

**COUNTY OF MONTEREY
NEIGHBORHOOD STABILIZATION PROGRAM 3
GRANT AGREEMENT**

THIS AGREEMENT made and entered into by and between the County of Monterey, hereinafter referred to as the "County," and Rockrose Housing Corporation, a California nonprofit public benefit corporation, hereinafter referred to as "Grantee."

WHEREAS, the County desires to assist lower-income residents by providing low cost housing opportunities;

WHEREAS, the County has received Neighborhood Stabilization Program 3 funds ("NSP3 Funds") from the United States Department of Housing and Urban Development ("HUD") under Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "NSP3 Act"), which amends Title III of Division B of the Housing and Economic Recovery Act of 2008. The NSP3 Funds must be used by the County in accordance with 75 F.R. 64322 (Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants) (the "NSP3 Regulations"). Together, the NSP3 Act and the NSP3 Regulations are the "NSP3 Requirements."

WHEREAS, except as otherwise prescribed by the NSP3 Requirements, the statutory and regulatory provisions that govern the Community Development Block Grant ("CDBG") program under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), as amended (including those at 24 CFR part 570 subparts A, C, D, J, K, and O, as appropriate), apply with equal force to the NSP3 Funds;

WHEREAS, the Grantee is developing Rockrose Gardens, a 21-unit rental multi-family housing development for persons who are psychiatrically disabled and earn less than 50% of the Area Median Income and including one unit reserved for an onsite manager (the "Development");

WHEREAS, the County previously awarded the Grantee \$325,000 of NSP3 funds to underwrite pre-development costs for the Development;

WHEREAS, pursuant to the County's NSP3 grant award from HUD, all funds available to the County under the NSP3 must be expended by March 16, 2014 or they will be forfeited;

WHEREAS, the County has amended its NSP3 Action Plan to allow the use of all remaining NSP3 funds for the development of multifamily rental housing for households earning less than 50% of the Area Median Income;

WHEREAS, the Grantee's development costs have increased due to increased local permit fees, costs related to the discovery of underground utility lines which did not show up on surveys as there were no recorded easements, utility hook-up costs, security upgrades, and other items which surfaced after construction was started;

WHEREAS, the County desires to further its housing goals and Grantee is ready, willing and able to provide additional affordable rental units to advance those goals.

NOW, THEREFORE, the County and Grantee, in consideration of the covenants, conditions, agreements and stipulations hereinafter set forth, mutually agree as follows:

Article I. The County agrees to provide to the Grantee a grant of funds in an amount not to exceed \$360,182 (the "Grant Funds").

Article II. The Grantee agrees to amend that Neighborhood Stabilization Program 3 Housing and Regulatory Agreement and Declaration of Restrictive Covenants recorded on August 21, 2013, as Recorder's Document No. 2013052754 to increase the number of County-Assisted Units from seven (7) to ten (10).

Article III. The Grantee agrees to use the Grant Funds to pay for increased local permit fees, costs related to the discovery of underground utility lines which did not show up on surveys as there were no recorded easements, utility hook-up costs, security upgrades, and other items which surfaced after construction began on the Development.

Article IV. The Grantee shall submit a written draw request to the County, including (i) the amount of funds needed, and, (ii) where applicable, a copy of the bill or invoice covering a cost incurred. Said draw request shall be submitted to the County no later than March 3, 2014. If the Grantee fails to request the full amount of the Grant by March 3, 2014, the remaining funds shall be forfeited and the Grantee may not draw them.

Article V. The Grantee shall construct the Development in a timely manner and the Development shall be fully occupied by income eligible households by October 31, 2014.

Section 5.01 The Grantee acknowledges that the County has an obligation to the United States Department of Housing and Urban Development to use the Grant funds to provide affordable housing to income qualified households and that, if the County fails to provide the County Assisted Units, HUD may demand that Grant funds be returned.

Section 5.02 In the event that the Grantee draws down the Grant Funds but fails to construct the County-Assisted Units by October 31, 2014, and HUD demands return of the Grant Funds, Grantee shall be responsible for repayment of the Grant Funds.

Article VI. Grantee shall comply with all applicable laws and regulations governing the use of the NSP3 Funds as set forth in the NSP3 Requirements and with the requirements of the Amended Regulatory Agreement and any agreement awarding the NSP3 funds to the County. In the event of any conflict between this Agreement and applicable laws and regulations governing the use of the proceeds of the Grant, the applicable laws and regulations govern.

The laws and regulations governing the use of the Grant include, but are not limited to, the following:

Section 6.01 Completion of Development. Grantee shall diligently undertake the Development and shall cause it to be fully occupied by income eligible households no later than October 31, 2014 or such later date that the County approves in writing.

