

SECOND TOLLING AGREEMENT

Between

THE CITY OF REDLANDS AND SENIOR HOUSING SERVICES, LLC

In consideration of the mutual covenants contained herein, the City of Redlands, a municipal corporation ("Redlands") and Senior Housing Services, LLC, a California limited liability company ("Senior Housing") who are hereinafter sometimes referred to individually as a "Party" and, together, as the "Parties" agree as follows:

1. During November 2007, Senior Housing filed an application for a revision of a Conditional Use Permit No. 768 for development of a 160-unit senior housing facility in Redlands, California, for certain real property located at 1300 Orange Ave. (the "Entitlements").
2. On April 1, 2008, Redlands' City Council took action to approve the Entitlements which included the imposition of certain fees for water source acquisition, water capital improvements and sewer capital improvements (the "Water and Sewer Fees").
3. On June 26, 2008, Senior Housing filed with Redlands a written protest pursuant to the Mitigation Fee Act of the proposed Water and Sewer Fees (the "Protest").
4. Redlands and Senior Housing desire to continue discussions and study of the facts and circumstances associated with the proposed Water and Sewer Fees proposed to be imposed on the 160-unit senior housing facility. To analyze the appropriateness of the Water and Sewer Fees, on July 15, 2008, Redlands and Senior Housing entered into a Development Impact Fee Study Funding Agreement to study the water and sewer usage of senior housing compared to nonage-restricted multifamily housing.
5. To allow for the study of the Water and Sewer Fees and discussion of the Water and Sewer Fees' issues, Redlands and Senior Housing entered into an agreement on September 4, 2008 (the "First Tolling Agreement"), to defer any legal proceedings beyond 180 days after Redland's approval of the Entitlements as provided by the Mitigation Fee Act or other actions by either Party during the pendency of such study and discussions.
6. Redlands and Senior Housing agreed that prior to March 31, 2009, they shall not file any action in each of their own behalfs, in any court of competent jurisdiction or administrative agency asserting claims or defenses arising from or relating to Redlands' imposition of Water and Sewer Fees and -the Protest of the imposition of the Water and Sewer Fees.
7. The First Tolling Agreement has since expired, and Redlands and Senior Housing desire to enter into this Second Tolling Agreement.

8. Redlands and Senior Housing agree that any and all statutes of limitations applicable to any claims, causes of action, rights, demands for arbitration or reference, actions and proceedings either of the Parties may have against the other Party arising out of or relating to the facts and circumstances associated with Redlands' Water and Sewer Fees and the Protest filed against the Water and Sewer Fees are deemed tolled as of the Effective Date of this Second Tolling Agreement ("Agreement"), and shall remain tolled until the earlier of October 7, 2009, or thirty (30) days after written notice given by any Party to the other Party of the termination of this Agreement. Any claims, defenses or actions which could have been asserted with respect to such matters shall be legally preserved during the tolling period. Except as expressly provided herein, neither Redlands nor Senior Housing waives, will be deemed to have waived, or shall be stopped from asserting, any rights relating to the Protest of the Water and Sewer Fees due to the execution of this Agreement.

9. Any defense which any Party may have, including those based on laches or related equitable doctrines shall not be based upon or supported in any way by the postponement of any claim or defense during the tolling period.

10. Nothing in this Agreement shall operate to revive any claim or proceeding that was time barred as of the Effective Date of this Agreement.

11. This Agreement in no manner constitutes an admission by any Party of any fault or liability, or lack thereof, on the part of any Party, in relation to any potential or existing lawsuit, claim, action, or matter.

12. This Agreement constitutes the entire understanding and agreement of the Parties as to the subject matter hereof, and shall not be modified except by a written agreement signed by the Parties.

13. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

14. The terms, conditions, covenants and agreements set forth in this Agreement shall apply to and bind the assigns and successors in interest of the Parties.

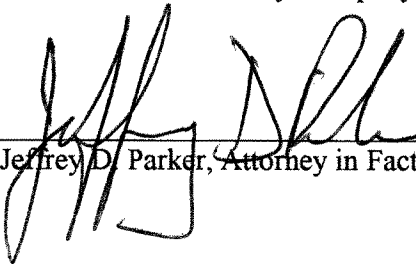
15. For the purpose of this Agreement, "Senior Housing" includes affiliates, subsidiaries, successors, assigns and beneficiaries, including those claiming under and through it, and "Redlands" include Redlands' successors, assigns and beneficiaries, including those claiming under and through it.

16. The undersigned all acknowledge and represent that they have read this Agreement and consulted with their respective legal counsel concerning its contents and consequences, that this Agreement is being executed solely in reliance on their respective judgment, belief and knowledge of the matters set forth herein and on the advice of their counsel. This Agreement, negotiated by the Parties, integrates all the subject terms and conditions and supersedes all negotiations of previous agreements between the Parties concerning the specific subject matter of this Agreement.

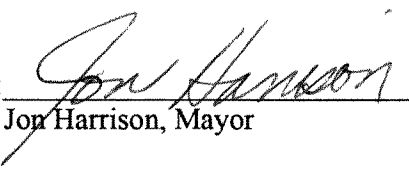
THIS AGREEMENT shall be deemed effective on the 7th day of April, 2009 (the "Effective Date").

SENIOR HOUSING SERVICES, LLC,
California Limited Liability Company

CITY OF REDLANDS, CALIFORNIA

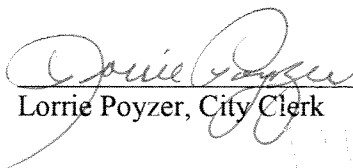
By: 

Jeffrey D. Parker, Attorney in Fact

By: 

Jon Harrison, Mayor

ATTEST


Lorrie Poyzer, City Clerk