

# CBDO AGREEMENT

STATE OF TEXAS           §  
  §  
COUNTY OF HIDALGO   §

**KNOW ALL BY THESE PRESENTS:**

## **SECTION 1. PARTIES TO AGREEMENT**

This agreement is made and entered into by and between the County of Hidalgo – Urban County Program (UCP) and Proyecto Azteca, a nonprofit corporation organized under the laws of the State of Texas, hereinafter referred to as a Community-Based Development Organization, (CBDO). The parties hereto have severally and collectively agreed and by the execution hereof are bound to the mutual obligations and to the performance and accomplishment of the tasks described herein.

## **SECTION 2. AGREEMENT PERIOD**

This agreement shall commence on the date of execution by the CBDO and the UCP and shall terminate on March 8, 2013, unless otherwise specifically provided by the terms of this agreement.

## **SECTION 3. GRANT**

UCP agrees to grant CBDO \$731,100 utilizing Neighborhood Stabilization Program (NSP) funds, subject to the conditions of this agreement.

## **SECTION 4. CBDO PERFORMANCE**

- A. Providing homeownership opportunities for twelve to fifteen (12-15) qualified families with a total yearly income at or below 50% of the AMI
- B. CBDO shall undertake the following activities dependant upon individual property needs:
  - 1. Purchase and Rehabilitation of Abandoned or Foreclosed homes and residential properties
  - 2. Demolition of Blighted Structures
  - 3. Redevelopment of Demolished or Vacant Properties
  - 4. Establish Financing Mechanisms for the purchase and redevelopment of foreclosed homes and residential properties
- C. CBDO shall perform annual principal residency verifications on all properties that are within their affordability periods.
- D. CBDO shall provide a minimum of eight (8) hours of pre-purchase counseling for qualified homebuyers.
- E. CBDO shall comply with federal regulations as listed with the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C.§276A-5), and contracts involving the

employees of any subcontractors shall be subject to the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333).

- F. CBDO shall comply with the definition of the new income group noted under §2301(f)(3)(A)(i) and (ii) of the Housing and Economic Recovery Act as “low-, moderate- and middle-income” (LMMI) not to exceed 50% of the area median income (AMI) and the CDBG definitions of “low-income” and “moderate-income” (24 CFR 570.3). In addition,
- G. The project shall be administered in accordance with Exhibit A, Title III – Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes in the “Housing and Economic Recovery Act of 2008” (HERA), federal regulations contained in 24 CFR Part 570 and the NSP/CBDO Proposal.

CBDO represents and warrants that it is a “Community-Based Development Organization” as described in 24 CFR 570.204 and agrees that it shall comply with all applicable government requirements.

CBDO agrees to acknowledge the sponsorship of the UCP at any event promoting the project or any other project sponsor.

CBDO shall perform all activities in accordance with the CDBG National Objective as listed under 24 CFR 570.208.3; Performance Statement (“Exhibit A”); Budget, (“Exhibit B”); Applicable Laws and Regulations, (“Exhibit C”); Certifications, (“Exhibit D”); assurances, certifications, and all other statements made by CBDO in its application for the project funded under this agreement; and with all other terms, provisions, and requirements set forth in this agreement.

## **SECTION 5. UCP OBLIGATIONS**

- A. Identification of properties will be performed by the UCP, in conjunction with the approved applicant.
- B. The UCP will be responsible for procuring and requesting inspections and appraisals as each property is identified. An inspection and appraisal will reveal the site specific needs as it relates to the applicable housing standards thus allowing us to determine which of the activities will be performed.
- C. Measure of Liability

In consideration of full and satisfactory performance of the activities referred to in Section 4 of this agreement, UCP shall make payment under the grant for the actual and reasonable costs incurred by CBDO during the agreement period for performance rendered under this agreement by CBDO, subject to the limitations set forth in this Section 5.

- 1. It is expressly understood and agreed by the parties hereto that UCP’s obligations under this Section 5 are contingent upon the actual receipt of adequate federal funds to meet UCP’s liabilities under this agreement. If adequate funds are not available to make payments under this agreement, UCP shall notify CBDO in writing within a

reasonable time after such fact is determined, UCP shall then terminate this agreement and will not be liable for failure to make payments to CBDO under this agreement.

2. UCP shall be liable to grant CBDO money for only those costs incurred by CBDO which are allowed as defined in 24 CFR 570.205, 570.206, costs related to activities within Section 2301(c)(3), of HERA and Section 6 of this agreement.
3. UCP shall not be liable to grant CBDO money for those costs incurred by CBDO which are disallowed costs as listed under Section 2303 and 2304 of HERA. Nor shall the UCP be liable to grant CBDO money for any costs incurred by CBDO, or any portion thereof, which has been paid to CBDO or is subject to payment to CBDO, or has been reimbursed to CBDO or is subject to reimbursement to CBDO by any source other than UCP.
4. UCP shall not be liable to grant CBDO money for any costs incurred by CBDO or for any performances rendered by CBDO which are not strictly in accordance with the terms of this agreement, including terms of Exhibit A, B, C, and D of this agreement.
5. UCP shall not be liable to grant CBDO money for any costs incurred or performances rendered by CBDO before commencement of this agreement or after termination of this agreement.

#### B. Limit of Liability

Notwithstanding any other provision of this agreement, the total of all payments and other obligations incurred by UCP under this agreement shall not exceed the sum of \$731,100.

### **SECTION 6. DISBURSEMENT OF FUNDS**

- A. UCP will provide funds under this agreement in accordance with the requirements of 24 CFR 570.205, 570.206 and costs related to activities within Section 2301(c)(3) of HERA. CBDO may not request disbursement of funds under this agreement until funds are needed for payment of eligible costs and in accordance with the UCP payment disbursement procedures. All work related to a request for disbursement will be inspected prior to disbursement of funds. Funds will be disbursed within thirty (30) days provided all required supporting documentation has been submitted.
- B. It is expressly understood and agreed by the parties hereto that payments under this agreement are contingent upon CBDO's full and satisfactory performance of its obligations under this agreement. UCP reserves the right to recapture unexpended funds provided under this agreement in the event UCP determines that CBDO will be unable to expend funds within the prescribed time as determined by UCP.
- C. UCP shall not be liable to CBDO for any costs incurred or performance rendered by CBDO before commencement or after termination of this agreement.

## **SECTION 7. ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES AND PROGRAM INCOME**

- A. CBDO must comply with applicable regulations under OMB Circular No. A-122 and 24 CFR Part 84.
- B. CBDO shall maintain records of the receipt, accrual, and disposition of all CBDO Proceeds funds in the same manner as required for in Section 7.A above for all funds under this agreement. Prior to disposition of it's CBDO proceeds, the CBDO shall request, in writing, approval from UCP Director indicating proceeds origination, amount and utilization type (rehab., acquisition, construction, etc.). CBDO shall provide reports of CBDO proceeds on a monthly basis.
- C. All CBDO proceeds shall be retained by the CBDO however must be re-invested by CBDO and applied towards NSP housing initiatives, as listed under section 4.B of this agreement, for low and moderate income individuals and families.

