

CHDO AGREEMENT

STATE OF TEXAS §
§
COUNTY OF HIDALGO §

KNOW ALL BY THESE PRESENTS:

PARTIES TO AGREEMENT

This agreement is made and entered into by and between the County of Hidalgo – Urban County Program (UCP) and Proyecto Azteca Inc., a nonprofit corporation organized under the laws of the State of Texas, hereinafter referred to as a Community Housing Development Organization, (CHDO). This agreement shall commence on this 10th day of February, 2012 and shall terminate on February 9, 2019, unless otherwise specifically provided by the terms of this agreement. UCP agrees to grant CHDO \$450,000 utilizing FY 2011 HOME funds, subject to the conditions of this agreement. 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.

WITNESSETH:

WHEREAS, UCP has entered into an Agreement to receive funds under the HOME Investment Partnerships Program (hereinafter called the “HOME” Program) from the US Department of Housing and Urban Development (hereinafter called “HUD”); and

WHEREAS, UCP has set aside a portion of its HOME Program’s funds for community housing development organizations in accordance with the National Affordable Housing Act of 1990, as amended, (hereinafter called the “Act”); and

WHEREAS, UCP has designated the above named organization as a community housing development organizations or CHDO pursuant to HUD rule 24 CFR Part 92 which sets forth regulations to implement the HOME Program; and

WHEREAS, UCP desires to engage the CHDO to render certain assistance as a developer of housing in conformance with 24 CFR Part 92.300;

NOW, THEREFORE, the parties hereto do hereby agree as follows:

SECTION I

PROJECT DESCRIPTION AND BUDGET

A. CHDO PERFORMANCE

1. CHDO shall construct six (6) 2-4 bedroom single-family housing units of affordable housing to moderate/low-income qualified first time homebuyers. Homes will range between 1,171 and 1,535 square feet.

Type of Home	Total Area (Sq. ft.)	Total Living Area (Sq. ft.)
2 bedroom 1 bath,	1,171 sq ft	936 sq ft
3 bedroom 1 bath,	1,379 sq ft	1,144 sq ft
4 bedroom 2 bath,	1,535 sq ft	1,300 sq ft

2. In this agreement low and moderate income families is defined in accord with Title 24 CFR 92.2 and calculated based on 24 CFR 92.203(b)(1), (“Housing”), such dwellings to be located in the County of Hidalgo (but not within the city limits of Edinburg, Pharr, McAllen and Mission), Texas.
3. CHDO will provide one (1) low-income (80%-61% area median income), qualified buyers with homebuyer education, down payment assistance, general construction services and long-term flexible financing.
4. CHDO will target four (4) families within 60%-40% of the median income.
5. CHDO will leverage \$105,500 in public and private financing for below-market mortgages.

B. BUDGET

	HOME Funds	Leverage Funds	Total Cost
Pre-Development	\$		\$
Acquisition	\$	57,500	\$ 57,500
Construction	\$ 268,250	27,500	\$ 295,750
Developer’s Fee (_____%)	\$ 31,750		\$ 31,750
Hard Costs	\$	20,500	\$ 20,500
Soft Costs	\$		

C. PROJECT SCHEDULE

<u>Activity</u>	<u>Date(s)</u>
Environmental Review	Start of Contract
Acquisition	Start of Contract
Securing/Packaging Project Financing	Start of Contract – May 2012
Securing Pre-qualified Prospective Buyers	March 2012 – May 2012
Homeownership Counseling	April – December 2012
Construction Specifications and Cost Estimates	Start of Contract
Anticipated Draws	February 2012 - End of Contract
Construction Start	February 2012
End Construction	December 2013
Sign Sales Contract	June 2013
Sale/Loan Closing	May 2012 – December 2013

