

**MEMORANDUM OF UNDERSTANDING
AMONG COUNTY OF MONTEREY, INTERIM INC.,
AND ROCKROSE HOUSING CORPORATION**

This Memorandum of Understanding, hereinafter referred to as "MOU" is made and entered into this 9th of July, 2013 by and among the County of Monterey through the Health Department, Behavioral Health Bureau ("County – HDBH"), Rockrose Housing Corporation, a California nonprofit public benefit corporation ("Developer") and Interim, Inc, a California nonprofit public benefit corporation ("Interim").

WHEREAS, County- HDBH is responsible for implementing the development of County programs and services funded by the Mental Health Services Act ("MHSA"); and

WHEREAS, as part of the California MHSA Housing Program which is administered by the California Housing Financing Agency ("CalHFA"), County - HDBH was allocated funding from the California Department of Health Care Services ("DHCS"), formerly the California Department of Mental Health, to invest in permanent supportive housing for households with at least one member who has severe mental illness and/or serious emotional disturbance (as defined under MHSA) and who are homeless or at risk of homelessness (also as defined under MHSA) ("MHSA Eligible Households"); and

WHEREAS, in September 2010, County – HDBH issued a Notice of Funding Availability (NOFA) in collaboration with the Monterey County Housing Office for the purpose of soliciting and identifying projects that are in line with the MHSA Housing Program; and

WHEREAS, Interim responded to the NOFA; and

WHEREAS, the County's MHSA Housing Committee recommended that that an application to develop and operate Rockrose Gardens, an 21 unit rental development located at 3012 Lexington Court, Marina, CA, (the "Development") be submitted to CalHFA for all remaining MHSA funds in the Monterey County MHSA account estimated at that time to be Nine Hundred Twenty Eight Thousand Seven Hundred Fifty Dollars (\$928,750); and

WHEREAS, on June 12, 2012 the Monterey County Board of Supervisors approved and authorized the submittal of the application to CalHFA for remaining MHSA funds to be issued for the development of Rockrose Gardens; and

WHEREAS, on May 10, 2008, Interim permissibly created a separate corporate entity known as Rockrose Housing Corporation, a wholly controlled affiliate of Interim, and subsequently assigned to the corporation all Interim's rights in Interim's application for the development of Rockrose Gardens; and

WHEREAS, CalHFA has issued a final commitment letter to Rockrose Housing Corporation with a final loan amount of Nine Hundred Thirty Two Thousand Six Hundred Forty

Five dollars (\$932,645) which includes all earned interests accrued in the Monterey County MHSAs account; and

WHEREAS, nine (9) of the units in the Development will be permanent supportive housing units restricted to MHSAs Eligible Households under the MHSAs Housing Program; and

WHEREAS CalHFA requires an annual 0.42% interest payment on administered projects for asset management activities; and

WHEREAS in order to assist with the feasibility of this Development and avoid the capitalization of the 0.42% annual interest, County-HDBH is willing to agree to assume the rights, duties and obligations of CalHFA for the Development, including conducting the annual asset management monitoring required by CalHFA; and

WHEREAS the Development has received approval for funding under the HUD 811 program which includes operating support through the Project Rental Assistance Contract; and

WHEREAS, the Developer will develop the Development and Interim will act as the property manager and service provider for the Development; and

WHEREAS, in accordance with MHSAs requirements, County - HDBH posted the development summary and all required MHSAs documents for a 30 day public comment and conducted a Public Hearing with the Mental Health Commission held on Thursday, July 28, 2011; and

NOW, THEREFORE, in accordance with MHSAs Housing Program requirements and to set forth the general understanding of the parties in connection with the Development, the parties agree as follows:

ARTICLE 1. PURPOSE:

This MOU generally outlines the duties and responsibilities of County - HDBH, the Developer and Interim with regards to the development, property management and service provision the Development.

SECTION 1. INTERIM AND DEVELOPER DUTIES AND RESPONSIBILITIES

1.01 Interim has formed the Developer, a wholly controlled affiliate of Interim, to act as the owner and developer of the Development. As the sponsor of the Development, Interim is an affordable housing developer with experience and capacity to construct housing for the MHSAs Eligible Households that will occupy the Development. All agencies funding and regulating this Development have approved the creation of Developer for the purposes stated.