## **SECTION 8. RETENTION AND ACCESSIBILITY OF RECORDS**

- A. CBDO must establish and maintain those records listed under 24 CFR 92.508 and other records as may be determined by UCP.
- B. CBDO shall give the UCP, the Comptroller of the United States, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by CBDO pertaining to this agreement. Such right to access shall continue as long as the records are retained by CBDO. CBDO agrees to maintain such records in an accessible location.
- C. All records pertinent to this agreement shall be retained by CBDO for five years following affordability period the date of termination of this agreement or of submission of the final closeout reports, whichever is later, with the following exceptions:
  - 1. If any litigation, claim or audit is started before the expiration of the five-year period and extends beyond the five-year period, the records will be maintained until all litigation, claims or audit findings involving the records have been resolved.
  - 2. Records relating to real property acquisition shall be retained for the period of affordability required under 24 CFR 92.254 or 24 CFR 92.252 as applicable, plus five years
  - 3. Records covering displacement and acquisitions must be retained for at least five years after the date by which all person displaced from the property and all person whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR 92.353.
- D. CBDO shall include the substance of this Section 8 in all subcontracts.

- E. CBDO must provide citizens, public agencies, and other interested parties with reasonable access to records consistent with the Texas Public Information Act, TEXAS GOVERNMENT CODE, Chapter 522.

## **SECTION 9. REPORTING REQUIREMENTS**

- A. CBDO shall submit to UCP such reports on the operation and performance of this agreement as may be required by UCP including but not limited to the reports specified in this Section 9. In addition, CBDO shall provide UCP with all reports necessary for UCP compliance with 24 CFR 92.509 and 24 CFR Part 92, Subpart L and those reports requested by the UCP.
- B. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if CBDO fails to submit to UCP in a timely and satisfactory manner any report required by this agreement, UCP may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by CBDO hereunder. If UCP withholds such payments, it shall notify CBDO in writing of its decision and the reasons therefore. Payments withheld pursuant to this paragraph may be held by UCP until such time as the delinquent obligations for which funds are withheld are fulfilled by CBDO.
- C. Acknowledgment of Funding Source. CBDO shall give credit to the UCP as the project-funding source in all presentations, written documents, publicity and advertisements regarding the development.

## **SECTION 10. MONITORING**

The UCP reserves the right to carry out field inspections to ensure compliance with the requirements of this agreement. After each monitoring visit, UCP shall provide CBDO with a written report of the monitor's finding. If the monitoring reports note deficiencies in CBDO's performances under the terms of this agreement, the monitoring report shall include requirements for the timely correction of such deficiencies by CBDO. Failure by CBDO to take action specified in the monitoring report may be cause for suspension or termination of this agreement, as provided in Section 18 and Section 19 of this agreement.

## **SECTION 11. INDEPENDENT CBDO**

- A. It is expressly understood and agreed by the parties hereto that UCP is contracting with CBDO as an independent CBDO, and that CBDO, as such, agrees to hold UCP harmless and to indemnify UCP from and against any and all claims, demands, and causes of action of every kind and character which may be asserted by any third party occurring or in any way incident to, arising out of, or in connection with the services to be performed by CBDO under this agreement.
- B. CBDO agrees that it will indemnify the County of Hidalgo and the UCP ("Indemnities") and hold County of Hidalgo and UCP harmless of, from, and against all claims, demands, actions, damages, losses, costs, liabilities, expenses, and judgments recovered from or asserted against County of Hidalgo and UCP on account of injury or damage to person or property to the extent any such damage or injury may be incident to, arise out of, or be caused, either proximately or remotely, wholly or in part, by an act or omission, negligence

or misconduct on the part of CBDO or any of its agents, servants, employees, contractors, patrons, guests, licensees, or invitees entering upon the Housing being improved pursuant to this Agreement or when any such injury or damage is the result, proximate or remote, of the violation by CBDO, or any of its agents, servants, employees, contractors, patrons, guests, licensees, or invitees of any law, ordinance or governmental order of any kind, or when any such injury or damage may in any other way arise from or out of the acquisition, rehabilitation, modification, or construction at the Housing herein or out of the use or occupancy of the Housing or the Housing themselves by CBDO, its agents, servants, employees, contractors, patrons, guests, licensees, or invitees, including without limitation, any damages or costs which may occur as a result of the design of the rehabilitation, modification, or construction of the Housing, the bidding process, actual rehabilitation, modification, or construction of the Housing, administration of the construction contracts by the County of Hidalgo and UCP or its designee, failure of the Housing prior to completion and acceptance of rehabilitation, modification, or construction of the Housing to work as designed, failure of the Contractor or manufacturer to honor its warranties, failure of CBDO to maintain the Housing, or the Housing themselves.

These terms of indemnification shall be effective upon the date of execution of this agreement and whether such injury or damage may result from the sole negligence, contributory negligence, or concurrent negligence of Indemnities; but not if such damage or injury may result from gross negligence or willful misconduct of Indemnities.

CBDO covenants and agrees that, in case the County of Hidalgo and/or UCP shall be made a party to any litigation against CBDO or in any litigation commenced by any party relating to this Agreement and the construction of the Housing contemplated hereunder, CBDO shall and will pay all costs and expenses, including reasonable attorneys' fees and court costs incurred by or imposed upon the County of Hidalgo or UCP by virtue of any such litigation.

CBDO, for and in consideration of UCP participation in this agreement, hereby agrees and covenants that CBDO will never institute any suit or action at law against the County of Hidalgo, UCP, their officers, agents, servants, or employees, (hereinafter referred to as RELEASEES), related to the performance by any party under this Agreement, nor institute, prosecute, or in any way aid in the institution or prosecution of any claim, demand, action or cause of action for damages, costs, expenses or compensation for, related to the performance by any party under this Agreement, whether or not caused by the negligence of Releases.

## **SECTION 12. SUBCONTRACTS**

A. Except for subcontracts to which the federal labor standards requirements apply, CBDO may not subcontract for performances described in this agreement without obtaining UCP's prior written approval. CBDO shall only subcontract for performances described in this agreement to which the federal labor standards requirements apply after CBDO has submitted a Subcontractor Eligibility form, as specified by UCP, for each such proposed subcontract, and CBDO has obtained UCP's prior written approval, based on the information submitted, of CBDO's intent to enter into such proposed subcontract. CBDO, in subcontracting for any performances described in this agreement, expressly understands that in entering into such subcontracts, UCP is not in any manner liable to CBDO's subcontractor(s).

- B. In no event shall any provision of this Section 12, specifically the requirement that CBDO obtain UCP's prior written approval of a subcontractor's eligibility, be construed as relieving CBDO of the responsibility for ensuring that the performances rendered under all subcontracts are rendered as so as to comply with all of the terms of this agreement, as if such performances rendered were rendered by CBDO. UCP's approval of subcontractor's eligibility under this Section 12 does not constitute adoption, ratification or acceptance of CBDO's or subcontractor's performance hereunder. The act of approval of subcontractor's eligibility under this Section 12 does not waive any right of action which may exist or which may subsequently accrue to UCP under this agreement. UCP retains at all times the right to insist upon CBDO's full compliance with the terms of this agreement.
- C. CBDO shall comply with all applicable federal, state, and local laws, regulations, and ordinances when making procurements under this agreement.
- D. CBDO shall comply with all applicable federal, state, and local laws, regulations and ordinances for the term of this agreement.

### **SECTION 13. CONFLICT OF INTEREST**

UCP shall ensure that no person who (1) is an employee, agent, consultant, officer or elected or appointed official of UCP that receives funds and who exercise or has exercised any functions or responsibilities with respect to activities assisted with funds provided under this agreement or (2) 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 a NSP assisted activity, or have an interest in any agreement, subcontract, or contract (or the proceeds thereof) with respect to a NSP assisted activity either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. CBDO shall ensure compliance with applicable provisions under 24 CFR 92.356 and OMB Circular A-110 in the procurement of property and services.