D. UCP OBLIGATIONS

1. Measure of Liability

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

- a. It is expressly understood and agreed by the parties hereto that UCP's obligations under this Section I(D) are contingent upon the actual receipt of adequate federal funds to meet UCP's liabilities under this agreement and other agreements pursuant to the HOME Program. If adequate funds are not available to make all payments under this agreement and the other HOME Program agreements, UCP shall notify CHDO in writing within a reasonable time after such fact is determined, UCP may then terminate this agreement and will not be liable for failure to make payments to CHDO under this agreement.
- b. UCP shall not be liable to grant CHDO money for any costs incurred by CHDO, or any portion thereof, which have been paid to CHDO or is subject to payment to CHDO, or has been reimbursed to CHDO or is subject to reimbursement to CHDO by any source other than UCP.
- c. UCP shall not be liable to grant CHDO money for any costs incurred by CHDO which are not allowed costs, as set forth in 24 CFR 92.206 and Section I(B) of this agreement. Funds provided under this agreement may not be used for payment of prohibited activities as defined in 24 CFR 92.214.
- d. UCP shall not be liable to grant CHDO money for any costs incurred by CHDO or for any performances rendered by CHDO which are not strictly in accordance with the terms of this agreement.
- e. UCP shall not be liable to grant CHDO money for any costs incurred or performances rendered by CHDO before commencement of this agreement or after termination of this agreement.
- f. UCP shall not be liable to grant CHDO money for any costs incurred by CHDO for any costs incurred by CHDO for any housing unit(s) that exceeds the per-unit subsidy dollar limitation established under Section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)).

2. 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 \$300,000.

SECTION II

COMPLIANCE

The project shall be administered in accordance with, and CHDO shall comply with, the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 et seq. and implementing federal regulations contained in 24 CFR Part 92; UCP HOME Division Community Housing Development Organizations Policies Manual (as it may be amended by UCP, the "CHDO Policy Manual") and the FY 2011 CHDO Proposal. CHDO shall also perform all activities in accordance with the terms of Performance Statement (Section I.A), Budget (Section I.B), Project Schedule (Section I.C), Certifications ("Exhibit A"); and all other statements made by CHDO in its proposal for the project funded under this agreement; and with all other terms, provisions, and requirements set forth in this agreement.

A. AFFORDABILITY

The UCP will enforce the Recapture Policy as defined in Section IV.E of the CHDO Policy Manual in order to address the continued affordability of housing units acquired with HOME funds.

1. CHDO shall utilize the Homebuyer Contract, Second Lien Deed of Trust and a Real Estate Lien Note to address key recapture provisions such as affordability period, principal residency and transfer of title to property. All documents shall provide that the CHDO's rights transfer to UCP in the event the CHDO ceases operating as a CHDO under the HOME Program, merges with another entity (without the prior written consent of the UCP to continue this agreement with such merged entity), terminates, dissolves, liquidates or its existence as an entity is otherwise forfeited. CHDO shall cause the Deed of Trust to be promptly recorded in the real property records of the Hidalgo County Clerk and promptly return the original, recorded document to the UCP.
2. CHDO shall conduct principal residency verifications on HOME assisted units throughout the duration of the affordability period.
3. CHDO shall utilize the HOME-Assisted Unit Tracking Report as a tracking mechanism for principal residency.
4. CHDO shall ensure that all or a portion of HOME assistance is recouped should the unit cease to be the home owner's principal residence dependant upon the type of loan the home owner has received. The CHDO must require the home owner repay the entire HOME investment as follows:
 - a. If given a forgivable loan, the UCP will require that the entire HOME investment is returned.
 - b. If the loan is amortized, the home owner will be liable to return the total HOME investment minus any HOME principle payments paid to date.

All such funds shall be paid to the UCP.

