30, 2014. See the table below.

**Five Points Florida Medicaid Occupancy  
July 1, 2013 to June 30, 2014**

<b>Facility Name</b>	<b>Medicaid Days</b>	<b>Total Days</b>	<b>Medicaid Occupancy</b>
Lakeside Nursing and Rehabilitation Center	24,910	40,175	62.00%
Park Ridge Nursing Center	22,650	31,513	71.88%
<b>Total</b>	<b>47,560</b>	<b>71,688</b>	<b>66.94%</b>

Source: Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2014 Batching Cycle

The applicant maintains that as of March 1, 2014, Florida has discontinued all Medicaid Home and Community Based Service Waivers relevant to the elderly for long-term care--seniors now receive assistance from the SMMC LTC Program. Five Points asserts it will admit enrollees of the four SMMC LTC programs currently operating in Region 4.

Five Points provides the following comparative table of Medicaid utilization patient days and percentage from 2004 and 2014. The reviewer notes the applicant did not provide a data source.

**Medicaid Utilization Information, 2004 Versus 2014**

	<b>Total Medicaid Patient Days Jan 2004 to June 2004</b>	<b>Average Medicaid Utilization Jan 2004 to June 2004</b>	<b>Total Medicaid Patient Days Jan 2014 to June 2014</b>	<b>Average Medicaid Utilization Jan 2014 to June 2014</b>
<b>Subdistrict 4-1</b>	135,468	73.66%	139,017	74.48%
<b>District 4</b>	947,754	63.81%	914,960	60.98%
<b>Statewide</b>	8,152,102	63.29%	7,861,179	61.62%

Source: CON application #10270, page 48

The applicant points out that while there has been some reduction in Medicaid demand from 2004 to 2014 in District 4 and statewide, Medicaid demand by these same measures has increased somewhat in the subdistrict.

Five Points feels that nursing facilities are still an important provider of LTC services to Medicaid beneficiaries and the demand is evident from historical Medicaid utilization figures. The applicant believes that this demand can be met without the need for a Medicaid condition, as it will be driven by market conditions.

The applicant asserts that trends in recent Agency approvals of replacement facilities and other SNF projects indicate that even though providers are projecting various levels of Medicaid utilization, no Medicaid condition of award was placed on any of the approvals. Five Points provides the following chart of recently approved Agency CONs to illustrate its point.

**Recently Approved Projects**

<b>Project Number</b>	<b>Projected Medicaid Utilization Year Two</b>	<b>Medicaid Condition</b>
10238	20.0%	None
10230	58.3%	None
10176	45.0%	None

Source: CON application #10270, page 49

Five Points declares that for the reasons described above, it does not wish to place a Medicaid condition on the award, but expects that a significant number of annual patient days at River City Rehab will be provided to Medicaid beneficiaries in SMMC LTC program providers.

The applicant notes that because of the availability of government benefits to individuals without financial ability to pay for nursing home care, the incidence of charity care is extremely low in SNFs. Five Points asserts that however, to allow for a rare instance of charity care cases, it has projected a charity care allowance of \$1.25 and \$1.28 per private pay patient day in year one and two, respectively.

The applicant Schedule 7 indicates that Medicaid and self-pay

represent 68.0 percent and 3.0 percent, respectively, of year one and two annual total patient days. Five Points states in addition, it is projecting a hospice case mix of five percent, for which services are paid at the Medicaid rate.

**F. SUMMARY**

**4-1 CON LLC (CON #10269)**, an affiliate of the principals E.M.I. Inc. and Millennium Management, LLC, proposes to establish a new 111-bed community nursing home in District 4/Subdistrict 4-1, North Duval County.

Millennium Management, LLC states that it owns SNFs in Florida, two of which are located in Subdistrict 4-1.

The reviewer notes that in another application for the current batching cycle, Millennium Management and E.M.I. are affiliated with 38 SNFs,

The project involves 73,053 GSF of new construction. The construction cost is \$13,150,000. Total project cost is \$18,183,714. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant does not wish to accept any conditions for the proposed project.

**Five Points Health Care, Ltd. (CON #10270)**, a Florida limited partnership, proposes to establish a new 111-bed community nursing home in District 4/Subdistrict 4-1, North Duval County. The proposed facility will be named River City Rehab. River City Rehab will be managed by Health Care Managers, Inc., a related party management company that is also headquartered in Fernandina Beach, Florida

Five Points is the licensed provider of two SNFs in Florida, which are also managed by Health Care Managers, Inc.

The project involves 75,700 GSF of new construction. The construction cost is \$12,869,000. Total project cost is \$17,772,558. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant does not wish to accept any conditions for the proposed project.

**Need:**

In Volume 40, Number 193 of the Florida Administrative Register dated October 3, 2014, a fixed need pool of 111 beds was published for Subdistrict 4-1 for the July 2017 Planning Horizon.