### **SECTION 14. NONDISCRIMINATION AND SECTARIAN ACTIVITY**

- A. Equal Opportunity. CBDO shall ensure that no person shall on the grounds of race, color, religion, sex, age, handicap, familial status, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds provided under this agreement. In addition, funds provided under this agreement must be made available in accordance with the requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u) such that:
  - 1. To the greatest extent feasible, opportunities for training and employment arising in connection with the planning and carrying out of any project assisted with NSP funds provided under this agreement be given to low-income persons residing within the general local government area or metropolitan area or non-metropolitan county in which the project is located; and
  - 2. To the greatest extent feasible, agreements for work to be performed in connection with any such project be awarded to business concerns, including. But not limited to, individuals or firms doing business in the field of planning, consulting, design,

architecture, building construction, rehabilitation, maintenance, or repair, which are located in or owned in substantial part by persons residing in the same metropolitan area or nonmetropolitan county as the project.

## **SECTION 15. LEGAL AUTHORITY**

- A. CBDO assures and guarantees that CBDO possesses the legal authority to enter into this agreement, receive funds authorized by this agreement, and to perform the services CBDO has obligated itself to perform hereunder.
- B. The person or persons signing and executing this agreement on behalf of CBDO, or representing themselves as signing and executing this agreement on behalf of CBDO, do hereby warrant and guarantee that he, she or they have been duly authorized by CBDO to execute this agreement on behalf of CBDO and to validly and legally bind CBDO to all terms, performances, and provisions herein set forth.
- C. CBDO shall not employ, award contract to, or fund any person that has been debarred, suspended, proposed for debarment, or placed on ineligibility status by the U.S. Department of Housing and Urban Development. In addition, UCP shall have the right to suspend or terminate this agreement if CBDO is debarred, suspended, proposed for debarment, or ineligible from participating in the HOME Program.

## **SECTION 16. LITIGATION AND CLAIMS**

CBDO shall give UCP immediate notice in writing of:

- 1) Any action, including any proceeding before an administrative agency filed against CBDO in connection with this agreement; and
- 2) Any claim against CBDO, the cost and expense of which CBDO may be entitled to be reimbursed by UCP. Except as otherwise directed by UCP, CBDO shall furnish immediately to UCP copies of all pertinent papers received by CBDO with respect to such action or Claim.

## **SECTION 17. CHANGES AND AMENDMENTS**

- A. Except as specifically provided otherwise in this agreement, any alterations, additions, or deletions to the terms of this agreement shall be by amendment hereto in writing and executed by both parties to this agreement.
- B. It is understood and agreed by the parties hereto that any undertakings must be rendered in accordance with Section 4 of this agreement, the regulations promulgated under such Act, the assurances and certifications made to UCP by CBDO, and the assurances and certifications made to the United States Department of Housing and Urban Development by UCP with regard to the operation of the HOME Program. Based on these considerations, and in order to ensure the legal and effective performance of this agreement by both parties, it is agreed by the parties hereto that the performances under this agreement are amended by the provisions of the HOME Program, and any amendments thereto and may further be amended in the following manner: The Department of Housing and Urban Development may from time to time during the period of performance of this agreement issue policy directives which

serve to establish, interpret, or clarify performance requirements under this agreement. Such policy directives promulgated in the form of HOME Issuances, shall have the effect of modifying the terms of this agreement and shall be binding upon CBDO, as if written herein, provided however that said policy directives and any amendments shall not alter the terms of this agreement so as to release UCP of any obligation specified in Section 5 of this agreement to reimburse costs incurred by CBDO prior to the effective date of said amendments or policy directives.

- C. Any alterations, additions, or deletions to the terms of this agreement which are required by changes in Federal law or regulations are automatically incorporated into this agreement without written amendment hereto and shall become effective on the date designated by such law or regulation. The UCP or CBDO may require written changes or amendments to this Agreement when any substantial alterations, additions, or deletions to the terms of this agreement are required by changes in Federal law or regulations.
- D. CBDO has provided an estimated Budget and Project Implementation Schedule based upon the proposed construction listed above, which budget and schedule will be attached hereto and made a part hereof for all purposes as Exhibit B.

## **SECTION 18. SUSPENSION**

In the event CBDO fails to comply with any term of this agreement, UCP may, in accordance with 24 CFR 85.43 and upon written notification to CBDO, suspend this agreement in whole or in part and withhold further payments to CBDO, and prohibit CBDO from incurring additional obligations of funds under this agreement.

## **SECTION 19. TERMINATION**

The UCP may terminate this Agreement, in whole or in part, in accordance with 24 CFR 85.43 and this Section 19. UCP may terminate this agreement for convenience in accordance with 24 CFR 85.44. In the event CBDO materially fails as determined by UCP to comply with any term of this agreement, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, UCP may take one or more of the following actions:

1. Temporarily withhold cash payments pending correction of the deficiency by the CBDO or take more severe enforcement action against CBDO.
2. Disallow all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the current award for the CBDO program.
4. Withhold further HOME award from CBDO.
5. Take other remedies that may be legally available.

Additionally, this agreement may be cancelled upon thirty-day notice of cancellation upon mutual agreement of the parties.

## **SECTION 20. AUDIT**

- A. Unless otherwise directed by UCP, CBDO shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this agreement, subject of the following conditions and limitations:
1. CBDO shall have an audit and/or financial statement made in accordance with 24 CFR 92.506, 24 CFR Part 85.26 or OMB Circular A-133 and the UCP CBDO Policy for any of its fiscal years included within the agreement period specified in Section 2 of this agreement in which CBDO receives more than \$500,000 in federal financial assistance provided by a federal agency in the form of grants, agreements, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance or direct appropriations, but federal financial assistance does not include direct federal cash assistance to individuals. The term includes awards of federal financial assistance received directly from federal agencies, or indirectly through other units of state and local government.
  2. At the option of CBDO, each audit required by this section may cover either CBDO's entire operations or each department, agency, or establishment of CBDO which received, expended or otherwise administered federal funds.
  3. CBDO may utilize funds budgeted under this agreement, only if indicated under Exhibit B, to pay for that portion of the cost of such audit services properly allocable to the activities funded by UCP under this agreement, provided however that UCP shall not make payment for the cost of such audit services until UCP has received such audit report from CBDO.
  4. Unless otherwise specifically authorized by UCP in writing, CBDO shall submit the report of such audit to UCP within thirty (30) days after completion of the audit, but no later than one (1) year after the end of each federal fiscal period included within the period of this agreement. Audits performed under Subsection A of this Section 20 are subject to review and resolution by UCP or its authorized representative.
  5. As part of its audit, CBDO shall verify expenditures according to the Budget attached as Exhibit B.
- B. Notwithstanding Subsection A of this Section 20, UCP reserves the right to conduct an annual financial and compliance audit of funds received and performances rendered under this agreement. CBDO agrees to permit UCP or its authorized representative to audit CBDO's records and to obtain any documents, materials, or information necessary to facilitate such audit. Should an audit not be required by Subsection A of this Section 20, CBDO shall provide an annual audit to UCP of funds received in performance of this Agreement.
- C. CBDO understands and agrees that it shall be liable to UCP for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this agreement. CBDO further understands and agrees that reimbursement to UCP of such disallowed costs shall be paid by CBDO from funds which were not provided or otherwise made available to CBDO under this agreement.
- D. CBDO shall take necessary action to facilitate the performance of such audit or audits conducted pursuant to this Section 20 as UCP may require of CBDO.

- E. All approved HOME audit reports shall be made available for public inspection within 30 days after completion of the audit.