5. CHDO shall ensure fulfillment of the “*Owner Investment Returned First*” recapture option by allowing the owner to recover their full investment (the home owner’s original downpayment plus principal payments the owner made on the loan) from net proceeds in the event that there is a voluntary or involuntary transfer of title.
6. CHDO understands that it is the CHDO’s obligation to ensure the UCP is paid the total amount of all funds that are to be recaptured.
7. CHDO shall have the “*right of first refusal*” to repurchase the property in case of voluntary or involuntary transfer of title.
8. CHDO shall not allow a loan payoff by the client before the affordability period is over and will only accept such transaction, which will be handled on a case by case basis, if there is an involuntary transfer of title.
9. CHDO shall clearly explain all affordability requirements as listed under this Section II.A (1-8) at loan closing and obtain an affidavit signed by the homebuyer as evidence of their understanding of and commitment to these obligations.
10. At UCP’s option, the UCP may take a lien on real property purchased by the CHDO for home ownership projects and/or liens on individual home buyer’s property to secure the UCP’s investment during the Affordability Period, which lien will be released following the end of the affordability period. CHDO shall not acquire any real property with funds obtained pursuant to this agreement or subsequently transfer any such property to a home buyer without confirming whether the UCP will place a lien on the real property and, if so, executing and recording the appropriate lien documentation.

B. CHDO PROCEEDS

The HOME Final Rule, 24 CFR 92.300(a)(2), allows UCP the option of permitting CHDOs to retain any “proceeds” resulting from the CHDO’s investment of its CHDO set-aside funds or requiring the CHDO to return these proceeds to the participating jurisdiction – which will be categorized as program income. CHDO Proceeds include, but are not limited to, the permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan; the sale of CHDO developed homeownership housing; the principal and interest payments from a loan to a buyer of CHDO developed homeownership housing. All CHDO proceeds shall be retained by the CHDO however must be re-invested by CHDO and applied towards housing activities for low and moderate income individuals and families including, but not limited to, acquisition, construction and rehabilitation of home ownership projects. The CHDO shall submit CHDO Proceeds reports as described within Sections IV.D.2 & IV.E.1.b.

C. RETENTION AND ACCESSIBILITY OF RECORDS

1. CHDO shall maintain records of the receipt, accrual, and disposition of all CHDO Proceeds as required for all funds under this agreement.
2. CHDO must establish and maintain those records listed under 24 CFR 92.508 and other records as may be determined by UCP.
3. CHDO 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 CHDO pertaining to this agreement. Such right to access shall continue as long as the records are retained by CHDO. CHDO agrees to maintain such records in an accessible location.

4. All records pertinent to this agreement shall be retained by CHDO for five years following affordability period or of submission of the final closeout reports, whichever is later, with the following exceptions:
 - a. 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.
 - b. 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.
 - c. 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.
5. CHDO 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.
6. CHDO shall include the substance of this Section II.C.2-5 in all subcontracts.

D. MONITORING

The UCP reserves the right to carry out field inspections to ensure compliance with the requirements of this agreement. CHDO shall attend a preconstruction meeting prior to first construction draw. After each monitoring visit, UCP shall provide CHDO with a written report of the monitor's finding. If the monitoring reports note deficiencies in CHDO's performances under the terms of this agreement, the monitoring report shall include requirements for the timely correction of such deficiencies by CHDO. Failure by CHDO to take action specified in the monitoring report may be cause for suspension or termination of this agreement, as provided in Section II.G & II.H of this agreement.

E. AUDIT

1. Unless otherwise directed by UCP, CHDO 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:
 - a. CHDO 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 CHDO Policy for any of its fiscal years included within the period of this agreement in which CHDO 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.

- b. At the option of CHDO, each audit required by this section may cover either CHDO's entire operations or each department, agency, or establishment of CHDO which received, expended or otherwise administered federal funds.
 - c. CHDO may utilize funds budgeted under this agreement 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 CHDO.
 - d. Unless otherwise specifically authorized by UCP in writing, CHDO 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 during this agreement period are subject to review and resolution by UCP or its authorized representative.
 - e. As part of its audit, CHDO shall verify expenditures according to Section I.B.
2. UCP reserves the right to conduct an annual financial and compliance audit of funds received and performances rendered under this agreement. CHDO agrees to permit UCP or its authorized representative to audit CHDO's records and to obtain any documents, materials, or information necessary to facilitate such audit. CHDO shall provide an annual audit to UCP of funds received in performance of this Agreement.
 3. CHDO 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. CHDO further understands and agrees that reimbursement to UCP of such disallowed costs shall be paid by CHDO from funds which were not provided or otherwise made available to CHDO under this agreement.
 4. CHDO shall take necessary action to facilitate the performance of such audit or audits conducted pursuant to this Section II.E as UCP may require of CHDO.
 5. All approved HOME audit reports shall be made available for public inspection within 30 days after completion of the audit.