Section 6.02 Prevailing Wages & Davis Bacon. Grantee shall cause the Development to be in compliance with the prevailing wage requirements of the federal Davis-Bacon Act

(40 U.S.C. 3141-3148). Grantee shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Grantee, its contractor and subcontractors) to pay prevailing wages as determined pursuant to the prevailing wage provisions of the federal Davis-Bacon Act and implementing rules and regulations in connection with the Development or any other work undertaken or in connection with the Development.

Section 6.03 Equal Opportunity. Grantee shall not engage in discrimination on the basis of race, color, creed, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or disability in the hiring, firing, promoting, demoting, or employment or contracting with, of any person engaged in the construction work in violation of state federal or local laws.

Section 6.04 Minority and Women-Owned Contractors; Local Hiring. Grantee shall use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the Development. Grantee shall, at a minimum, notify applicable minority-owned and women-owned business firms located in Monterey County of bid opportunities in connection with the Development. Documentation of such notifications must be maintained by Grantee and be made available to the County upon request.

(a) Pursuant to Section II.U. of the NSP3 Regulations, Grantee shall, to the maximum extent feasible, provide for the hiring of employees who reside in the "vicinity" of the Development and shall contract with "small businesses" that are owned and operated by persons residing in the vicinity of the Development. For the purposes of this Section, "vicinity" means a neighborhood determined by the County to be an area of greatest need, which includes the City of Marina, and "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act.

Section 6.05 Grantee to Comply with all Applicable Laws and Regulations.

(a) Environmental and Historic Preservation. 24 C.F.R. Part 58, which prescribes procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at 24 C.F.R. 58.5.

(b) Applicability of OMB Circulars. The applicable policies, guidelines, and requirements of OMB Circulars Nos. A-87, A-102, Revised, A-110, A-122, and A-133.

(c) Debarred, Suspended or Ineligible Contractors. The prohibition on the use of debarred, suspended, or ineligible contractors set forth in 24 C.F.R. Part 24.

(d) Civil Rights, Housing and Community Development, and Age Discrimination Acts. The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973 (29 USC 794, et seq.); the Age Discrimination Act of 1975 (42 USC 6101, et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part 107; Executive Order 11246 as amended

by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; Executive Order 12138 as amended by Executive Order 12608.

(e) Lead-Based Paint. The requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35.

(f) Discrimination against the Disabled. The requirements of the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), and federal regulations issued pursuant thereto.

(g) Clean Air and Water Acts. The Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 1500, as amended from time to time.

(h) Uniform Administrative Requirements. The provisions of 24 C.F.R. 570.502 regarding cost and auditing requirements to the extent applicable.

(i) Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), requiring that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the Development. Grantee agrees to include the following language in all subcontracts executed under this Agreement:

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers'

representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; shall set forth the minimum number and job titles subject to hire; availability of apprenticeship and training positions and the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.

Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(j) Labor Standards. The labor requirements set forth in 24 C.F.R. Section 570.603; the prevailing wage requirements of the Davis-Bacon Act and implementing rules and regulations (40 U.S.C. 3141-3148); the Copeland "Anti-Kickback" Act (40 U.S.C. 276(c)) which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; the Contract Work Hours and Safety Standards Act – CWHSSA (40 U.S.C. 3701-3708) which requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked forty (40) hours in one (1) week; and Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5; are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

(k) Drug Free Workplace. The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 C.F.R. Part 24.

(l) Anti-Lobbying; Disclosure Requirements. The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 C.F.R. Part 87.

(m) Historic Preservation. The historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. Section 470) and the procedures set forth in 36 C.F.R. Part 800. If archeological, cultural, or historic period resources are discovered during construction, all construction work must come to a halt, and Grantee shall immediately notify the County. Grantee shall not alter or move the

discovered material(s) until all appropriate procedures for "post-review discoveries" set forth in Section 106 of the National Historic Preservation Act have taken place which include, but are not limited to, consultation with the California State Historic Preservation Officer and evaluation of the discovered material(s) by a qualified professional archeologist.

(n) Flood Disaster Protection. The requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234) (the "Flood Act"). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes as defined under Section 3(a) of the Flood Act, for use in an area identified by HUD as having special flood hazards which is not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of the Flood Act. The use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the National Flood Insurance Program is subject to the mandatory purchase of flood insurance requirements of Section 102(a) of the Flood Act. If the property is located in an area identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., the property owner and its successors or assigns must obtain and maintain, during the ownership of the property, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(s) of the Flood Act. Such provisions are required notwithstanding the fact that the construction on the property is not itself funded with assistance provided under this Agreement.