## **SECTION 21. ENVIRONMENTAL CLEARANCE REQUIREMENTS**

- A. CBDO understands and agrees that by the execution of this agreement UCP shall assume the responsibilities for environmental review, decision making, and other actions in accordance with and to the extent specified in 24 CFR 92.352 and 24 CFR, Part 58. However, if CBDO has staff experience and/or means to perform the environmental review, CBDO may request in writing, from UCP, approval to perform them.

## **SECTION 22. LABOR STANDARDS**

All laborers and mechanics employed in the rehabilitation of a project assisted under this agreement that contains 12 or more dwelling units shall be paid wages at rates as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C.§276A-5), and contracts involving their employment shall be subject to the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C.§§327-333). Construction contractors and subcontractors, must comply with regulations issued under these Acts and with other federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable.

## **SECTION 23. SPECIAL CONDITIONS**

- A. Release of Funds. UCP shall not release any funds for any costs incurred by CBDO under this agreement until UCP has received certification from CBDO that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of and accounting for funds provided under this agreement.
- B. Affordability. Funds provided under this agreement must meet the affordability requirements of the HOME rules for a period of 5 through 15 years (based on the direct HOME subsidy). CBDO agrees to repay all HOME funds governed by this Agreement if the project fails to comply or ceases to comply with the affordability requirements as set forth herein. The affordability requirements must continue to be met throughout the term of the agreement and shall be binding upon the successors, assigns, and transfers of the CBDO as required 24 CFR 92.254. Also, in compliance with 24 CFR 92.254, CBDO shall perform principal residency verifications annually on all properties that are within their affordability periods.
- C. The UCP has adopted a Recapture Policy that serves to address the continued affordability of housing units acquired with HOME funds. Under the CBDO Program, the homeowner must occupy the HOME assisted unit as their principal residence for a period of five (5) through fifteen (15) consecutive years. The UCP will recoup all or a portion of the assistance provided to the homeowner if the homes does not continue to be the principal residence, if the property is sold, if the property is foreclosed upon, or if the client otherwise fails to adhere to program requirements within the affordability time frame. The recapture of HOME funds will be on a pro-rata basis according to the following formula if the “Direct HOME subsidy” assistance if less than \$15,000:

- 1<sup>st</sup> Year – Repayment of the full amount of assistance provided
- 2<sup>nd</sup> Year – Repayment of 80% of the assistance provided
- 3<sup>rd</sup> Year – Repayment of 60% of the assistance provided
- 4<sup>th</sup> Year – Repayment of 40% of the assistance provided
- 5<sup>th</sup> Year – Repayment of 20% of the assistance provided

In those projects where the “Direct HOME subsidy” is \$15,000 up to \$40,000, the UCP will enforce a 10-year affordability with a prorating schedule spread over ten years.

- 1<sup>st</sup> Year – Repayment of the full amount of assistance provided
- 2<sup>nd</sup> Year – Repayment of 90% of the assistance provided
- 3<sup>rd</sup> Year – Repayment of 80% of the assistance provided
- 4<sup>th</sup> Year – Repayment of 70% of the assistance provided
- 5<sup>th</sup> Year – Repayment of 60% of the assistance provided
- 6<sup>th</sup> Year – Repayment of 50% of the assistance provided
- 7<sup>th</sup> Year – Repayment of 40% of the assistance provided
- 8<sup>th</sup> Year – Repayment of 30% of the assistance provided
- 9<sup>th</sup> Year – Repayment of 20% of the assistance provided
- 10<sup>th</sup> Year – Repayment of 10% of the assistance provided

In those projects where the “Direct HOME subsidy” is over \$40,000, the UCP will enforce a 15-year affordability with a prorating schedule spread over fifteen years.

- 1<sup>st</sup> Year – Repayment of the full amount of assistance provided
- 2<sup>nd</sup> Year – Repayment of 93.38% of the assistance provided
- 3<sup>rd</sup> Year – Repayment of 86.71% of the assistance provided
- 4<sup>th</sup> Year – Repayment of 80.04% of the assistance provided
- 5<sup>th</sup> Year – Repayment of 73.37% of the assistance provided
- 6<sup>th</sup> Year – Repayment of 66.70% of the assistance provided
- 7<sup>th</sup> Year – Repayment of 60.03% of the assistance provided
- 8<sup>th</sup> Year – Repayment of 53.36% of the assistance provided
- 9<sup>th</sup> Year – Repayment of 46.69% of the assistance provided
- 10<sup>th</sup> Year – Repayment of 40.02% of the assistance provided
- 11<sup>th</sup> Year – Repayment of 33.35% of the assistance provided
- 12<sup>th</sup> Year – Repayment of 26.68% of the assistance provided
- 13<sup>th</sup> Year – Repayment of 20.01% of the assistance provided
- 14<sup>th</sup> Year – Repayment of 13.34% of the assistance provided
- 15<sup>th</sup> Year – Repayment of 6.62% of the assistance provided

If net proceeds from the sale or foreclosure are not sufficient to repay the UCP, in accordance with the appropriate schedule above, the UCP will accept the amount of the net sales proceeds as the amount to be recaptured and thereby satisfy all programmatic requirements – as allowed by 24 CFR 92.254(a)(5)(ii)(A).

D. Housing Quality Standards. CBDO shall ensure that all Housing assisted with funds provided under this agreement shall meet the requirements of 24 CFR 92.251.

E. Affirmative Marketing. CBDO shall adopt and submit for UCP’s approval affirmative marketing procedures and requirements, not later than 30 days after the date this agreement is

executed. The affirmative marketing procedures and requirements shall include, but need not be limited to, those specified in 24 CFR 92.351. UCP will assess the efforts of the CBDO's during marketing of the units by use of compliance certification or personal monitoring visit to the project at least annually. Where a CBDO fails to follow the affirmative marketing requirements, corrective actions shall include extensive outreach efforts to appropriate contacts to achieve the occupancy goals or other sanctions the UCP may deem necessary. CBDO must provide UCP with an annual assessment of the affirmative marketing program of the development. The assessment must include:

1. Method used to inform the public and potential homebuyers about federal fair housing laws and affirmative marketing policy. CBDO's advertising vacant units must include the equal housing opportunity logo or statement. Advertising media may include newspaper, radio, television, brochures, leaflets, or may involve simply a sign in a window. CBDO may wish to use community organizations, places of worship, employment centers, fair housing groups, housing counseling agencies, social service centers or medical service centers as resources for this outreach.
  2. Records describing actions taken by the CBDO to affirmatively market units and records to assess the results of these actions. CBDO must maintain a file containing all marketing efforts (i.e. copies of newspaper ads, memos of phone calls, copies of letters) to be available for inspection at least annually by UCP.
  3. CBDO shall solicit applications for vacant units from persons in the housing market who are least likely to apply for the rehabilitated housing without benefit of special outreach efforts. In general, persons who are not of the race/ethnicity of the residents of the neighborhood in which the rehabilitated building is located shall be considered those least likely to apply.
  4. CBDO shall maintain a listing of all homebuyers residing in each unit through the end of the compliance period. Compliance period is as stated in 24 CFR 92.508(4) and (7)(c)(2), "records must be retained for five years after the project completion date, except for documents imposing recapture restrictions which must be retained for five years after the affordability period terminates."
- F. Reversion of Assets. Upon termination of this Agreement, all funds remaining on hand on the date of termination, and all accounts receivable attributes to the use of funds received under this agreement shall revert to UCP. CBDO shall return these assets to UCP within seven (7) business days after the date of termination.
- G. Enforcement of Agreement. CBDO shall provide UCP with a legally enforceable agreement to enforce the affordability requirements of Subsection B of this Section 23. CBDO shall record said agreement in the real property records of the county where the project is located and return the original document, duly certified as to recordation by the appropriate county official, to the UCP within two business days of closing.
- H. Flood Insurance. Funds provided under this agreement may not be used in connection with acquisition or rehabilitation of a development located in an area identified by the Federal Emergency Agency (FEMA) as having special flood hazards, unless the locality in which the site is located is participating in the National Flood Insurance Program.