F. CHANGES AND AMENDMENTS

1. Except as specifically provided otherwise in this agreement, any alterations, additions, or deletions to the terms of this agreement shall be requested by CHDO in writing and approved by the UCP Director. The amendment hereto shall be in writing and executed by both parties to this agreement.
2. It is understood and agreed by the parties here to that performances under this agreement must be rendered in accordance with the HOME investment Partnerships Act of 1990, 42 U.S.C. §§12701 et. Seq., the regulations promulgated under such Act, the assurances and certifications made to UCP by CHDO, 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 CHDO, 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 I.D of this agreement to reimburse costs incurred by CHDO prior to the effective date of said amendments or policy directives.

3. 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 CHDO 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.

G. SUSPENSION

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

H. TERMINATION

The UCP may terminate this Agreement, in whole or in part, in accordance with 24 CFR 85.43 and this Section II.H. UCP may terminate this agreement for convenience in accordance with 24 CFR 85.44. In the event CHDO 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 CHDO or take more severe enforcement action against CHDO.
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 CHDO program.
4. Withhold further HOME award from CHDO.
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.

I. REVERSION OF ASSETS

When applicable, upon termination of this Agreement, all funds remaining on hand on the date of termination, and all accounts receivable attributable to the use of funds received under this agreement shall revert to UCP. CHDO shall return these assets to UCP within seven (7) business days after the date of termination.

J. INSURANCE

1. CHDO shall have in force throughout the term of this Agreement insurance coverage consistent with the requirement in Exhibit B. A certificate to that effect will be provided to the County of Hidalgo/UCP at least ten (10) days prior to start of construction.
2. Notice to the UCP. CHDO 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 II.J. The insurer shall be subject to approval by the UCP.
3. Failure to maintain required insurance will be cause for the UCP to take control of the Housing units and will cancel any claim that CHDO may have to the use of the Housing units. CHDO shall provide UCP with certificates of insurance reflecting all coverages required in Exhibit B, and shall, upon request of UCP, promptly provide UCP with copies of the insurance policies.
4. 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 be adjusted no more frequently than once a year.

K. SPONSORSHIP

CHDO agrees to acknowledge the sponsorship of the UCP at any event promoting the project or any other project sponsor. As such, CHDO shall give credit to the UCP as the project-funding source in all presentations, written documents, publicity and advertisements regarding the development.

L. SECTARIAN ACTIVITY

Religious Organizations. In accordance with 24 CFR 92.257, organizations religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOME program. Organizations that are directly funded under the HOME program may not engage in inherently religious activities, such as worship, religious instruction, or proselytizing, as part of the assistance funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the assistance funded under this part, and participation must be voluntary for the beneficiaries of the assistance provided. A religious organization that participates in the HOME program will retain its independence from Federal, State and local governments, and may continue to carry out its missions including the definition, practice, and expression of religious beliefs, provided that it does not use direct HOME funds to support any inherently religious activities, such as worship, religious instruction or proselytizing. An organization that participates in the HOME program assistance program shall not, in providing program

assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. HOME funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those are used for inherently religious activities, HOME funds may not exceed the cost of those portions of the acquisition, construction or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to HOME funds in this part. Sanctuaries, chapels, or other rooms that a HOME-funded religious congregation uses as its principal place of worship, however, are ineligible for HOME-funded improvements.