(o) HUD Regulations. Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the Grant funds.

(p) Notice of Litigation. Grantee shall promptly notify the County in writing of any litigation that has the potential to materially affect Grantee and of any claims or disputes that involve a material risk of such litigation.

(q) Nondiscrimination. Grantee covenants by and for itself and its successors and assigns that, except as required pursuant to any Regulatory Agreement entered into between Grantee and California Housing Finance Agency (CalHFA) with respect to the Mental Health Services Act Loan (MHSA), and the Regulatory Agreement between Grantee and HUD with respect to the HUD Section 811 loan, there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, familial status, disability, sex, sexual orientation, marital status, ancestry or national origin in the development of the Development, nor may Grantee or any person claiming under or through Grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection of vendees in the Development.

(r) Anti-Lobbying Certification. Grantee certifies, to the best of Grantee's knowledge or belief, that:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal

contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

- (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.
- (iii) This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars (\$100,000) for such failure.

Section 6.06 Information. Grantee shall provide any information reasonably requested by the County in connection with the Development, including (but not limited to) any information required by HUD in connection with Grantee's use of the Grant funds.

Section 6.07 Records. Grantee shall keep and maintain at the principal place of business of the Grantee set forth below, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts relating to the Development. Books, records and accounts relating to Grantee's compliance with the terms, provisions, covenants and conditions of this Agreement are to be kept and maintained in accordance with generally accepted accounting principles and are to be consistent with requirements of this Agreement. All such books, records, and accounts are to be open to and available for inspection and copying by HUD, the County, its auditors or other authorized representatives at reasonable intervals during normal business hours. Copies of all tax returns and other reports that Grantee may be required to furnish to any governmental agency are to be open for inspection by the County at all reasonable times at the place that the books, records and accounts of Grantee are kept. Grantee shall preserve such records for a period of not less than five (5) years after the creation of such records in compliance with all HUD records and accounting requirements. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Grant is pending at the end of the record retention period stated herein, then Grantee shall retain the records until such action and all related issues are resolved. The records are to include all invoices, receipts, and other documents related to expenditures from the Grant funds. Grantee shall cause records to be accurate and current and in such a form as to allow the County to comply with the record keeping requirements contained in 24 C.F.R. 570.506 and the NSP3 Regulations. Such records are to include but are not limited to:

- (a) Records providing a full description of the activities undertaken with the use of the Grant funds;

- (b) Records demonstrating the eligibility of activities under CDBG regulations set forth in 24 CFR 570 et seq. and that use of the NSP3 Funds meets one of the national objectives of the CDBG program set forth in 24 CFR 570.208;
- (c) Records demonstrating compliance with the HUD property standards and lead-based paint requirements;
- (d) Records documenting compliance with the fair housing, equal opportunity, and affirmative fair marketing requirements;
- (e) Financial records as required by 24 C.F.R. 570.502, and OMB Circular A-110 (24 C.F.R. Part 84);
- (f) Records demonstrating compliance with local hiring and MBE/WBE requirements;
- (g) Records demonstrating compliance with Section 3;
- (h) Records demonstrating compliance with labor requirements, including certified payrolls from Grantee's general contractor evidencing that applicable prevailing wages have been paid.

The County shall notify Grantee of any records it deems insufficient. Grantee has fifteen (15) calendar days after the receipt of such notice to correct any deficiency in the records specified by the County in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Grantee must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as is reasonably possible.

Article VII. County Audits. Each year, Grantee shall provide the County with a copy of Grantee's annual audit, which is to include information on all of Grantee's activities and not just those pertaining to the Development. Grantee shall also follow audit requirements of the Single Audit Act and Amendments of 1996 (31 U.S.C. Section 7501 et.seq.) and OMB Circulars A-122 and 110.

Section 7.01 In addition, the County may, at any time, audit all of Grantee's books, records, and accounts pertaining to the Development. Any such audit is to be conducted during normal business hours at the principal place of business of Grantee and wherever records are kept. Immediately after the completion of an audit, the County shall deliver a copy of the results of the audit to Grantee.

Article VIII. Insurance Coverage Requirements: Without limiting Grantee's duty to indemnify, Grantee shall maintain in effect throughout the term of the Amended Regulatory Agreement a policy or policies of insurance with the following minimum limits of liability:

Section 8.01 Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Section 8.02 Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Section 8.03 Workers' Compensation Insurance, if Grantee employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Section 8.04 Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the Grantee shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Section 8.05 All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date Grantee completes its performance of services under this Agreement.

