

COUNTY OF HIDALGO
STATE OF TEXAS
URBAN COUNTY PROGRAM
HOMEBUYER ASSISTANCE PROGRAM CONTRACT

This Homebuyer Assistance Program Contract ("Homeowner Contract") is entered into this ____ day of _____ 2012, between the County of Hidalgo, State of Texas ("County") and Justo & Sandra Garcia ("Owner").

Owner has requested financial assistance from the County to assist Owner with the down payment and/or closing costs to purchase a home in accordance with the requirements of the County's Homebuyer Assistance Program ("Homeowner Program"); and

Owner, based on the information furnished to County, qualifies for financial assistance under the Homeowner Program.

NOW THEREFORE, the County and Owner agree as follows:

1. Owner represents and warrants that all information furnished to the County in or as a part of Owner's application for financial assistance in the Homeowner Program is true and correct.

2. Owner agrees that the financial assistance provided to Owner by County will be used to pay Owner's closing costs and/or a portion of Owner's down payment in order for Owner to acquire Owner's principal residence located at:

Lot 33 Huisache Acres #7, Donna, HIDALGO COUNTY TEXAS more fully described on Exhibit "A" attached hereto ("Property").

3. Owner represents to County that the contract attached hereto as Exhibit "B" is a true and correct copy of the contract under which Owner will acquire the Property. The debt

and lien described in Exhibit "B" will be the only debt and lien against the Property other than the lien granted pursuant to this Homeowner Contract.

4. Owner agrees to comply with all applicable requirements of the U. S. Housing and Urban Development affordable housing home ownership statutes and regulations, including 24 CFR § 92.254(a) Qualification as Affordable Housing: Homeownership, as amended.

5. Owner agrees to provide, within ten (10) business days of the final loan closing, the Urban County Program with copies of the Lender's Note, Settlement Statement, Truth-in-Lending Disclosure, Property Deed and Property Insurance.

6. Owner agrees to execute all documents requested by County in order for County to obtain a valid second deed of trust lien on the Property.

7. **OWNER UNDERSTAND AND AGREES THAT COUNTY IS NOT RESPONSIBLE TO OWNER FOR: (i) ANY ASPECT OF THE CONSTRUCTION OF THE RESIDENCE ON THE PROPERTY BEING PURCHASED BY OWNER, INCLUDING ANY CLAIM FOR DEFECTIVE WORK, INCOMPLETE WORK OR WARRANTY WORK; AND/OR (ii) ANY DEFECTS IN OWNER'S TITLE TO THE PROPERTY.**

8. County agrees to expend \$7,500 ("Homeowner Advance") for the benefit of Owner in connection with Owner's purchase of the Property. The Homeowner Advance will be applied first to Owner's closing costs and any excess funds will be applied to Owner's down payment and to the principal if funds are available.

9. **OWNER AGREES THAT OWNER WILL, FOR A MINIMUM OF FIVE (5) CONSECUTIVE YEARS FOLLOWING OWNER'S PURCHASE OF THE PROPERTY, CONTINUOUSLY USE THE RESIDENCE LOCATED ON THE PROPERTY AS OWNER'S PRINCIPAL RESIDENCE. OWNER AGREES THAT OWNER WILL, ON AN ANNUAL BASIS, EXECUTE SUCH CERTIFICATIONS AS COUNTY MAY REQUIRE TO CONFIRM OWNER'S COMPLIANCE WITH THE REQUIREMENT OF THIS PARAGRAPH 9.**

10. Provided Owner has continuously used the residence located on the Property as Owner's principal residence for five (5) consecutive years after the beginning date used in the Loan Documents, County will forgive Owner's outstanding HOMEBUYER ASSISTANCE Funds on the Repayment Date in an amount equal to the HOMEBUYER ASSISTANCE Funds.

FAILURE TO REPAY THE HOMEBUYER ASSISTANCE FUNDS IN ACCORDANCE WITH THIS CONTRACT AND/OR THE LOAN DOCUMENTS AND/OR TO COMPLY WITH THE OTHER PROVISIONS OF THE LOAN DOCUMENTS, MAY RESULT IN THE FORECLOSURE OF THE COUNTY'S LIENS AGAINST THE PROPERTY AND THE LOSS OF YOUR RESIDENCE AND THE PROPERTY.

11. Owner understands and agrees that if Owner sells the Property, within the period of affordability (five (5) years the beginning date used in the Loan Documents), through a voluntary or involuntary transfer, the County will recapture all or a portion of the direct subsidy provided to the homebuyer as provided in this paragraph.