- I. Displacement, Relocation, and Acquisition. CBDO must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, business and nonprofit organizations) as a result of a project assisted with funds provided under this agreement. CBDO must comply with the applicable provisions of 24 CFR 92.353.

## **SECTION 24. INSURANCE**

- A. Insurance. CBDO shall have in force throughout the term of this Agreement insurance coverage consistent with the requirement in Exhibit E. A certificate to that effect will be provided to the County of Hidalgo/UCP at least ten (10) days prior to start of construction.
- B. Notice to the UCP. CBDO shall require its insurance policies to provide that the HOME Manager of the UCP shall be given thirty (30) days advance notice by the insurer prior to cancellation, nonrenewal, or material change of the insurance policies required by this Section 24. The insurer shall be subject to approval by the UCP.
- C. Failure to maintain required insurance will be cause for the UCP to take control of the Housing UNITS and will cancel any claim that CBDO may have to the use of the Housing UNITS. CBDO shall provide UCP with certificates of insurance reflecting all coverage required in Exhibit E , and shall, upon request of UCP, promptly provide UCP with copies of the insurance policies.
- D. Right to Re-evaluate and Adjust Limits. The UCP shall retain the right to reevaluate the insurance requirements and adjust the coverage limits upon thirty (30) days written notice. Insurance coverage limits shall not be adjusted more than once a year.

## **SECTION 25. ORAL AND WRITTEN AGREEMENTS**

- A. All oral and written agreements between the parties to this agreement relating to the subject matter of this agreement that were made prior to the execution of this agreement have been reduced to writing and are contained in this agreement.
- B. The attachments enumerated and denominated below are hereby made a part of this agreement, and constitute promised performances by CBDO in accordance with Section 4 of this agreement;
  1. Exhibit A, Performance Statement
  2. Exhibit B, Budget and Project Implementation Schedule
  3. Exhibit C, Applicable Laws and Regulations
  4. Exhibit D, Certifications
  5. Exhibit E, Insurance Requirements
  6. Exhibit F, Affidavit of Standards for Financial Management Systems
  7. Exhibit G, Code of Conduct
  8. Exhibit H, Conflict of Interest
  9. Exhibit I, Excluded Parties List Systems (EPLS) Verification

## SECTION 26. JURISDICTION AND VENUE

The laws of the State of Texas shall apply to any dispute arising under this Agreement. For purposes of litigation pursuant to this agreement, venue shall lie in the County of Hidalgo, Texas where this Agreement was entered into and shall be performed.

## SECTION 27. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

CBDO shall comply with all federal, state and local laws, statutes, ordinances, rules, regulations, orders and decrees of any court or administrative body or tribunal related to the activities and performances of CBDO under this agreement. Upon request by UCP, CBDO shall furnish satisfactory proof of its compliance herewith.

## SECTION 28. MARKET VOLATILITY AND UNIT PRICE ADJUSTMENTS

Hidalgo County recognizes that during periods of national crisis and unstable economic conditions, unforeseen price increases might affect costs for goods and services contracted on an annual basis. The following procedure may be employed to mediate price volatility:

- A. **Requesting Price Adjustment:** Upon written request of the CBDO to the County Purchasing Agent, the County may review evidence of prevailing industry-wide market conditions that warrant an adjustment in bid prices contained in the contract.
- A CBDO must tie any price change clause to an industry-wide or otherwise nationally recognized index, or some other form of verifiable document. Such written request must be accompanied by a certified copy of the supplier's advisory or notification to the CBDO of the price changes.
  - The CBDO must put the Purchasing Agent on the mailing lists for such publications so that the Purchasing Agent can monitor said changes. Such membership shall be at no cost to the County.
  - The County Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interest of the County.
  - No price escalation will be authorized in excess of the amount of the increase referred to in the supplier's notice.
  - The County may only grant a price increase if the evidence presented is deemed reliable. Should the County allow a price increase, the approved price change shall be honored for all orders received by the CBDO or contractor after the effective date of such price change. Approved price changes are not applicable to orders already issued and in process at time of price change.
- B. **Price Reduction:** CBDO shall notify the County at the time when the CBDO's costs for items and/or supplies reduce due to stabilization in the market at which time prices for items on this contract shall be reduced accordingly. Failure by the CBDO to notify the County of a decrease in costs for items and/or supplies for which the CBDO was granted a price adjustment, may result in immediate termination of this contract and the County shall not be obligated to pay the CBDO the difference between the contract price and the price adjustment.

- C. **Timeframe for Adjusted Price Increases:** Price increases are only valid for the quarter in which they are requested and approved. Prices shall return to the original contract price at the beginning of the following quarter unless a CBDO notifies the County in writing within ten (10) days of expiration of the quarter in which the price increase is in effect, that it desires to have the price increase continue or that the CBDO is requesting a different price increase for the following quarter. Such request must be supplemented with sufficient justification to demonstrate that the price increase remains necessary. The County Purchasing Department shall have sole discretion whether to grant the price increase extension. The County too, shall have discretion to unilaterally reduce, eliminate or extend a price adjustment to the CBDO at any time upon written notice from the County to the CBDO demonstrating justification for such reduction, elimination or extension of the price adjustment.
- D. **Allowable Review Periods:** Price adjustment reviews may only be requested by the CBDO on a quarterly basis. However, the County may at its own discretion, conduct temporary price adjustment reviews at any time. The County Purchasing Agent and/or the County Auditor reserve the right to audit and/or examine any pertinent books, documents, papers, records or invoices relating directly to the contract transaction in question after reasonable notice and during normal business hours.
- E. **Dollar Limit to Price Changes:** The total increase in contract price shall not exceed twenty-five percent (25%) of the original contract price during the contract term.

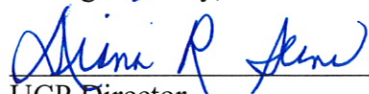
## SECTION 29. REMEDIES

It is expressly understood and agreed by the parties hereto that any right or remedy provided for in this Section 28 or in any other provision of this agreement shall not preclude the exercise of any other right or remedy under this agreement or under any provision of law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy hereunder shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.


Executed this 27<sup>th</sup> day of March 2009

ATTEST:

Hidalgo County, Urban County Program

  
\_\_\_\_\_  
UCP Director

Proyecto Azteca

  
\_\_\_\_\_  
CBDO Director

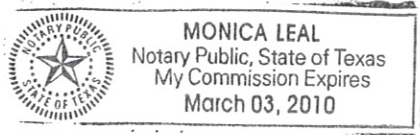
**ACKNOWLEDGEMENT**

STATE OF TEXAS §  
§  
COUNTY OF HIDALGO §

**KNOW ALL BY THESE PRESENTS:**

This instrument was acknowledged before me on March 27, 2009 by Ann Williams Cass as Director of Proyecto Azteca, a Texas nonprofit corporation, on behalf of said corporation.

(seal)



*Monica Leal*  
\_\_\_\_\_  
NOTARY PUBLIC, State of Texas  
NAME: Monica Leal  
My Commission Expires: March 3, 2010

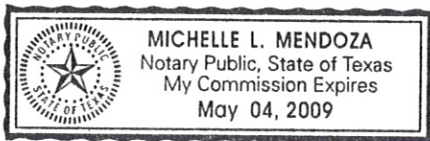
**ACKNOWLEDGEMENT**

STATE OF TEXAS §  
§  
COUNTY OF HIDALGO §

**KNOW ALL BY THESE PRESENTS:**

This instrument was acknowledged before me on March 27, 2009 by Diana R. Serna as Director of the Hidalgo County Urban County Program .

