

FREE RECORDING REQUESTED)
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SECTION 27383)
))
Recording requested by and)
when recorded return to:)
))
CALIFORNIA HOUSING FINANCE AGENCY)
Office of General Counsel)
P.O. Box 4034)
Sacramento, CA 95812-4034)

(space above this line for Recorder's use)

SUBORDINATION AGREEMENT
MHSA

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN(S) OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT dated as of July 1, 2013 for informational purposes, is entered into by and between Monterey County, a public body, corporate and politic (the "*Locality*"), Rockrose Housing Corporation, a California nonprofit public benefit corporation ("*Borrower*"), and the California Housing Finance Agency ("*Agency*") a public instrumentality and political subdivision of the State of California in connection with a loan by the Agency on behalf of the California Department of Health Care Services to Borrower to finance a multifamily residential rental housing project on real property located in the City of Marina, County of Monterey, California and more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference ("*Project*"). Unless otherwise noted, references to instruments recorded in "*Official Records*" refer to instruments recorded in the Office of the County Recorder of the County of Monterey.

RECITALS

A. WHEREAS, Borrower and the Locality have or will encumber the Project with the following documents related to the financing and/or development of the Project:

1. That certain Neighborhood Stabilization Program 3 Housing and Financing Regulatory Agreement and Declaration of Restrictive Covenants dated as of _____, 2013 (the "*Locality Regulatory Agreement*") by and between the Locality and the Borrower and recorded in the Official Records as Instrument No. _____ (which number shall be designated upon recordation);

The Locality Regulatory Agreement and any other documents, recorded or unrecorded pertaining to the Project and the Locality loan are collectively referred to herein as the “**Locality Documents.**”

B. WHEREAS, the Agency is making, contemporaneously with the making of this Agreement, a permanent loan to Borrower (the “**MHSA Permanent Loan**”). The MHSA Permanent Loan is evidenced by a promissory note from the Borrower to the Agency in the face amount of Nine Hundred Thirty-Two Thousand Six Hundred Forty-Five and No/100s Dollars (\$932,645.00), titled “California Housing Finance Agency, MHSA Promissory Note, CalHFA Development No. 12-059-M, (Permanent Financing/Residual Receipts)” (the “**MHSA Promissory Note**”) and secured by a deed of trust. The deed of trust was executed by Borrower, as trustor, to Chicago Title Company, as trustee, in favor of the Agency, as beneficiary, and is titled “California Housing Finance Agency, MHSA Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing, CalHFA Development No. 12-059-M” dated July 1, 2013 (the “**MHSA Deed of Trust**”) to be recorded in the Official Records contemporaneously with this Agreement. The Project shall also be regulated and encumbered by a regulatory agreement executed by Borrower and the Agency titled “California Housing Finance Agency, MHSA Regulatory Agreement (Mental Health Services Act Housing Program), CalHFA Development No. 12-059-M” dated as of July 1, 2013 (the “**MHSA Regulatory Agreement**”) to be recorded in the Official Records contemporaneously with this Agreement. The MHSA Regulatory Agreement, MHSA Promissory Note, MHSA Deed of Trust and related unrecorded documents, including but not limited to that certain MHSA Permanent Loan Disbursement Agreement (if applicable), and the Capitalized Operating Subsidy Reserve Agreement (if applicable), shall hereafter be collectively referred to herein as the “**MHSA Permanent Loan Documents**”;

C. WHEREAS, it is a condition precedent to the Agency making the MHSA Permanent Loan that the MHSA Permanent Loan Documents have priority over the Locality Documents; and

D. WHEREAS, it is beneficial to all parties that the Agency make the MHSA Permanent Loan, and the parties are willing to subordinate the Locality Documents in order that the MHSA Permanent Loan be made.

NOW THEREFORE, In consideration of the foregoing and other consideration the receipt and sufficiency of which are hereby acknowledged, and in order to induce the Agency to make the MHSA Permanent Loan, the parties hereto agree as follows:

1. Subordination of Locality Documents.

(a) The Locality and Borrower hereby unconditionally subordinate the Locality Documents to the MHSA Permanent Loan Documents, including all extensions, modifications, incremental disbursements of the original amount of the MHSA Permanent Loan if made during construction, or additional advances made thereunder. Hereafter, the MHSA Permanent Loan Documents shall unconditionally be, and remain at all times, liens and encumbrances on the Project prior and superior to the encumbrances of the Locality Documents and to all rights and privileges of the parties thereunder, and the liens and encumbrances of the Locality Documents together with all rights and privileges of the parties thereunder shall hereby be subject to and made subordinate to the liens and encumbrances of the MHSA Permanent Loan Documents. In the event of a judicial or non-judicial foreclosure of the MHSA Permanent Loan Documents, the lien of the Locality Documents shall be extinguished.