Section 8.06 Qualifying Insurers: All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

Section 8.07 Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Grantee and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Section 8.08 Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the Grantee's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the

Grantee's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Section 8.09 Prior to the execution of this Agreement by the County, Grantee shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the Grantee has in effect the insurance required by this Agreement. The Grantee shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

Section 8.10 Grantee shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify Grantee and Grantee shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Grantee to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

Article IX. Representations and Warranties. Grantee hereby represents and warrants to the County as follows and acknowledges, understands, and agrees that the representations and warranties set forth in this Section 5.10 are deemed to be continuing during all times when any portion of the Grant remains outstanding:

Section 9.01 Organization. Grantee is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

Section 9.02 Authority of Grantee. Grantee has full power and authority to execute and deliver this Agreement and to make and accept the Grant Funds contemplated hereunder, and to execute all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

Section 9.03 Authority of Persons Executing Documents. This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Grantee, and all actions required under Grantee's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

Section 9.04 Valid Binding Agreements. This Grant Agreement and all other documents or instruments executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered, constitute legal, valid and binding obligations of Grantee enforceable against it in accordance with their respective terms.

Section 9.05 No Breach of Law or Agreement. Neither the execution nor delivery of the Grant Agreement or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will (i) conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever that is binding on Grantee, or conflict with any provision of the organizational documents of Grantee, or conflict with any agreement to which Grantee is a party, or (ii) result in the creation or imposition of any lien upon any assets or property of Grantee, other than liens established pursuant hereto.

Section 9.06 Compliance with Laws; Consents and Approvals. The redevelopment of the Development will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

Section 9.07 Pending Proceedings. Grantee is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Grantee, threatened against or affecting Grantee or the Development, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Grantee, materially impair the security given to the County pursuant hereto.

Section 9.08 Financial Statements. The financial statements of Grantee and other financial data and information furnished by Grantee to the County fairly and accurately present the information contained therein. As of the date of this Agreement, there has not been any material adverse change in the financial condition of Grantee from that shown by such financial statements and other data and information.

Section 9.09 Taxes. Grantee and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income or the property otherwise due and payable, except those that are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles. There is no proposed tax assessment against Grantee or any of its subsidiaries that could, if made, be reasonably expected to have a material adverse effect on the property, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of Grantee and its subsidiaries, taken as a whole, or which could result in (i) a material impairment of the ability of Grantee to perform under any loan document to which it is a party, or (ii) a material adverse effect upon the legality, validity, binding effect or enforceability against Grantee.

Article X. Events of Default. Each of the following constitutes an "Event of Default" by Grantee under this Agreement:

Section 10.01 Failure to Construct. Failure of Grantee to obtain permits, commence, and prosecute to completion, redevelopment of the Development within the times set forth in Article V above;

Section 10.02 Breach of Covenants. Failure by Grantee to duly perform, comply with, or observe any of the conditions, terms, or covenants of any of the Grant (other than obligations described in subsections above), and Grantee fails to cure such default within thirty (30) days after receipt of written notice thereof from the County to Grantee; provided, however, that if a different period or notice requirement is specified under any other section of this Article X, the specific provisions shall control.

Section 10.03 Insolvency. A court having jurisdiction makes or enters any decree or order (i) adjudging Grantee to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of Grantee, or seeking any arrangement for Grantee under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of Grantee in bankruptcy or insolvency or for any of their properties, (iv) directing the winding up or liquidation of Grantee if any such decree or order described in clauses (i) to (iv), inclusive, is unstayed or undischarged for a period of ninety (90) calendar days; or (v) Grantee admits in writing its inability to pay its debts as they fall due or will have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive.

Section 10.04 Suspension; Termination. Grantee voluntarily suspends its business or, is dissolved or terminated.

Section 10.05 Representation or Warranty Incorrect. Any Grantee representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the County in connection with any of this Grant Agreement, proves to have been incorrect in any material respect when made.

Article XI. Specific Performance. The County has the right to mandamus or other suit, action or proceeding at law or in equity to require Grantee to perform its obligations and covenants under the Grant Agreement or to enjoin acts on things that may be unlawful or in violation of the provisions of the Grant Agreement.

Article XII. Remedies Cumulative. No right, power, or remedy given to the County by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy is cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Grantee and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies will operate as a waiver thereof, nor does any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Article XIII. Relationship of Parties. Nothing contained in this Agreement is to be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the County and Grantee or its agents, employees or contractors, and Grantee will at all times be deemed an independent contractor and to be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Grantee has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. In regards to the rehabilitation and operation of the Development, Grantee is solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters, and must include requirements in each contract that contractors are solely responsible for similar matters relating to their employees. Grantee is solely responsible for its own acts and those of its agents and employees.