(seal)



*Michelle L. Mendoza*  
\_\_\_\_\_  
NOTARY PUBLIC, State of Texas  
NAME: Michelle L. Mendoza  
My Commission Expires: May 4, 2009

## EXHIBIT A

### PERFORMANCE STATEMENT

Providing homeownership opportunities for twelve to fifteen (12-15) qualified families with a total yearly income at or below 50% of the AMI

- B. CBDO shall undertake the following activities dependant upon individual property needs:
  - 10. Purchase and Rehabilitation of Abandoned or Foreclosed homes and residential properties
  - 11. Demolition of Blighted Structures
  - 12. Redevelopment of Demolished or Vacant Properties
  - 13. Establish Financing Mechanisms for the purchase and redevelopment of foreclosed homes and residential properties
- C. CBDO shall perform annual principal residency verifications on all properties that are within their affordability periods.
- G. CBDO shall provide a minimum of eight (8) hours of pre-purchase counseling for qualified homebuyers.
- H. CBDO shall comply with federal regulations as listed with the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C.§276A-5), and contracts involving the employees of any subcontractors shall be subject to the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C.§327-333).
- I. CBDO shall comply with the definition of the new income group noted under §2301(f)(3)(A)(i) and (ii) of the Housing and Economic Recovery Act as “low-, moderate- and middle-income” (LMMI) not to exceed 50% of the area median income (AMI) and the CDBG definitions of “low-income” and “moderate-income” (24 CFR 570.3). In addition,
- G. The project shall be administered in accordance with Exhibit A, Title III – Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes in the “Housing and Economic Recovery Act of 2008” (HERA), federal regulations contained in 24 CFR Part 570 and the NSP/CBDO Proposal.

## EXHIBIT B

### BUDGET

UCP agrees to grant CBDO \$731,100 utilizing Neighborhood Stabilization Program (NSP) funds, subject to the conditions of this agreement.

<b>Activity</b>	<b>Budget Amount</b>
New Construction	\$501,089
Developer's Fee	\$ 55,676
Down Payment/Closing Cost Asst./Lot Acquisition	\$150,000
Demolition	\$ 10,000
Administration Costs	\$ 14,335
	<hr/>
<b>SUB-TOTAL</b>	<b>\$716,765</b>
Administration - 2%	\$ 14,335
<b>TOTAL BUDGET</b>	<b>\$731,100</b>

## EXHIBIT C

### OTHER FEDERAL REQUIREMENTS

1. Compliance with Federal Laws and Regulations. CBDO agrees to comply with all federal laws and regulations applicable to HOME and to the services and work covered under this Agreement.
2. Applicable Federal Civil Rights Laws and Executive Orders. The work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from HUD. In providing the services and work set forth in this Agreement, CBDO will carry out its work in a manner which will permit full compliance by UCP with the following, and CBDO shall strictly adhere to the following:
  - a. Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall be excluded on the basis of race, color or national origin, from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
  - b. Section 109 of the Housing and Community Development Acts of 1974 and 1977, as amended, which provide that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available pursuant to said Acts.
  - c. Title VIII of the Civil Rights Act of 1968, which mandates affirmative action toward furthering fair housing (in sale or rental of housing, financing of housing and provision of brokerage services) throughout the United States;
  - d. Executive Order 11063, which provides for equal opportunity in housing and related facilities provided by federal financial assistance;
  - e. Executive Order 11246, which provides that there shall be no discrimination in employment under federally assisted construction.
  - f. Section 3 of the Housing and Urban Development Act of 1968, which provides for training, employment, and contracting Opportunities for business and lower income persons assurance of compliance.
    - (1) The work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given low-income residents of the project area and contracts 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 area of the project.

- (2) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department of Housing and Community Development issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
  - (3) CBDO will send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advertising to the said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
  - (4) CBDO will include these Section 3 clauses in every contract and subcontract for work in connection with the project and will, at the direction of the State, take appropriate action pursuant to the contract upon a finding that any CBDO or subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135, and will not let any contract unless CBDO or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
  - (5) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Rehabilitation Contract shall be a condition of the federal financial assistance provided to the project, binding upon CBDO, its successors, and assigns. Failure to fulfill these requirements shall subject CBDO, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135 which provides that, to the greatest extent feasible, opportunities for training and employment shall be given to lower-income residents of HUD-assisted project areas, and that contracts for work in connection with such projects be awarded to business concerns which are located in, or are owned in substantial part by, persons residing in the area of the Program.
- g. Section 504 of the Rehabilitation Act of 1973 (prohibits discrimination based on physical handicap) (Pub.L. 93-112), as amended, and implementing regulations when published for effect.

The Age Discrimination Act of 1975, as amended (Pub.L. 94-135), and implementing regulations when published for effect.

- i. The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the implementing regulations at 24 CFR Part 42.

j. The requirements relating to minority and women's business enterprises set forth in Executive Order No. 11625 of October 13, 1971, 36 Fed. Reg. 1967, as amended by Executive Order No. 12007 of August 22, 1977, 42 Fed. Reg. 42839; and Executive Order No. 12432 of July 14, 1983, 48 Fed. Reg. 32551; and Executive Order No. 12138 of May 18, 1979, 44 Fed. Reg. 23637.

k. The Uniform Federal Accessibility Standards set forth in 24 CFR, Part 40, Appendix A.

The provisions of 24 CFR, Part 24, relating to the employment, engagement of services, awarding of contracts, or funding of any CBDOs or subcontractors during any period of debarment, suspension or placement in ineligibility status.

m. The provisions of 24 CFR, Part 570, relating to compliance with applicable uniform administrative requirements in acceptance and use of funds, as described in Section 570.502 (this document is available at the UCP office).

The provisions of 24 CFR, Part 570, relating to compliance with: 1) OMB Circular A-110 which sets standards for uniform administrative requirements for grants to non-profit organizations; and 2) OMB Circular A-122, which provides a set of cost principles for determining costs of grants and other agreements with non-profit organizations.

3. Nondiscrimination Under Title VI of the Civil Rights Act of 1964. CBDO under this Agreement shall be subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and HUD regulations with respect thereto including the regulations under 24 CFR, Part 1. In the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, CBDO shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer prohibiting discrimination upon the basis of race, color, religion, sex or national origin, in the sale, lease or rental, or in the use of occupancy of such land or any improvements erected or to be erected thereon, and providing that CBDO and the United States are beneficiaries of and entitled to enforce such covenant. CBDO, in providing the services and work it is to provide pursuant to this Agreement, agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.

4. Equal Employment Opportunity. In providing the work and services herein specified, CBDO shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. CBDO shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CBDO shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or the UCP setting forth the provisions of this nondiscrimination clause. CBDO shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

CBDO shall incorporate the foregoing requirements of this Paragraph 4 in all of its contracts for program work, and will require all of its subcontractors for such work to incorporate such requirements in all subcontracts for program work.