The loan will be forgiven pro rata over the period of affordability under the following terms, as long as the home remains the principal residence of the home buyer:

- (i) Upon completion of the 1st year of the Loan Documents -20% of the original principal amount will be forgiven;
- (ii) Upon completion of the 2nd year of the Loan Documents -40% of the original principal amount will be forgiven;
- (iii) Upon completion of the 3rd year of the Loan Documents - 60% of the original principal amount will be forgiven;
- (iv) Upon completion of the 4th year of the Loan Documents - 80% of the original principal amount will be forgiven; and
- (v) Upon completion of the 5th year of the Loan Documents -100% of the original principal amount will be forgiven

If the net proceeds from a voluntary or involuntary sale are insufficient to repay the prorated amount of the HOME subsidy, the County shall recapture the entire amount of net proceeds from the sale. If there are no net proceeds from the sale, no repayment is required. Net proceeds are defined as the sales price minus superior loan repayment and any closing costs incurred by the homebuyer.

12. Owner understands and agrees that: (i) Owner agrees to continuously use the residence located on the property as Owner's principal residence for five (5) consecutive years following the beginning date used in the Loan Documents; and (ii) Owner agrees to honor any of its other obligations to County under the Homebuyer Contract or the Loan Documents; collectively. In the event that the County determines that the assisted homebuyer(s) is non-compliant with the residency requirements and the other requirements stated in the Homebuyer Assistance Program Contract then the entire face value of the funds are immediately due and payable to the County. Homebuyer will be given 30 days to return to compliance. If homebuyer(s) does not return to compliance the entire face value of the funds will be due and payable and will incur a four percent (4%) interest per annum.

13. THIS HOMEBUYER CONTRACT CREATES A BINDING AGREEMENT BETWEEN YOU AND THE COUNTY; OWNER REPRESENTS AND WARRANTS TO THE COUNTY THAT OWNER HAS REVIEWED THE CONTRACT, UNDERSTANDS IT, AND IS EXECUTING IT FREELY AND VOLUNTARILY.

Executed and effective as of the date and year first written above.

COUNTY OF HIDALGO
URBAN COUNTY PROGRAM

DIANA R. SERNA
DIRECTOR

Justo Garcia

Sandra Garcia

(Jurat/Individual Acknowledgment)

STATE OF TEXAS §
COUNTY OF HIDALGO §

SWORN, SUBSCRIBED AND ACKNOWLEDGED before me Justo Garcia ON THIS _____ day
of _____, 2012.

NOTARY PUBLIC, STATE OF TEXAS

STATE OF TEXAS §
COUNTY OF HIDALGO §

SWORN, SUBSCRIBED AND ACKNOWLEDGED before me Sandra Garcia ON THIS _____
day of _____, 2012.

NOTARY PUBLIC, STATE OF TEXAS

(Jurat/Individual Acknowledgment)

STATE OF TEXAS §
COUNTY OF HIDALGO §

SWORN, SUBSCRIBED AND ACKNOWLEDGED before me Diana R. Serna ON THIS
_____ day of _____, 2012.

NOTARY PUBLIC, STATE OF TEXAS

Exhibit "A"

To a

Homebuyer Assistance Program Contract

LEGAL DESCRIPTION OF THE PROPERTY:

Lot 33 Huisache Acres Subdivision #7, Donna, HIDALGO COUNTY TEXAS

Exhibit "B"

To a

Homebuyer Assistance Program Contract

Residential Construction Contract

Terms

Date: 3/12/2012

Owner: Justo Garcia

Owner's Mailing Address: 403 Pine Street, Donna, Texas 7853

Contractor: Jeffrey Erickson Construction LLC.

**Contractor's Mailing Address: 3520 Buddy Owens
McAllen TX 78504**

Property:

**Address: 816 Amy St.
Donna, TX 78537**

Legal description: Lot 33 Huisache Acres #7

**Project Description: Construction of single family residence in accordance with
Specifications attached hereto and incorporated herein.**

Contract Sum:

Stipulated sum: \$94,320.00

Definitions

**"Plans" means all plans and specifications for the Improvements (dated and
initialed by owner and contractor).**

**Improvements mean the improvements to be constructed on the property
according to the plans.**

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The "work" means the physical activities, materials, and equipment relating to the construction of the Improvements.

"Commencement Date" means the date on which the building permit is issued from contractor to construct the improvements.