(b) The Agency agrees that it shall use its best efforts to provide Locality with a copy of all initial notices of default provided to Borrower under the MHSA Permanent Loan Documents, provided, the Agency shall have no liability to Locality and/or Borrower for its failure to do so, nor shall failure to do so constitute grounds for any restraining order, injunction, or other prohibition against or delay in the Agency's exercise of its remedies under the MHSA Permanent Loan Documents. The Agency shall not record a Notice of Default related to such initial notice during the period ninety (90) days after the date of such initial notice if such notice relates to a nonmonetary default or defaults under the MHSA Permanent Loan Documents. During the term of such period, Locality shall have the right, but not the obligation, to cure any nonmonetary default under such initial notice. Notwithstanding the foregoing, if at any time following the date of the initial notice, there shall occur or be continuing a default in the payment of any amount due to the Agency under the MHSA Permanent Loan Documents, the Agency shall have the right to, and in its sole discretion may, record a Notice of Default and proceed to foreclosure based upon any such nonpayment regardless of any extended cure period with respect to nonmonetary defaults.

(c) Locality has read, understands and approves the MHSA Permanent Loan Documents and agrees to be bound thereby in the event of its foreclosure or acquisition of the Project.

2. Representations. Locality hereby represents and warrants to the Agency that at the time of execution of this agreement, the Borrower is in substantial compliance with its obligations to the Locality under the terms of the Locality Documents, and Locality has read and understands the MHSA Permanent Loan Documents and agrees that in the event the Agency determines there is a conflict of terms between the MHSA Permanent Loan Documents and Locality Documents, the terms of the MHSA Permanent Loan Documents shall prevail.

3. Attorneys Fees & Costs. If any party shall take any action to enforce or otherwise relating to this Agreement, the prevailing party or parties shall be entitled to recover reasonable attorney's fees and costs from the other party or parties.

4. Amendments. Amendments to this Agreement shall be in writing and signed by all the parties hereto.

5. Governing Law. This Agreement shall be construed in accordance with and be governed by the laws of California.

6. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

7. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, it shall not invalidate or render unenforceable any other part of this Agreement.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

LOCALITY:

County of Monterey, a political subdivision of the State of California

By: _____
Name: Ray Bullick
Title: Director of Health

AGENCY:

CALIFORNIA HOUSING FINANCE AGENCY,
a public instrumentality and political subdivision of the State of California

By: _____
Name _____
Title: _____

BORROWER:

ROCKROSE HOUSING CORPORATION,
a California nonprofit public benefit corporation

By: _____
Name: Yolande Whitlock
Title: President

EXHIBIT A

Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MARINA, COUNTY OF MONTEREY, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

A portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys as Page 1, and being all of Parcel B as shown on that certain map recorded in Volume 20 of Surveys at Page 73, being within Monterey City Lands Tract No. 1, City of Marina, County of Monterey, State of California, being more particularly described as follows:

Beginning at the most Southerly corner of Parcel 1 as it is shown on that certain map recorded in Volume 19 of Surveys at Page 136, point also being the most easterly corner of Parcel B; thence from said Point of Beginning along the southerly boundary of said Parcel B and the Northerly line of Imjin Road Corridor as shown on said map,

- (1) South 50° 00' 00" West, 83.99 feet;
- (2) Thence along a tangent curve to the right, having a radius of 2300.00 feet, through a central angle of 5° 19' 23", an arc length of 213.68 feet to a point of compound curvature;
- (3) Thence along a curve to the right, having a radius of 80.00 feet, through a central angle of 110° 18' 30", an arc length of 154.02 feet;
- (4) Thence along the easterly line of Abrams Road Corridor North, 14° 22' 07" West, 386.80 feet to the southerly line of Lexington Court as shown on said Record of Survey (20S73), being a point on a non-tangent curve to the right having a radius of 383.00 feet from which a radial line bears South 5° 15' 46" East;
- (5) Thence along said curve, through a central angle of 4° 11' 14", for an arc length of 27.99 feet;
- (6) Thence along a line tangent to last said curve, North 88° 55' 28" East, 132.86 feet;
- (7) Thence along a tangent curve to the left, having a radius of 437.00 feet, through a central angle of 15° 15' 54", an arc length of 116.43 feet;
- (8) Thence along a line tangent to last said curve, North 73° 39' 33" East, 97.68 feet;
- (9) Thence South 16° 20' 27" East for a distance of 5.00 feet to the most westerly corner of Parcel 1 as said parcel is shown on said Record of Survey (19 S 136);
- (10) Thence along the westerly line of said Parcel 1 and the easterly line of said Parcel B South 16° 20' 27" East, 293.24 feet to the Point of Beginning.

Excepting therefrom all mineral rights with the right of surface entry in a manner that does not unreasonably interfere with the development and enjoyment of the property as set forth in the Quitclaim Deed executed by the United States of America, recorded May 8, 2009, Instrument No. 200928272, Official Records, Monterey County.

The above said property is also shown as "Parcel B" on the Record of Survey, filed September 27, 1996, Volume 20, Page 73, Official Records, Monterey County.

APN: 031-081-013

ACKNOWLEDGEMENTS

STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____ (*insert the name and title of the officer*), personally appeared _____ (*insert name of signer*), who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/ their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal.

(Signature) (Seal)

STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____ (*insert the name and title of the officer*), personally appeared _____ (*insert name of signer*), who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/ their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal.

(Signature) (Seal)