1.02 Interim is also a service provider and property manager, with experience and capacity to manage the Development as property manager and provide supportive services for the MHSAs Eligible Households that will occupy the Development.

1.03 Interim and County - HDBH have collaborated to access a portion of County - HDBH's share of MHSA Housing Program funds for the Development

1.04 Interim has collaborated with County - HDBH in preparing the MHSA Housing Program application for the Development (the "Application") and in preparing all documents required in the Application.

1.05 During the CalHFA and DHCS review process of the Application and until such time as the MHSA Housing Program loan closes, Interim and the Developer agree to promptly communicate all communications between CalHFA, DHCS, the Developer and Interim to County - HDBH regarding the approval or development of the Development to ensure that all parties involved are informed and aware of the issues raised.

1.06 The Developer will provide a note and deed of trust to CalHFA for the MHSA Housing Program loan funds. In addition, the Developer will enter into a Regulatory Agreement with CalHFA which will restrict 9 of the units in the Development to MHSA Eligible Households. The note and deed of trust provided to CalHFA and the Regulatory Agreement between the Developer and CalHFA and any other documents between the Developer and CalHFA and related to the MHSA Housing Program loan to the Development will be referred to in this MOU as the "CalHFA Documents".

1.07 Interim and the Developer will work with County - HDBH and CalHFA to review and finalize all legal documents required for payment disbursement of MHSA Housing Program funds. Interim and the Developer will comply with DHCS and CalHFA oversight of any units restricted by the CalHFA Documents during the MHSA Housing Program loan term.

1.08 Interim and the Developer will submit to the County - HDBH any request for disbursement of the MHSA Housing Program loan funds prior to submission of such request to HUD.

1.09 The Developer will construct, and operate the Development in accordance with the CalHFA Documents, the County Documents, and any other financing documents recorded against title to the Development.

1.10 Interim will act as the property manager for the Development and shall provide supportive services for the occupants of the Development in accordance with a social service plan approved by the County - HDBH. County - HDBH, the Developer, and Interim will collaborate to ensure there is a consistent ongoing tenancy referral and selection process for the Development.

1.11 Interim, the Developer and County - HDBH will meet at least quarterly, or more often if requested by either party to address and review any issues related to the development, management, and/or service provision of the Development.

1.12 The Developer will provide any documentation required at Development completion to permit conversion of the MHSA Housing Program loan to permanent financing.

1.13 The Developer and Interim will comply with the CalHFA Documents and the County Documents.

1.14 The Developer and Interim will comply with all applicable laws and regulations, including fair housing laws.

1.15 The Developer and Interim will coordinate with and assist County - HDBH in preparing any reports necessary to comply with DHCS requirements related to the use of the CSS funds awarded to the Development.

1.16 The Developer and Interim will coordinate with and assist County - HDBH in preparing any reports necessary to comply with DHCS requirements for MHSA asset management related to the use of the CalHFA MHSA funds awarded to the Development

SECTION 2. COUNTY - HDBH DUTIES AND RESPONSIBILITIES

2.01 County – HDBH will enter into an Assignment and Assumption Agreement between CalHFA and the County whereby the County will assume all of CalHFA’s right, title, and interest in and obligations under the MHSA Permanent Loan Documents and MHSA Housing Program with respect to the Development.

2.02 County - HDBH will maintain and update required MHSA documents to be submitted to DHCS each year. This includes, but is not limited to, fulfilling the requirements as stipulated in California’s Code of Regulations Title 9, Division 1, and Chapter 14, section 3315 that speaks to local review process for all MHSA plans, amendments or updates.

2.03 County – HDBH will consider any request for approval of disbursement of MHSA Housing Program loan funds to Developer promptly to ensure that the proposed use of funds is in compliance with MHSA program guidelines. Failure by County – HDBH to approve such request within five (5) business days of receipt of such request shall be deemed approval by County - HDBH.

2.04 County - HDBH will alert Interim and the Developer of new policies or guidance as provided by DHCS and/or CalHFA. In addition, County - HDBH will participate in technical assistance and/or public meetings for this project, including but not limited to developing written background materials on MHSA.