Article XIV. No Claims. Nothing contained in this Agreement creates or justifies any claim against the County by any person that Grantee may have employed or with whom Grantee may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the purchase of the property, the rehabilitation or operation of the Development, and Grantee shall include similar requirements in any contracts entered into for the rehabilitation or operation of the Development.

Article XV. Amendments. No alteration or variation of the terms of this Agreement is valid unless made in writing by the Parties. The County Deputy Director is authorized to execute on behalf of the County amendments to this Agreement as long as any discretionary change in the amount or terms of this Agreement is approved by the County's Board of Supervisors.

Article XVI. Indemnification. Grantee shall indemnify, defend and hold the County and its officers, agents, and employees, from and against any and all claims, liability, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connections with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the Grantee's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. Grantee's performance includes Grantee's action or inaction and the action or inaction of Grantee's officers, employees, agents and subcontractors.

Article XVII. Non-Liability of County Officials, Employees and Agents. No member, official, employee or agent of the County is personally liable to Grantee in the event of any default or breach of this Agreement by the County or for any amount that may become due from the County pursuant to this Agreement.

Article XVIII. No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement.

Article XIX. Discretion Retained By County. The County's execution of this Agreement in no way limits any discretion the County may have in the permit and approval process related to the redevelopment of the Development.

Article XX. Conflict of Interest. Except for approved eligible administrative or personnel costs, no person described in Section 20.02 below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. Grantee shall exercise due diligence to ensure that the prohibition in this Section is followed.

Section 20.01 The conflict of interest provisions of Article XX above apply to any person who is an employee, agent, consultant, officer, or any immediate family member of such person, or any elected or appointed official of the County, or any person related within the third (3rd) degree of such person.

Section 20.02 In accordance with California Government Code Section 1090 and the Political Reform Act, California Government Code Section 87100 et seq., no person who is a director, officer, partner, trustee or employee or consultant of Grantee, or immediate family member of any of the preceding, may make or participate in a decision, made by the County or a County board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Grantee. Interpretation of this section is governed by the definitions and provisions used in the Political Reform Act, California Government Code 87100 et seq., its implementing regulations manual and codes, and California Government Code Section 1090.

Section 20.03 Grantee shall comply with the conflict of interest provisions set forth in 24 C.F.R. 570.611.

Article XXI. Notices, Demands and Communications. All notices required or permitted by any provision of this Agreement must be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

County: County of Monterey
Economic Development Department
168 West Alisal St., 3rd Floor
Salinas, CA 93901
Attention: Housing Program Manager

Grantee: Rockrose Housing Corporation
604 Pearl Street,
Monterey, CA 93940
Attn: Executive Director

With copy to: Goldfarb & Lipman LLP
1300 Clay Street, Eleventh Floor
Oakland, CA 94612
Attn: Robert C. Mills

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt will be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Article XXII. Applicable Law. This Agreement is governed by the laws of the State of California.

Article XXIII. Parties Bound. Except as otherwise limited herein, this Agreement binds and inures to the benefit of the parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and to bind Grantee and its successors and assigns in the property and the Development for the entire Term, and the benefit hereof is to inure to the benefit of the County and its successors and assigns.

Article XXIV. Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Article XXV. Force Majeure. In addition to specific provisions of this Agreement, performance by either Party will not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, quarantine restrictions, freight embargoes, lack of transportation, or court order. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other Party within ten (10) days of receipt of the notice. In no event will the County be required to agree to cumulative delays in excess of one hundred eighty (180) days.

Article XXVI. County Approval. The County has authorized the County Director of Economic Development to execute the Grant Agreement and deliver such approvals or consents as are required by this Agreement.

Article XXVII. Waivers. Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or default of Grantee or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Grantee to perform any obligation under this Agreement does not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Grantee may not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

Article XXVIII. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and are to be disregarded in interpreting any part of the Agreement's provisions.

Article XXIX. Entire Understanding of the Parties. The Grant Documents constitute the entire agreement of the Parties with respect to the Grant. Any and all amendments to this Agreement must be in writing and executed by both parties.

Article XXX. Multiple Originals; Counterpart. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

WHEREAS, this Agreement has been entered into by the undersigned as of the date first above written.

COUNTY:

COUNTY OF MONTEREY, a political subdivision
of the State of California

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____
Deputy County Counsel

GRANTEE:

ROCKROSE HOUSING CORPORATION, a
California nonprofit public benefit corporation

By: _____

Name: _____

Its: _____