CBDO shall also maintain records containing:

- a. Data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME or other Federal funds. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No CBDO is required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.
  - b. Documentation of actions undertaken to meet the requirements of 8 570.607(b) which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701U) relative to the hiring and training of low- and moderate-income persons and the use of local businesses.
  - c. Data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of \$25,000 or more paid, or to be paid, with HOME or other Federal funds, data indicating which of those entities are women's business enterprises as defined in Executive Order 12138, the amount of the contract or subcontract, and documentation of recipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. Such affirmative steps may include, but are not limited to, technical assistance open to all businesses but designed to enhance opportunities for these enterprises and special outreach efforts to inform them of contract opportunities. Such steps shall not include preferring any business in the award of any contract or subcontract solely or in part on the basis of race or gender.
5. Lead-Based Paint Hazards. Assistance provided under this Agreement is subject to the HUD Lead-Based Paint regulations at 24 CFR Part 35, hereby incorporated and made a part of this Agreement by reference. Any funding commitments made by UCP or CBDO shall be made subject to the provisions for the elimination of lead-based paint hazards under subpart B of said regulations.
  6. Flood Disaster Protection. Notwithstanding any other provision of this Agreement, CBDO shall comply with the Flood Disaster Protection Act of 1973, as amended (P.L. 93-234), and the standards issued thereto. No portion of the monies to be paid to CBDO pursuant to this Agreement shall be used for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in an area not in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any of said monies for such acquisition or construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act.

Any contract or Agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement shall contain, if such land is located in an area identified by the Secretary of 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., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of the Flood Disaster Protection Act of 1973, as amended. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Agreement.

7. Interest of Certain Federal Officials. No member of or delegate to the Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit arising from same.
8. Conflict of Interest. No officer, employee, or agent of CBDO who exercises any functions or responsibilities with respect to the HOME Program or to the services and work to be performed by CBDO pursuant to this Agreement, during such officer's employee's, or agent's tenure or for one (1) year thereafter, shall have any personal or financial interest or benefit, direct or indirect, in this Agreement or the proceeds thereof. CBDO shall incorporate or cause to be incorporated in every contract required to be in writing a provision prohibiting such interest pursuant to the purposes of this Section.
9. Prohibition Against Payments of Bonuses or Commissions. The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purposes of obtaining HUD approval of the application for such assistance, or HUD approval of applications for additional assistance, or any other approval or concurrence of HUD required under this Agreement, Title I of the Housing and Community Development Acts of 1974 or 1977, or HUD regulations with respect thereto; provided, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.
10. Copyrights. If this Agreement results in a book or other copyrightable material, the author is free to copyright the work, but HUD reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted.
11. Patents. Any discovery or invention arising out of or developed in the course of work aided by this Agreement shall be promptly and fully reported to UCP and HUD for determination by HUD as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery, including the rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.
12. Political Activity.
  - a. Political Reform Act. CBDO shall comply with the applicable provisions of the Political Reform Act of 1974, as amended, relating to conflicts of interest (codified at

Texas Government Code Section 87000, et seq.). CBDO will promptly advise UCP of the facts and circumstances concerning any disclosure made to it or any information obtained by it relating to conflicts of interest.

- b. Partisan Activity Prohibited. No funds provided in this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public office; nor shall they be used to provide services, or for the employment or assignment of personnel in a manner supporting or resulting in the identification of programs conducted pursuant to this Agreement with the following: (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or (3) any voter registration activity.

Participants employed in the administration of UCP's programs funded by HOME or other Federal funding, and participants whose principle employment is in connection with an activity financed by HOME or other Federal funding or resultant proceeds are subject to limitation on political activities under the Hatch Act (U.S.C. 1502(a), 18 U.S.C. 595). All participants may take part in nonpartisan activities outside working hours.

- c. Lobbying Prohibited. None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress.

### 13. Guidelines on Church-Related Activities.

- a. Construction or Rehabilitation of Facilities. HOME or other Federal funding recipients shall not use any funds to construct, rehabilitate, maintain, or restore religious structures (including those which may be historic properties) currently used for religious purposes. Block Grant funds shall not be used to construct, rehabilitate, maintain, or restore structures or other real property owned by "pervasively sectarian" organizations. Block Grant funds shall not be used to assist a religious organization in acquiring property. These prohibitions apply whether or not the property is used for religious services or instruction or is used in any other way for religious activities.

### 14. Property Standards

In accordance with 24 CFR 92.251, housing that is newly constructed with HOME funds must meet all applicable local codes, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the, Model Energy Code published by the Council of American Building Officials. The CBDO must assure that unit design specifications and necessary inspections of each unit is conducted to meet compliance requirements. File documentation must demonstrate compliance.

15. Environmental Requirements

Notwithstanding any provisions of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the Participating Jurisdiction of a release of funds from the U.S. Department of Housing and Urban Development under 24CFR Part 58. The parties further agree that the provision of any funds to the project is conditioned on the Participating Jurisdiction's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.

END CONDITIONS OF FEDERAL FUNDING

## EXHIBIT D

### Certification Regarding Lobbying for Agreements, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of its knowledge and belief, that:

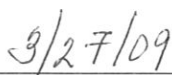
1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or any employee of a member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal agreement, grant, loan, or cooperative agreement.
2. 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 this federal agreement, grant loan, or cooperative agreement, the undersigned shall complete and submit standard form –LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subagreements, subgrants, and agreement under grants, loans and cooperative agreements) and that CBDOs certify and disclose accordingly.

This certification is material representation of fact which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 132. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Proyecto Azteca

Signed:

  
\_\_\_\_\_  
Director

  
\_\_\_\_\_  
Date

# EXHIBIT E

## INSURANCE REQUIREMENTS

1. CBDO Insurance. CBDO, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain at minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects UCP and any insurance or self-insurance maintained by UCP shall be excess of CBDO's insurance coverage and shall not contribute to it.
2. Subcontractor(s) Insurance. If CBDO utilizes one or more subcontractors in the performance of this Agreement, CBDO shall obtain and maintain independent insurance as to each subcontractor or otherwise provide evidence of insurance coverage for each subcontractor equivalent to that required of CBDO in this Agreement.
3. Types of Insurance and Minimum Limits. The following types of insurance and minimum limits are required for at least the following minimum coverage and limits of liability.
  - a. Worker's Compensation written in accordance with the laws of the State of Texas and providing coverage for any and all employees of CBDO in the minimum statutorily required coverage amounts.
  - b. Automobile Liability Insurance for each of CBDO's vehicles used in the performance of this Agreement, including owned, non-owned (e.g. owned by CBDOs employees or contractors), leased or hired vehicles, in the minimum amount of \$300,000 combined single limit per occurrence for bodily injury and property damage. This insurance coverage shall not be required if vehicle used by CBDO is not a material part of performance of this Agreement and CBDO and UCP both certify to this fact.
  - c. Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of \$300,000 combined single limit, including coverage for:
    - (1) Bodily injury.
    - (2) Personal injury.
    - (3) Broad form property damage.
    - (4) Contractual liability.
    - (5) Cross-liability.
4. Other Insurance Provisions.
  - a. If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, CBDO agrees to maintain the required coverage for duration of this Agreement (hereinafter "post agreement coverage") and any extensions thereof. CBDO may maintain the required post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post agreement coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Agreement. For purposes of

interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Agreement in order to purchase prior acts or tail coverage for post agreement coverage shall be deemed to be reasonable.

5. Endorsements.

- a. All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clause, with the exception that Endorsement (ii), providing for 30-day notices, is the only endorsement required to be made a part of the Worker's Compensation and Employers' Liability policy coverage.
  - (1) "The County of Hidalgo, its employees, officers, agents and volunteers are hereby added as additional insurers, but only as respects work done by, for, or on behalf of the named insured under Agreement with the County of Hidalgo."
  - (2) "Thirty (30) days prior written notice shall be given to the County of Hidalgo in the event of cancellation, reduction in coverage, or non-renewal of this policy for whatever reason."