2.05 During the CalHFA and DHCS review process of the Application and until such time as the MHSA Housing Program Loan closes, County - HDBH agrees to communicate all communications held between the State and County - HDBH to Interim and the Developer regarding the approval of the Development to ensure that all parties involved are informed and aware of the issues raised.

2.06 Interim, the Developer, and County - HDBH will meet at least quarterly, or more often if requested by either party to address and review any issues related to the development, management, and/or service provision of Development.

2.07 County will ensure that all MHSA Asset Management Requirements are met including but not limited to: receipt of annual audit, review of annual operating budget, ensure annual physical inspection, ensure annual property and liability insurance certificates are on file, and ensure all programmatic monitoring requirements are met including but not limited to the submission of the annual self-certification form, submission of annual supportive services and operating budget, and any and all other documentations required by CalHFA.

SECTION 3. TERM

3.01 This MOU shall be effective as of the date set forth above and shall continue thereafter until the occurrence of the earliest of the following events:

A. The termination of the HUD 811 Loan between HUD and the Developer.

B. In the event the MHSA Housing Program Loan does not close by December 30, 2013, then upon notice from County - HDBH to Interim and the Developer.

County - HDBH may cancel and terminate this MOU for good cause effective immediately upon written notice to Interim and the Developer.

SECTION 4. INDEMNIFICATION

Interim shall indemnify, defend and hold the County of Monterey (the "County") (including County - HDBH), its board members, officers, agents and employees harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this MOU and the Development, including but not limited to the purchase of the property on which Development is located, and the development, construction, marketing and operation of the Development, as well as the obligations assumed by the County pursuant to the MHSA Assignment and Assumption Agreement with CalHFA, except to the extent such claim arises from the grossly negligent or willful misconduct of the County, its agents, and its employees. The provisions of this Section shall survive the expiration or termination of this MOU.

SECTION 5. INSURANCE.

5.01 Evidence of Coverage:

Prior to commencement of this MOU, Interim and the Developer shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition a certified copy of the policy or policies shall be provided by Interim and the Developer upon request.

This verification of coverage shall be sent to the County, and to the attention of the Contracts/Purchasing Department, unless otherwise directed by County - HDBH. Prior to performing any activities contemplated by this MOU, Interim and the Developer shall obtain all insurance required and such insurance shall have been approved by the County-HDBH. This approval of insurance shall neither relieve nor decrease the liability of Interim or the Developer.

5.02 Qualifying Insurers:

All coverage, 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 of Monterey's Purchasing Manager.

5.03 Insurance Coverage Requirements: Without limiting Interim's duty to indemnify, Interim and the Developer shall maintain in effect throughout the term of this MOU a policy or policies of insurance with the following minimum limits of liability:

A. Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform 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.

B. Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this MOU or in connection with the Development, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

C. Workers' compensation insurance, 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.

D. 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, Interim and the Developer shall, upon the expiration or earlier termination of this MOU, 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 MOU.

E. Insurance Requirements During Construction, in addition to the insurance coverage required pursuant to Section 5.03 above, during construction and prior to the issuance of a Certificate of Occupancy for the Project, the Developer shall maintain coverage of the type now known as builder's completed value risk insurance, as delineated on an All Risk Builder's Risk 100% Value Non-Reporting Form. Such insurance shall insure against direct physical loss

or damage by fire, lightning, wind, storm, explosion, collapse, underground hazards, flood, vandalism, malicious mischief, glass breakage and such other causes as are covered by such form of insurance. Such policy shall include (A) an endorsement for earthquake, unless Developer satisfies the County - HDBH that earthquake insurance is not feasible, (B) an endorsement for broad form property damage, breach of warranty, demolition costs and debris removal, (C) a "Replacement Cost Endorsement" in amount not less than 100% of the then full replacement cost, to be determined at least once annually and subject to reasonable approval by the County - HDBH, and (D) an endorsement to include coverage for budgeted soft costs (including construction loan interest, building permit fees, construction inspection fees, builder's risk insurance, and property taxes during construction). The replacement cost coverage shall be for work performed and equipment, supplies and materials furnished to the Property or any adjoining sidewalks, streets and passageways, or to any bonded warehouse for storage pending incorporation into the work, without deduction for physical depreciation and with a deductible not exceeding \$50,000 per occurrence (except that any earthquake coverage shall carry a deductible equal to 5% of the policy amount, or such other deductible amount as the County - HDBH may determine is acceptable, in light of the cost of the premium for such insurance).