"Completion Date" means the date of substantial Completion and notice to Owner, but not later than 6 months after Commencement Date, unless extended by the terms of the Contract Documents, force majeure delays, or other delays not within contractor's control.

"Concealed Conditions" means preexisting physical conditions situated below the surface of the ground, or concealed or unknown conditions in an existing structure, at variance with the conditions indicated in the Contract Documents or differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.

"Contract Documents" means this residential construction contract, the plans, warranty documents, and any other documents governing the work (collectively, the Contract")

"Payment Deadline" means 2:00 p.m. on the third business day after Contractor's request for payment is received by Owner.

"Scope of Work" means the Work covered by the Contract Documents.

"Substantial Completion" or "Substantially Complete" means a certificate of occupancy has been issued in which the parties stipulate the Improvements have been completed in accordance with the plans and are fit for their intended use except for minor "punch list" items, which are typically completed or cured following the taking of possession by Owner.

Pre-commencement Matter

A. Contractor agrees to-

1. Provide certificates of insurance.
2. Obtain Contractor's risk insurance coverage for casualty loss and public liability in reasonable amounts, to protect Contractor and Owner.

B. Owner agrees to-

1. Furnish to Contractor reasonable proof that Owner has the liability to pay Contractor the full Contract Sum.
2. Provide water and electricity to the property line.

C. The Following are stipulated:

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1. *Change orders.* Contractor is under no duty to make any changes in the Plans requested by Owner (see Change order Provision below.)

2. *Consumer Products.* "Consumer Products," as defined by the Federal Tread commission, Are excluded from Contractor's warranty only to the extent individual manufacturer's warranties are passed through Contractor and assigned to Owner, with a copy of received by Owner. Contractor assigns and passes through to Owner the manufacturers' warranties on all appliances and equipment. In the case of passed through and received manufacture's warranties on Consumer Products, Owner's recourse is directly to the Contractor's installation and hookup of the items.

3. *Consult Your Attorney.* This is intended to be a legally binding contract. **READ IT CAREFULLY.** If you do not understand the effect of any part of the Contract Documents, consult your attorney before signing.

Following Completion of Precommencement Matters

A. Contractor agrees to-

1. Obtain a building permit and commence the work within thirty days after Owner has completed all of Owner's obligations under the Precommencement Matters and file and affidavit of commencement in the real property records of the county in which the Property is located.

2. Diligently prosecute the Work to completion and substantial complete the Work according to the Plans by the Completion Date.

3. Pay all the valid bills and charges to Contractor for material or labor relating to the improvements.

4. Keep the Property free from claims of liens for labor or material arising directly through Contractor, except that Contractor may reasonably dispute and claim,

B. Contractor agrees not to delay the work.

C.

D. Owner agrees to-

1. Pay to Contactor the Contract Sum, disbursed according to the payment schedule, no later than the Payment Deadline.

2. Promptly pay to the seller of the Allowance Items all charges in excess of the allowances.

3. Make selection of Allowance Items within ten day after receipt of notice from Contractor, otherwise, Contractor may make the selection or extend the time for Owner to make the selections, in which case Owner will pay any charges related toe the delay and Contractor is entitled to extend the Completion Date.

4. Deliver to Contractor, within three business days of Contractors draw

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request, written notice of Work not accepted, with specific reasons and reasonable requirements stated for causing the Work to be accepted.

D. Owner agrees not to-

1. Communicate directly with laborers to the work.
2. Delay or interfere with the progress of the work.

E. Contractor and Owner agree that-

1. If owner, at any time before or during the progress of the work, wants any modifications made to the Plans ("Changed Work"), Owner will request in writing that Contractor undertake the Changed Work. If Contractor agrees to do the Changed Work, Contractor may submit to Owner an estimate of the cost of the Changed Work and an extension of the Completion Date to reflect the additional time required for completing it. If a preapproved written changed order is not obtained, Contractor may submit to Owner the notice of Changer order and extension of time in writing, and the failure of Owner to make written objection within ten days of the notice is conclusively deemed approval by Owner. The Contract Sum and the Completion Date will automatically adjust to incorporate any change orders.
2. Should Contractor encounter Concealed Conditions, the Contract Sum will be equitably adjusted by change order on claim by either party made within twenty days after notice by Contractor to Owner of the Concelaed Conditions.
3. Contractor occupies the status of an independent contractor, as that term is defined in the construction industry.
4. Unless otherwise specifically provided, reference to any equipment, material, article, or patented process by trade name, make, or catalog number is regarded as establishing a standard of quality and is not construed as limiting competition. Contractor may, at Contractor's option, use any equipment. Material, article, or patented process that is substantially equal to that named.
5. Contractor has the right to subcontract any part or all of the work.