M. OTHER FEDERAL REQUIREMENTS

CHDO agrees to comply with the following:

1. **Fair Housing.** CHDO must affirmatively further fair housing activities and pay particular attention to any sign of discrimination as it may pertain to the sale of properties funded under this agreement in compliance with 24 CFR Part 92.202, 92.250, Title VI of Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.), Fair Housing Act (42 U.S.C. 3601-3620)(implemented at 24 CFR Part 100), Executive Order 11063 (amended Executive Order 12259), Age Discrimination Act of 1975, as amended (42 U.S.C. 6101) and 24 CFR 5.105(a).
2. **Affirmative Marketing Affirmative Marketing.** CHDO 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 CHDO's during marketing of the units by use of compliance certification or personal monitoring visit to the project at least annually. Where a CHDO 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. CHDO must provide UCP with an annual assessment of the affirmative marketing program of the development. The assessment must include:
 - a. Method used to inform the public and potential homebuyers about federal fair housing laws and affirmative marketing policy. CHDO'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. CHDO 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.
 - b. Records describing actions taken by the CHDO to affirmatively market units and records to assess the results of these actions. CHDO 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.
 - c. CHDO 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 a 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."

3. **Accessibility for Persons with Disabilities.** The Uniform Federal Accessibility Standards set forth in 24 CFR, Part 40, Appendix A. 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.
4. **Equal Employment Opportunity.** Executive Order 11246, which provides that there shall be no discrimination in employment under federally assisted construction. In providing the work and services herein specified, CHDO shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. CHDO 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. CHDO 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. CHDO shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. CHDO 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.
5. **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.
 - a. 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.
 - b. 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 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.
 - c. CHDO 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.

- d. CHDO will include these Section 3 clauses in every contract and subcontract for work in connection with the project and will take appropriate action pursuant to the contract upon a finding that any CHDO 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 CHDO or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
 - e. 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 prior to the execution of the Construction Contract shall be a condition of the federal financial assistance provided to the project, binding upon CHDO, its successors, and assigns. Failure to fulfill these requirements shall subject CHDO, 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.
6. **Minority/Women Employment.** CHDO shall collect 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. This data should indicate 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 out-reach 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.

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.

7. **Davis Bacon and Related Acts.** CHDO shall ensure that any contract for construction of housing that includes 12 or more dwelling units will contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. §276A-5) to all laborers and mechanics employed in the development of any part of the housing 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.

8. **Conflict of Interest.** No officer, employee, or agent of CHDO who exercises any functions or responsibilities with respect to the HOME Program or to the services and work to be performed by CHDO 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. CHDO 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 II.M.8. Exceptions to the provision are allowed however must meet the requirements of 24 CFR Part 92.356(d).
9. **Debarred Contractors.** In accordance with the provisions of 24 CFR, Part 24, relating to the employment, engagement of services and awarding of contracts, CHDO 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 CHDO is debarred, suspended, proposed for debarment, or ineligible from participating in the HOME Program.
10. **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.
11. **Release of Funds.** UCP shall not release any funds for any costs incurred by CHDO under this agreement until UCP has received certification from CHDO that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement and accounting for funds provided under this agreement. CHDO 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 CHDO has staff experience and/or means to perform the environmental review, CHDO may request in writing, from UCP, approval to perform them.
12. **Flood Disaster Protection.** Notwithstanding any other provision of this Agreement, CHDO 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 CHDO 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.

13. **Site & Neighborhood 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 CHDO must assure that unit design specifications and necessary inspections of each unit are conducted to meet compliance requirements. File documentation must demonstrate compliance.
14. **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 CHDO shall be made subject to the provisions for the elimination of lead-based paint hazards under subpart B of said regulations.
15. **Relocation. Displacement, Relocation, and Acquisition.** CHDO 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. CHDO must comply with the applicable provisions of 24 CFR 92.353.

SECTION III

DISBURSEMENTS

A. REQUESTS FOR REIMBURSEMENT

UCP will provide funds under this agreement in accordance with the requirements of 24 CFR 92.502. CHDO may not request reimbursement of funds under this agreement until funds are needed for payment of eligible costs and in accordance with the 24 CFR 92.206-208 and UCP CHDO Policy Section III. It is expressly understood and agreed by the parties hereto that payments under this agreement are contingent upon CHDO'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 CHDO will be unable to expend funds within the prescribed time as determined by UCP. UCP shall not be liable to CHDO for any costs incurred or performance rendered by CHDO before commencement or after termination of this agreement.