6. Proof of Coverage.

- a. CBDO agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide UCP on or before the effective date of this Agreement with Certificate of Insurance for all required coverages. Copies of all the required Endorsements required above shall be attached to the Certificate(s) of Insurance or other evidence of insurance acceptable to the County of Hidalgo, which shall be provided by CBDO's insurance company as evidence of the stipulated coverages. This Proof of Coverage shall then be mailed to the County of Hidalgo at the following address:

HOME Coordinator  
County of Hidalgo  
Urban County Program  
1916 Tesoro Blvd.  
Pharr, TX 78577

END INSURANCE REQUIREMENTS

# EXHIBIT F

## Hidalgo County Urban County Program Community-Based Development Organization (CBDO) Certification



### Affidavit of Standards for Financial Management Systems

Date: March 27, 2009

Affiant: Ann Williams Cass

Recipient: Proyecto Azteca

Affiant on oath swears that the following statements are true and are within the personal knowledge of Affiant:

1. Affiant is the Director, President AND/OR Chief Financial Officer of the Recipient and is authorized to make this affidavit on behalf of Recipient.
2. Recipients' financial management systems conform to the financial accountability standards set forth in 24 CFR 84.21, by providing for and incorporating the following:
  - a. Accurate, current and complete disclosure of the financial results of each federally-sponsored project;
  - b. Records, which identify the source and application of funds for federally-sponsored activities. These records contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest;
  - c. Control over and accountability for all funds, property and other assets; adequate safeguards of all such assets shall be adopted to assure that all assets are used solely for authorized purposes;
  - d. Comparison of outlays with budget amounts for each award;
  - e. Written procedures to minimized the time elapsing between the receipt of funds and the issuance of redemption of checks for program purposes by the recipient;
  - f. Written procedures for determining the reasonableness, allocability, and allowability of costs in accordance with the provisions of Federal cost principles [Circular A-122] and the terms and conditions of the award;
  - g. Accounting records, including cost-accounting records, that are supported by source documentation.

Affiant signature: Ann Williams Cass

Title: EXECUTIVE DIRECTOR

Subscribed and sworn before me on the 27<sup>th</sup> day of March, 2009

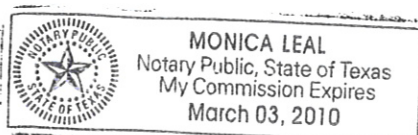
by Ann Williams Cass on behalf of Proyecto Azteca.

Monica Leal

Notary Signature

My commission expires: march 3, 2010

Seal:



## EXHIBIT G

# CODE OF CONDUCT

No employee, officer or agent of the *County of Hidalgo-Urban County Program, subgrantee or subrecipient* shall participate in selection or in the award or administration of a contract or conduct business with a vendor if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

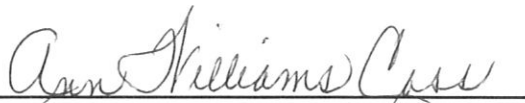
- A. *the employee, officer or any agent*
- B. *any member of his immediate family*
- C. *his or her partner*
- D. *an organization which employs or is about to employ, any of the above,*

*has a financial or other interest in the firm selected for award.*

The *Urban County Program's, subgrantee's or subrecipient's, officers, employees or agents* shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements, or vendors or potential vendors. Depending on gravity, violation of this Code of Conduct could result in dismissal, probation or suspension of officers, employees or agents involved or termination of contractual agreements with subrecipients.

*Non-disclosure Policy* - No disclosure of verbal or written price quotations shall be made by any *Urban County Program* employee, subgrantee or subrecipient except where required by the Texas Public Information Act.. Violation of the nondisclosure policy shall be subject to disciplinary action as provided by the *County of Hidalgo* or termination of contractual agreements when a subrecipient/subgrantee employee is involved.

*Personal Interest* - No member of the *Hidalgo County Commissioners or any officer or employee of the Urban County Program, subgrantee or subrecipient* shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract or in the sale to the *Urban County Program, subgrantee or subrecipient* or to a contractor supplying the *Urban County Program, subgrantee or subrecipient* of any land or rights or interest in any land, material, supplies, or services, or in any matter in which he acts for the *Urban County Program*. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the *Urban County Program, subgrantee or subrecipient* found guilty shall thereby forfeit his or her office. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the *Urban County Program, subgrantee or subrecipient* shall render the contract voidable by the *Urban County Director or the board of Commissioners*.



Employee, Officer, Agent

Acknowledgment

Date: 3/27/09

## **EXHIBIT H**

### **Conflict of Interest (attachment)**

# CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

**OFFICE USE ONLY**

Date Received

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

1 Name of person who has a business relationship with local governmental entity.

ANN WILLIAMS CASS

2  Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has employment or business relationship.

N.A.  
Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

Yes  No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes  No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes  No

D. Describe each employment or business relationship with the local government officer named in this section.

4 Ann Williams Cass  
Signature of person doing business with the governmental entity

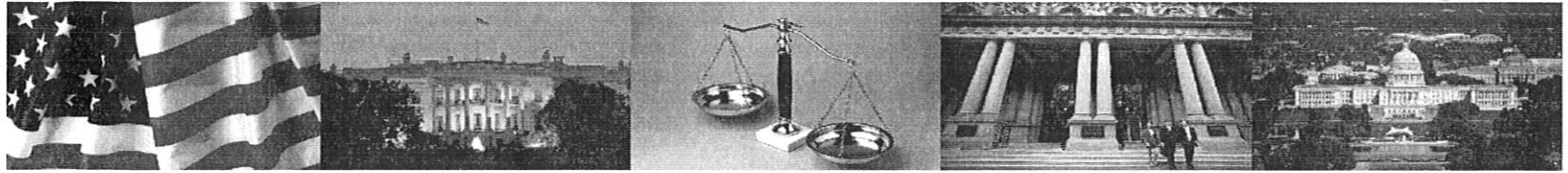
3/27/09  
Date

## **EXHIBIT I**

### **Excluded Parties List System Verification (EPLS) (attachment)**

# EPLS

## Excluded Parties List System



**Search - Current Exclusions**

- > Advanced Search
- > Multiple Names
- > Exact Name and SSN/TIN
- > MyEPLS
- > Recent Updates

**View Cause and Treatment Code Descriptions**

- > Reciprocal Codes
- > Procurement Codes
- > Nonprocurement Codes

**Agency & Acronym Information**

- > Agency Contacts
- > Agency Descriptions
- > State/Country Code Descriptions

**OFFICIAL GOVERNMENT USE ONLY**

- > Debar Maintenance
- > Administration
- > Upload Login

**EPLS Archive Search Results**

### Archive Search Results for Parties Excluded by

Partial Name : Proyecto or Azteca  
 State : TEXAS  
 Country : UNITED STATES  
 As of 26-Mar-2009 5:25 PM EDT  
 Save to MyEPLS

Your search returned no results.

[Back](#) [New Search](#) [Printer-Friendly](#)

**Resources**

- > Search Help
- > Public User's Manual
- > FAQ
- > Acronyms
- > Privacy Act Provisions
- > News

**Reports**

- 
- > Advanced Reports
  - > Recent Updates
  - > Dashboard

**Archive Search - Past Exclusions**

- 
- > Advanced Archive Search
  - > Multiple Names
  - > Recent Updates

**Contact Information**

- > Email: [support@epls.gov](mailto:support@epls.gov)  
[eplscomments@epls.gov](mailto:eplscomments@epls.gov)
- > Phone: 1-866-GSA-EPLS  
 1-866-472-3757