

AFFORDABLE UNIT OVERCHARGE AGREEMENT

This AFFORDABLE UNIT OVERCHARGE AGREEMENT (“Agreement”) is dated as of May 17, 2022; and is entered into by and between REDONDO SENIOR PARTNERS LP, a Delaware limited partnership (“Owner”) and the CITY OF REDONDO BEACH, a chartered municipal corporation in its capacity as housing successor to the former Redevelopment Agency of the City of Redondo Beach (“City”). Owner and City are sometimes referred to collectively as the “Parties”.

RECITALS

A. Owner is the current owner of the 135-unit senior housing rental project known as Heritage Pointe Senior Apartments project located at 1801 Aviation Way in the City of Redondo Beach, California (the “Project”).

B. The Redevelopment Agency of the City of Redondo Beach (the “Former Agency”) and Redondo Beach HP Seniors, L.P. (Owner’s predecessor in interest) entered into that certain Agreement Containing Covenants (Including Rental Restrictions) dated as of September 1, 2004 and recorded on October 1, 2004 as Instrument No. 04-2536058, which expires on October 1, 2059 (the “Low/Mod Funds Agreement”). The Low/Mod Funds Agreement imposes certain affordability restrictions on a portion of the units in the Project, including a requirement that forty-one (41) units referred to as the “Restricted Units” be available for occupancy to and rented exclusively to “Moderate Income” seniors at an affordable rent that does not exceed 30% of 80% of area median income (adjusted for family size appropriate to the unit) plus a reasonable utility allowance.

C. In accordance with California Health & Safety Code Section 34172, the Former Agency was dissolved as of February 1, 2012. City is the successor to the housing assets (as defined in California Health & Safety Section 34176) of the Former Agency, and as such has undertaken the rights and obligations of the Former Agency pursuant to the Low/Mod Funds Agreement, and also under the Bond Regulatory Agreement described below.

D. Since the Owner’s acquisition of the Project in August 2018, Owner and City have been in discussion to reconcile and implement the affordability restrictions set forth in the Low/Mod Funds Agreement and the following additional agreements encumbering the Project: (i) Declaration and Agreement dated May 3, 1988 among Cal-Redondo Inc., the Redondo Beach City School District and City which expires on May 3, 2048 and restricts 28 units referred to as the “Declaration Units” be available for occupancy to households with 80% or less of area median income at an affordable rent that does not exceed 25% of 80% of area median income (the “Density Bonus Agreement”); and (ii) Regulatory Agreement and Declaration of Restrictive Covenants dated September 1, 2004 with the Former Agency in connection with a bond issuance, which expires on September 23, 2038 (“Bond Regulatory Agreement”).

E. Owner and City have also been discussing the use of Section 8 vouchers for the Project.

F. Subject to the terms of Section 2 below, Owner and City are entering into a First Amendment to Affordability Agreements (“First Amendment”) in order to amend, clarify and provide certainty with respect to the three sets of affordability restrictions and the use of Section 8 vouchers.

G. Based on the terms of such First Amendment, Owner has charged rents in excess of the rents permitted by the First Amendment for three units subject to the Density Bonus Agreement since Owner acquired the Project (and such excess is hereinafter referred to as the “Overcharges”).

NOW, THEREFORE, in consideration of the First Amendment, Owner and City agree as follows:

1. Within thirty (30) days after the date of this Agreement, time being of the essence of such requirement/deadline, Owner shall refund to the tenants of the units described on Exhibit "A" the overcharges described on Exhibit "A" (totaling \$6,914.00), and provide to City reasonable evidence of such refunds.

2. Notwithstanding approval of the First Amendment by the City Council of City, Owner acknowledges and agrees that performance by Owner of the obligations set forth in Section 1, above, is a condition precedent to the effectiveness of the First Amendment.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first set forth above.

CITY:

CITY OF REDONDO BEACH, a chartered municipal corporation in its capacity as housing successor to the former Redevelopment Agency of the City of Redondo Beach

By: _____

Print Name: William C. Brand

Title: Mayor

OWNER:

REDONDO SENIOR PARTNERS LP,
a Delaware limited partnership

By: FFAH II Heritage Pointe, LLC,
a California limited liability company,
its Managing General Partner

By: Foundation for Affordable Housing II, Inc.,
a California nonprofit public benefit
corporation, its Sole Member

By: _____
Darrin Willard, President

By: Heritage Pointe Investors Manager LLC,
a Delaware limited liability company,
its Administrative General Partner

By: _____
Gregory F. Perlman, Manager

ATTEST:

Eleanor Manzano, City Clerk

APPROVED AS TO FORM:

Michael Webb, City Attorney

EXHIBIT "A"

Unit 223: 46 months at \$69 a month=\$3,174

Unit 258: 17 months at \$13 a month=\$221

Unit 336: 51 months at \$69 a month=\$3,519