5.04 Other Insurance Requirements.

All insurance required by this MOU 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 MOU, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date Interim and the Developer complete their performance of services under this MOU.

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 Interim, the Developer, and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this MOU, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

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 Interim's or the Developer's work related to this MOU or the Development, 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 Interim's or the Developer'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.

Prior to the execution of this MOU by County - HDBH, Interim and the Developer filed certificates of insurance with the County's Contract Administrator and County's

Contracts/Purchasing Division, showing that the Interim and the Developer have in effect the insurance required by this MOU. Interim and the Developer 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 MOU, which shall continue in full force and effect.

Interim and the Developer shall at all times during the term of this MOU maintain in force the insurance coverage required under this MOU and shall send, without demand by County - HDBH or the 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 Interim or Developer, as applicable and Interim or the Developer, as applicable Developer shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Interim or the Developer to maintain such insurance is a default of this MOU, which entitles County - HDBH, at its sole discretion, to terminate this MOU immediately.

SECTION 6. COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.

Interim and the Developer will comply with all the provisions of Proposition 63 (2004), Mental Health Service Act and the Department of Mental Health regulations and requirements related to such Act, to the extent applicable to Interim and the Developer.

SECTION 7. NOTICES.

Any notice, demand or communication under, or in connection with, this Agreement may be served upon Developer by personal service, by electronic transmission, by facsimile or by mailing the same by certified mail in the United States Post Office, postage prepaid, and directed to:

FOR COUNTY - HDBH	FOR INTERIM	FOR THE DEVELOPER
Ray Bullick Health Director 1270 Natividad Road Salinas, CA 93906 (831) 755-4525	Barbara L. Mitchell Executive Director P.O. Box 3222 Monterey, CA 93942 (831) 649-4522	Barbara L. Mitchell Executive Director P.O. Box 3222 Monterey, CA 93942 (831) 649-4522

Notice shall be deemed satisfied within one (1) business day if provided by personal service, by electronic transmission or by facsimile. Notice shall be deemed satisfied within three (3) business days if provided by certified mail. Either County-HDBH or Developer may change such address by notifying the other Party in writing as to such new address as County-HDBH or

Developer may desire used and which address shall constitute as the address until further written notice.

SECTION 8. MISCELLANEOUS PROVISIONS.

8.01 Conflict of Interest. Interim and the Developer represents that they presently have no interest and agrees not to acquire any interest during the term of this MOU which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this MOU.

8.02 Amendment. This MOU may be amended or modified only by an instrument in writing signed by the County – HDBH, the Developer and Interim.

8.03 Waiver. Any waiver of any terms and conditions of this MOU must be in writing and signed by the County – HDBH, the Developer and Interim. A waiver of any of the terms and conditions of this MOU shall not be construed as a waiver of any other terms or conditions in this MOU.

8.04 Contractor. The term “Interim” as used in this MOU includes Interim’s officers, agents, and employees acting on Interim’s behalf in the performance of this MOU. The term “Developer” as used in this MOU includes the Developer's officers, agents, and employees acting on Developer’s behalf in the performance of this MOU.

8.05 Disputes. Interim and the Developer shall continue to perform under this MOU during any dispute.

8.06 Assignment and Subcontracting. Interim and the Developer shall not assign, sell, or otherwise transfer their interest or obligations in this MOU without the prior written consent of County – HDBH. None of the services covered by this MOU and to be provided by Interim or Developer shall be subcontracted without the prior written approval of the County - HDBH. Notwithstanding any such subcontract, Interim and the Developer shall continue to be liable for the performance of all their respective obligations under this MOU.

8.07 Successors and Assigns. This MOU and the rights, privileges, duties, and obligations of County - HDBH, Interim and the Developer under this MOU, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.

8.08 Compliance with applicable law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this MOU.

8.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this MOU.