As of November 19, 2014, Subdistrict 4-1 had 1,125 licensed and zero approved community nursing home beds. During the 12-month period ending June 30, 2014, Subdistrict 4-1 experienced 91.67 percent utilization at nine existing facilities.

**4-1 CON LLC (CON #10269)** believes need for the proposed project is clearly demonstrated by these main points:

- The subdistrict has significant numbers of discharges in service lines and disease categories such as septicemia, renal failure and respiratory failure/COPD, which will further increase demand for skilled nursing care
- The recent reversal of the long-standing moratorium on the new skilled nursing home beds means that new, more modern facilities are needed to keep pace with technological and clinical developments in health care delivery

4-1 CON LLC states that although site selection continues--population demographics, locations of existing nursing homes, hospitals and roadways are being factored in so that the proposed site will improve access.

The applicant contends that facilities with high occupancy rates reduce access to needed beds because beds that are occupied are not available to those in need.

4-1 CON LLC predicts that the proposed facility will reach an overall occupancy rate of 50 percent in the first year during the fill-up period and is anticipated to reach 90 percent by the first quarter of the second year.

**Five Points Health Care, Ltd. (CON #10270)** states that Subdistrict 4-1 contains both north Duval County, which consists of nine ZIP codes and Nassau County. The applicant asserts that it has selected to locate River City Rehab in north Duval County for the following reasons:

- Existing SNFs in north Duval County are experiencing higher average occupancy levels than existing SNFs in Nassau County
- The applicant intends to locate in very close proximity to the approved UF Health North hospital, which is being developed in North Jacksonville and is scheduled to open in 2017
- North Duval County is more populous than Nassau County
- Available hospital discharge data support a north Duval location

Five Points indicates that acquisition of the site will occur following approval of the project, but it estimates that there is currently well over 100 acres of vacant land available in several parcels located within one mile of the UF Health North campus.

The applicant believes that the opening of River City Rehab will add another option for area residents to receive high quality nursing care services in addition to those facilities already available.

**Quality of Care:**

**Both applicants** described their ability to provide quality care.

**4-1 CON LLC (CON #10269):** The applicant's controlling interest Millennium Management had 110 substantiated complaints at 35 of its 38 Florida SNFs during November 19, 2011 to November 19, 2014.

The applicant's controlling interest E.M.I., Inc. had 43 substantiated complaints at its 11 Florida SNFs during November 19, 2011 to November 19, 2014.

**Five Points Health Care, Ltd. (CON #10270):** The applicant's controlling interest had two substantiated complaints at its two Florida SNFs during November 19, 2011 to November 19, 2014.

**Financial Feasibility/Availability of Funds:**

**4-1 CON LLC (CON #10269):** Funding for this project is in question. Based on the information provided in Schedule 6, the applicant's projected staffing meets the requirement. This project appears to be financially feasible.

This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

**Five Points Health Care, Ltd. (CON #10270):** Funding for this project is likely but not guaranteed. Based on the information provided in Schedule 6, the applicant's projected staffing meets the requirement. This project appears to be financially feasible based on the projections provided by the applicant.

This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

**Medicaid/Charity Care:**

**4-1 CON LLC (CON #10269)** does not propose to condition project approval to a percentage of Medicaid days.

The applicant's Schedule 7 indicates that Medicaid and self-pay represent 55.87 percent and 7.30 percent, respectively of year one and year two annual total patient days.

4-1 CON LLC states that it is aware of all aspects of the newly implemented SMMC LTC program and will form a provider agreement with one of the LTC plans available in Subdistrict 4-1.

**Five Points Health Care, Ltd. (CON #10270)** does not propose to condition project approval to a percentage of Medicaid days.

The applicant's Schedule 7 indicates that Medicaid and self-pay represent 68.0 percent and 3.0 percent, respectively, of year one and two annual total patient days. Five Points states in addition, it is projecting a hospice case mix of five percent, for which services are paid at the Medicaid rate.

Five Points asserts it will admit enrollees of the four SMMC LTC programs currently operating in Region 4.

**Architectural:**

**4-1 CON LLC (CON #10269):** The cost estimate and the project completion forecast appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

**Five Points Health Care, Ltd. (CON #10270):** The cost estimate and the project completion forecast appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

**G. RECOMMENDATION**

Approve CON #10270 to establish a 111-bed community nursing home in District 4, Subdistrict 1, Duval County. The total project cost is \$17,772,558. The project involves 75,700 GSF of new construction and a construction cost of \$12,869,000.

Deny CON #10269.



**AUTHORIZATION FOR AGENCY ACTION**

Authorized representatives of the Agency for Health Care Administration adopted the recommendation contained herein and released the State Agency Action Report.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Marisol Fitch  
**Health Services and Facilities Consultant Supervisor**  
**Certificate of Need**