Following Substantial Completion

A. Contractor agrees to-

1. Remove debris and surplus materials occasioned by the work.
2. Notify Owner on Substantial Completion of the work and file an affidavit of completion in the real property records of the county in which the Property is located.
3. Deliver possession of the Improvements to Owner on the day following the later of Substantial Completion or final payment to Contractor of the Contract Sum.
4. Release the Work and Property from all claims, including claims of Subcontractors, and materialmen, on receipt of final payment.

B. Owner agrees to-

1. Pay to contractor the final payment of the Contract Sum, including all amounts due under the Contract Documents.
2. Sign and file for record within five days after Substantial Completion a notice of substantial completion and acceptance.

C. Owner and Contractors agree that Owner's acceptance of possession will be conclusively presumed to constitute Owner's acceptance of the Improvements as substantially Complete and habitable.

Default and Termination

1. *Building Permit.* If a building permit has not been issued within ten business days of completion of all Precommencement Matters, Owner may terminate this Contract by written notice within ten business days to recover out-of-pocket cost from Contractor; otherwise, Owner must give Contractor ten days written notice and opportunity to cure before terminating this contract.
2. *Precommencement Matters.* If the Precommencement Matters have not been completed within thirty days from the Contract Date, Owner or Contractor may unilaterally terminate this contract by written notice within forty days from the Contract Date, in which case this contract will terminate, and the performing party is entitled to recover reasonable out-of-pocket cost from the non performing party.
3. *Owner's Default.* Each of the following constitute a material breach of this Contract by Contractor ("Contractor's Default"): (a) failing to fully and timely perform any covenant of Owner under this contract; (b) failing to fully and timely perform any

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covenant of contractor under this contract; (c) making any representation to Owner found to be materially false, misleading, or erroneous; and (d) substantially breaching any of contractor's obligations under this contract.

Miscellaneous Provisions

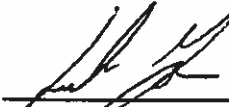
1. *Agreement of Parties.* The Contract Documents, together with any attachments, constitute the entire agreement of the parties, and there are no oral agreements.
2. *Amendment of Contract.* This Contract may be amended only by an instrument in writing signed by the parties.
3. *Attorney's Fees.* If either party retains an attorney to enforce this Contract, the party prevailing in litigation is entitled to recover reasonable attorney's fees, court and other costs, and related expenses.
4. *Binding Effect.* This Contract binds, benefits, and may be enforced by the parties and their respective representatives, successors in interest, and, if permitted, their assigns.
5. *Counterparts.* If this Contract is executed in multiple counterparts, all counterparts taken together will constitute this Contract.
6. *Venue.* Venue is in the county or countries in which the Property is located.
7. *Notices.* Any notice required or permitted under this Contract must be in writing. Any notice required by this Contract will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Contract. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
8. *Time.* Time is of the essence. Unless otherwise specified, all references to days mean calendar days. Business days exclude all Saturdays, Sundays, and national holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or national holiday, that obligation is performable on the next business day.
9. *Alternative Dispute Resolution.* The parties agree to mediate in good faith before filing a request for Arbitration. Any claims or disputes between the Contractor and the Owner arising from this Agreement shall be resolved by arbitration with the Construction Industry Arbitration Rules of the American Arbitration Association, unless both parties agree otherwise.
10. When the context requires, singular nouns and pronouns include the plural.

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11. *Special Provisions: No Lot Draw.*

IMPORTANT NOTICE: You and your contractor are responsible for meeting the terms and conditions of this contract. If you sign this contract and you fail to meet the terms and conditions of this contract, you may lose your legal ownership rights in your home. **KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.**

This contract is subject to Chapter 2 of the Property Code. The provisions of that chapter may affect your right to recover damages arising from the performance of this contract. If you have a complaint concerning a construction defect arising from the performance of this contract and that defect has not been corrected through normal warranty service, you must provide notice regarding the defect to the contractor by certified mail, return receipt requested, no later than the sixtieth day before the date you file suit to recover damages in a court of law. The notice must refer to Chapter 27 of the Property Code, and must describe the construction defect. If requested by the contractor, you must provide the contractor an opportunity to inspect and cure the defect as provided by Section 27.004 of the Property Code.



Owner

Contractor

YOU, THE OWNER, MAY CANCEL THIS TRANSACTION AT ANY TIME BEFORE THE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