1. **Request for Reimbursement Submittals.** The requests for reimbursement should include an invoice for expenses incurred along with the UCP Request for Reimbursement cover sheet. For the purpose of expedience and in order to ensure that requests for reimbursement are processed the week that they are delivered to the UCP, they should be submitted no later than 12 noon on Tuesday of that week. Anything received after the cut-off may be held for processing until the following week. Funds will be disbursed within thirty (30) days provided all required supporting documentation has been submitted.
2. **Inspections.** When a request is submitted indicating that a unit is at 50% and/or 100% complete, the UCP will perform an inspection on the unit in order to process the payment. The UCP will also accept a Certificate of Occupancy or inspection report from a certified inspector indicating the completion threshold.
3. **Developer's Fees.** When applicable, the UCP will allow for the payment of Developer's Fees in order to ensure completion of specific project milestones. This fee will be negotiated between the UCP and the CHDO dependant upon project reasonableness. Progress payments of developer's fees will not exceed the cumulative maximum percentages of total developer's fees listed below. The request for reimbursement must include appropriate documentation that justifies the payment for services rendered and will be paid according to the following schedule:

<u>Max. Cumulative Milestone</u>	<u>Documentation</u>	<u>Developer's Fee %</u>
Acquisition Closing	Settlement Statement	25%
50% Construction Complete	50% Passed - Inspection Report	50%
100% Construction Complete	100% Passed – Inspection Report/ Certificate of Occupancy	75%
Home Buyer Loan Closing	Settlement Statement and Final Property Development Budget	100%

4. **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.

SECTION IV

REPORTING REQUIREMENTS

CHDO 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 IV. In addition, CHDO shall provide UCP with all reports necessary compliance with 24 CFR 92.509 and 24 CFR Part 92, Subpart L and those reports listed in the UCP CHDO Policy Section VII. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if CHDO 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 CHDO hereunder. If UCP withholds such payments, it shall notify CHDO in writing of its decision. 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 CHDO.

A. PRELIMINARY DOCUMENTATION

Before the CHDO is able to begin construction of a unit, a Preliminary Project Summary must be submitted to the UCP for project level approval. These documents will include:

1. The Estimated Project Development Budget includes all anticipated costs and funding sources for the development of the project.
2. Along with the Estimated Project Development Budget, the CHDO shall submit all documentation utilized to determine home buyer eligibility as follows:
 - CHDO Board Approval of Home Buyer
 - Conflict of Interest Affidavit
 - Part 5 Income Calculation Sheet
 - Current Check Stubs (last three consecutive months) OR Verification of Employment
 - Self Employment Earnings Documentation (if applicable)
 - Unemployment Letter (if applicable)
 - Child Support Benefits Letter (if applicable)
 - Social Security and/or Disability Benefits Award Letter (if applicable)
 - Copy of Bank Statements – (Checking Account, last six consecutive months or Savings account, most recent month) OR Verification of Assets on Deposit (if applicable)
 - Recorded Divorce Decree (if applicable)
 - Identification Card (DL/SSN/BC)
 - Purchase Order Request Letter
 - Commitment Letter to Home Buyer
 - Copy of Loan Application
 - Good Faith Estimate
 - Underwriting Worksheet
 - Builder's Contract/Plans & Specs

C. PROJECT DEVELOPMENT

The UCP will track the development of each individual project by assessing requests for reimbursements, processing of developer's fees payments and inspections.