8.10 County HDBH- Approval. Whenever this Agreement calls for County-HDBH approval, consent, or waiver, the written approval, consent, or waiver of the Director of Health shall constitute the approval, consent, or waiver of the County-HDBH, without further

authorization required from the County of Monterey Board of Supervisors, provided that it is determined that the overall feasibility of the objectives of this Agreement is not in jeopardy, no additional funds are required from the County-HDBH, and no material term of this Agreement is altered. The County-HDBH hereby authorizes the Director of Health to deliver such approvals or consents as are required by this Agreement, or to waive requirements under this Agreement, on behalf of the County-HDBH upon the terms specified above. Any consents or approvals required under this Agreement shall not be unreasonably withheld or made, except where it is specifically provided that a sole discretion standard applies. The County-HDBH agrees to give reasonable consideration to requests by Developer for extensions of any time deadlines imposed under this Agreement, provided that it is determined that the overall feasibility of the objectives of this Agreement is not in jeopardy. The County-HDBH shall not unreasonably delay in reviewing and approving or disapproving any proposal by Developer made in connection with this Agreement. Notwithstanding this delegation, approval of the County of Monterey Board of Supervisors is required to amend this Agreement, and this Section 8.10 shall not preclude the Director of Health, in his or her sole discretion, from seeking approval from the County of Monterey Board of Supervisors for any matter under this Agreement.

8.11 Time is of the essence. Time is of the essence in each and all of the provisions of this MOU.

8.12 Governing Law. This MOU shall be governed by and interpreted under the laws of the State of California.

8.13 Construction of MOU. County - HDBH, the Developer, and Interim agree that each party has fully participated in the review and revision of this MOU and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this MOU or any amendment to this MOU.

8.14 Counterparts. This MOU may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same MOU.

8.15 Authority. Any individual executing this MOU on behalf of County - HDBH, the Developer or Interim represents and warrants hereby that he or she has the requisite authority to enter into this MOU on behalf of such party and bind the party to the terms and conditions of this MOU.

8.16 Integration. This MOU, including the exhibits, represents the entire MOU between the County - HDBH, the Developer, and Interim with respect to the subject matter of this MOU and shall supersede all prior negotiations, representations, or agreements, either written or oral, between County - HDBH, the Developer and Interim as of the date of this MOU, which is first set forth above.

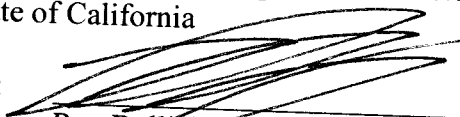
8.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provision of this MOU and the provisions of any exhibit or other attachment to this MOU, the provisions of this MOU shall prevail and control.

WHEREAS, the Parties set forth their signatures below:

COUNTY-HDBH

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

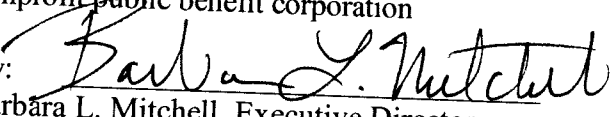
By:


Ray Bulliek, Director of Health

DEVELOPER:

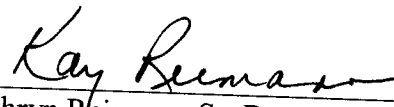
Rockrose Housing Corporation, a California nonprofit public benefit corporation

By:


Barbara L. Mitchell, Executive Director

APPROVED AS TO FORM:

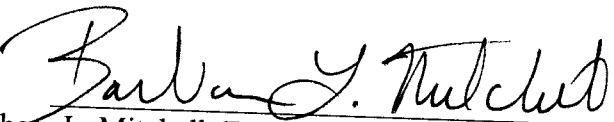
By:


Kathryn Reimann, Sr. Deputy County Counsel

INTERIM:

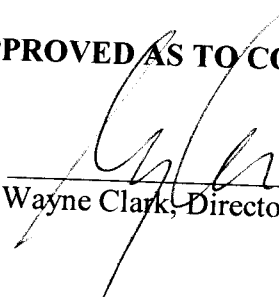
Interim, Inc., a California nonprofit public benefit corporation

By:


Barbara L. Mitchell, Executive Director

APPROVED AS TO CONTENT:

By:


Wayne Clark, Director of Behavioral Health