D. FINAL DOCUMENTATION

Once construction of the unit is complete, the CHDO shall provide the UCP with the Final Project Summary, which will include the following:

1. The Final Project Development Budget includes actual costs and funding sources for the completion of the project. This worksheet will identify the total direct and development subsidies which will allow for the calculation of the project's affordability period.
2. The CHDO Proceeds Calculation form
4. Beneficiary Information
5. Home Buyer Closing Documents. Once the sale of the unit has occurred, CHDO shall submit final closing documents to include the following information:
 - Homebuyer Contract
 - Final Appraisal Report
 - Copy of Recorded 1st and 2nd Lien Deeds of Trust
 - Copy of 1st and 2nd Lien Real Estate Note
 - Copy of Settlement Statement
 - Copy of Truth-in-Lending Disclosure
 - Final 100% Inspection Report OR Certificate of Occupancy
 - Copy of Home Owner's Insurance

E. ANNUAL REPORTS

1. Assisted Unit Tracking Report. CHDO shall submit the Assisted Unit Tracking Report to the UCP no later than fifteen (15) calendar days past the UCP fiscal year ending date (June 30th). This report is comprised of two sections listing all UCP funded units that are within their specified affordability period and have generated or are currently generating CHDO proceeds.
 - a. Affordability and Principle Residency. This section of the report will provide detailed information regarding unit occupancy for the purpose of tracking affordability and principle residency compliance.
 - b. CHDO Proceeds. This section of the report will include unit proceeds origination, amount and utilization type (rehab., acquisition, construction, etc.).

SECTION V

ADMINISTRATIVE REQUIREMENTS

A. COST PRINCIPLES

CHDO must comply with applicable regulations under OMB Circular No. A-122 and the following requirements of 24 CFR Part 84 § 84.2, 84.5, 84.13 through 84.16, 84.26 through 84.28, 84.30, 84.31, 84.34 through 84.37, 84.40 through 84.48, 84.51, 84.60 through 84.62, 84.72, and 84.73 pursuant to 24 CFR 92.505(b).

B. POLITICAL ACTIVITY

1. **Political Reform Act.** CHDO 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.*). CHDO 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.
2. **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.

3. **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.

C. LEGAL AUTHORITY

1. CHDO assures and guarantees that CHDO possesses the legal authority to enter into this agreement, receive funds authorized by this agreement, and to perform the services CHDO has obligated itself to perform hereunder.
2. The person or persons signing and executing this agreement on behalf of CHDO, or representing themselves as signing and executing this agreement on behalf of CHDO, do hereby warrant and guarantee that he, she or they have been duly authorized by CHDO to execute this agreement on behalf of CHDO and to validly and legally bind CHDO to all terms, performances, and provisions herein set forth.

D. INDEPENDENT CHDO

1. It is expressly understood and agreed by the parties hereto that UCP is contracting with CHDO as an independent CHDO, and that CHDO, 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 CHDO under this agreement.
2. CHDO 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 CHDO 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 CHDO, 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 CHDO, 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 CHDO 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.

CHDO covenants and agrees that, in case the County of Hidalgo and/or UCP shall be made a party to any litigation against CHDO or in any litigation commenced by any party relating to this Agreement and the construction of the Housing contemplated hereunder, CHDO 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.

CHDO, for and in consideration of UCP participation in this agreement, hereby agrees and covenants that CHDO 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.

E. SUBCONTRACTS

1. Except for subcontracts to which the federal labor standards requirements apply, CHDO may not subcontract for performances described in this agreement without obtaining UCP's prior written approval. CHDO shall only subcontract for performances described in this agreement to which the federal labor standards requirements apply after CHDO has submitted a Subcontractor Eligibility form, as specified by UCP, for each such proposed subcontract, and CHDO has obtained UCP's prior written approval, based on the information submitted, of CHDO's intent to enter into such proposed subcontract. CHDO, 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 CHDO's subcontractor(s).
2. In no event shall any provision of this Section, specifically the requirement that CHDO obtain UCP's prior written approval of a subcontractor's eligibility, be construed as relieving CHDO 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 CHDO. UCP's approval of subcontractor's eligibility under this Section does not constitute adoption, ratification or acceptance of CHDO's or subcontractor's performance hereunder. The act of approval of subcontractor's eligibility under this Section 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 CHDO's full compliance with the terms of this agreement.
3. CHDO shall comply with all applicable federal, state, and local laws, regulations, and ordinances when making procurements under this agreement.
4. CHDO shall comply with all applicable federal, state, and local laws, regulations and ordinances for the term of this agreement.

F. LITIGATION AND CLAIMS

CHDO shall give UCP immediate notice in writing of:

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

G. 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.

H. 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:

1. **Requesting Price Adjustment:** Upon written request of the CHDO 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 CHDO 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 CHDO of the price changes.
 - The CHDO 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 CHDO 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.
2. **Price Reduction:** CHDO shall notify the County at the time when the CHDO'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 CHDO to notify the County of a decrease in costs for items and/or supplies for which the CHDO was granted a price adjustment, may result in immediate termination of this contract and the County shall not be obligated to pay the CHDO the difference between the contract price and the price adjustment.
3. **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 CHDO 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 CHDO 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 CHDO at any time upon written notice from

the County to the CHDO demonstrating justification for such reduction, elimination or extension of the price adjustment.

4. **Allowable Review Periods:** Price adjustment reviews may only be requested by the CHDO 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.
5. **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.

I. REMEDIES

It is expressly understood and agreed by the parties hereto that any right or remedy provided for in this Section 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 10th day of February, 2012.

ATTEST:

Hidalgo County, Urban County Program



UCP Director



CHDO Director

EXHIBIT A

**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 CHDOs 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.

Signed:



Director



Date

EXHIBIT B

INSURANCE REQUIREMENTS

1. **CHDO Insurance.** CHDO, 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 CHDO's insurance coverage and shall not contribute to it.
2. **Subcontractor(s) Insurance.** If CHDO utilizes one or more subcontractors in the performance of this Agreement, CHDO 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 CHDO 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 CHDO in the minimum statutorily required coverage amounts.
 - b. Automobile Liability Insurance for each of CHDO's vehicles used in the performance of this Agreement, including owned, non-owned (e.g. owned by CHDOs 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 CHDO is not a material part of performance of this Agreement and CHDO 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, CHDO agrees to maintain the required coverage for duration of this Agreement (hereinafter "post agreement coverage") and any extensions thereof. CHDO 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. CHDO 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 CHDO'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:

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

END INSURANCE REQUIREMENTS

**Hidalgo County Urban County Program
Community Housing Development Organization (CHDO) Certification**



Affidavit of Standards for Financial Management Systems

Date: February 10, 2012

Affiant: Ann Williams Cass, Director

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: Director, Proyecto Azteca

Subscribed and sworn before me on the 10 day of Feb, 20 12,

by Ann Williams Cass, on behalf of Proyecto Azteca.

[Signature]
Notary Signature

My commission expires: July 23, 2013

Seal:



ADDENDUM TO CONTRACT

**PROYECTO AZTECA
FY 2011**

AMENDMENT TO CONTRACT

County and CHDO, hereby attach an addendum to the CHDO FY 11 Contract as follows:

This will allow for an amendment to 2011 Contract between the Urban County Program and Proyecto Azteca. This amendment will allow for an increase in funding in the amount of \$90,000.

County and CHDO do hereby agree to a new contract amount of \$560,000, for Fiscal Year 2011.

County:
HIDALGO COUNTY

CHDO:
PROYECTO AZTECA

Name

Name

URBAN COUNTY PROGRAM DIRECTOR
Title

DIRECTOR
Title

Date

Date

STATE OF TEXAS {
COUNTY OF HIDALGO {

DIANA R. SERNA, personally appeared before me and declared that she signed this agreement in the capacity designated, if any, and further states he/she has read the above agreement, and the statements contained therein contained are true.

Subscribed and sworn before me this _____ day of _____, 2013.

Notary - Signature

STATE OF TEXAS {
COUNTY OF HIDALGO {

ANN WILLIAMS CASS, personally appeared before me and declared that he/she signed this agreement in the capacity designated, if any, and further states he/she has read the above agreement, and the statements contained therein contained are true.

Subscribed and sworn before me this _____ day of _____, 2013.

Notary - Signature