

ensure performance of all activities described in Attachment A to the satisfaction of the COUNTY.

1.04 RECIPIENT(S) represents and warrants that the Project must be completed to at least twenty-four (24) inches above the Base Flood Elevation (BFE).

1.05 RECIPIENT(S) shall submit to the COUNTY a Certificate of Occupancy and Final Elevation Certificate to certify that the structure is elevated to at required height above the BFE. (Certificate of Occupancy and Final Elevation Certificate to be provided to RECIPIENT(S) by the elevation contractor as part of final draw.) Model Restrictions are included in Attachment E of this AGREEMENT. In addition, RECIPIENT(S) shall provide a certification from a building official or licensed design professional verifying the structure was elevated to the minimum requirements of the COUNTY's Floodplain Management Ordinance. These documents shall be submitted before closeout can be completed and will be provided to RECIPIENT(S) by the elevation contractor as part of final draw.

1.06 RECIPIENT(S) (WITH DIRECT SUPPORT FROM COUNTY AND THE COUNTY'S PROJECT MANAGEMENT CONSULTANT) represents and warrants that the Project must follow all applicable state, local and federal laws, regulations, requirements, and that the RECIPIENT(S) will obtain (before starting Project work) and comply with all required permits and approvals – permits will be obtained by the elevation contractor and provide to the RECIPIENT(S) and Project Management Consultant.

(2) FUNDING

2.01 The COUNTY shall provide HMGP funds identified in the grant award, administered by the Texas Division of Emergency Management. After carefully reviewing the quotes received from the Elevation Contractors, RECIPIENT(S) has chosen to use **Excello Homes** (hereinafter referred to as "CONTRACTOR") to elevate RECIPIENT(S)'S property. The costs of elevation and Project management total **\$167,340.83**. The Elevation cost associated with the RECIPIENT(S)'S chosen elevation contractor, as detailed in Attachment B, are **\$157,440.83**. In addition, there is a Project management fee of **\$9,900.00**.

The RECIPIENT(S) shall be responsible for paying (**\$41,835.21**) 25% of the Elevation Contract Amount and Project management costs, listed above, prior to the commencement of elevating the home. These funds shall be made payable to Fort Bend County and shall be certified funds (personal checks will not be accepted). This amount excludes budgeted temporary living expenses, which will be paid by the RECIPIENT(S) at 100% and reimbursed at 75% per following paragraph.

CONTRACTOR will submit invoices to RECIPIENT(S) and COUNTY. COUNTY will be responsible for payment of said invoices to CONTRACTOR. Temporary living will be paid on a cost reimbursable basis. Said reimbursement will be 75% of the incurred costs. Max allowable daily rate for which 75% will be reimbursed will be limited to the daily Federal Per Diem Rate for the Fort Bend County area that is current at the time temporary living is incurred. Maximum number of temporary living days for which the RECIPIENT(S) is eligible to be reimbursed is

120 days. This maximum number of days is based on the CONTRACTOR'S finalized quote for elevation.

2.01.01 In the event that CONTRACTOR has provided Performance and Payment Bonds, CONTRACTOR shall be entitled to request up to four (4) disbursements from the ELEVATION CONTRACT AMOUNT after completing each phase of work and submitting the following documentation to COUNTY;

- a. **Phase 1 Pre-elevation/mobilization** - 30% of the total ELEVATION CONTRACT AMOUNT upon receipt of inspector's report plus the submittal of the following:
 1. CONTRACTOR invoice;
 2. Initial elevation certificate;
 3. Contractor Non-Eligible Work Acknowledgement;
 4. Copies of requisite permits;
 5. Copy of fully executed agreement "Elevation Agreement" between RECIPIENT(S) and CONTRACTOR;
 6. Pre-elevation photographs – minimum of two (2) views each of front and back to show all four exterior walls; and
 7. Signed and notarized CONTRACTOR Lien Waiver Affidavit (Interim) Form.
- b. **Phase 2 Raised, ready to set, building department inspections** – 30% of the total ELEVATION CONTRACT AMOUNT, provided that at least 60% of the Elevation construction is complete and CONTRACTOR'S submittal of the following:
 1. CONTRACTOR invoice;
 2. Progress Report;
 3. Building department concurrence;
 4. Contractor provided Engineer Concurrence as to 60% completion;
 5. Copies of requisite permits;
 6. Grant compliance;
 7. RECIPIENT(S) written concurrence with payment of draw. If RECIPIENT(S) refuses to concur with this draw, the COUNTY will have final say as to whether the work is complete to the satisfaction of the COUNTY and in accordance with the grant. COUNTY reserves the right to authorize this final payment, for the purposes of closing out the grant eligible work. In this unusual situation, the RECIPIENT(S) reserves the right to take whatever action against the CONTRACTOR they feel is necessary to resolve the dispute. Any and all legal fees incurred by the homeowner in pursuit of any and all claims against the contractor would be solely at the homeowner's expense;
 8. Phase 2 elevation photographs minimum of two (2) views each of front and back to show all four exterior walls;
 9. Signed and notarized CONTRACTOR Lien Waiver Affidavit (Interim) Form; and
- c. **Phase 3 Structure elevated to design height, foundation installed, mechanicals reconnected** - 30% of the total ELEVATION CONTRACT AMOUNT, provided that at least 90% of the Elevation construction is complete and upon receipt of inspector's report plus the submittal of the following:

1. CONTRACTOR invoice;
 2. Progress Report;
 3. Building department concurrence;
 4. Contractor provided Engineer Concurrence as to 90% completion;
 5. ADA compliance (if required);
 6. Grant compliance;
 7. RECIPIENT(S) written concurrence with payment of draw. If RECIPIENT(S) refuses to concur with this draw, the COUNTY will have final say as to whether the work is complete to the satisfaction of the COUNTY and in accordance with the grant. COUNTY reserves the right to authorize this final payment, for the purposes of closing out the grant eligible work. In this unusual situation, the RECIPIENT(S) reserves the right to take whatever action against the CONTRACTOR they feel is necessary to resolve the dispute. Any and all legal fees incurred by the homeowner in pursuit of any and all claims against the contractor would be solely at the homeowner's expense;
 8. Phase 3 elevation photographs – minimum of two (2) views each of front and back to show all four exterior walls;
 9. Signed and notarized CONTRACTOR Lien Waiver Affidavit (Interim) Form; and
- d. **Phase 4 Final Inspection, occupancy certificate, all grant requirements met** - 10% of the total ELEVATION CONTRACT AMOUNT, provided that the elevation construction is complete and upon receipt of inspector's report plus the submittal of the following:
1. Final CONTRACTOR invoice;
 2. Post Elevation - Elevation Certificate (FEMA Form 086-0-33, or most current FEMA Elevation Certificate if new version is available);
 3. Certificate of Occupancy;
 4. New survey (if required);
 5. Signed and notarized Lien Waiver Affidavit Contractor (**Final**) Form;
 6. Copy of Contractor Warranties that have been signed by RECIPIENT(S);
 7. If ADA elevator or lift was installed, elevator installation specifications and engineering concurrence that elevator was installed in accordance with said specifications. These documents provided to both the COUNTY and the RECIPIENT(S);
 8. RECIPIENT(S)'s written concurrence with payment of this final draw. If RECIPIENT(S) refuses to concur with the final draw, the COUNTY will have final say as to whether the work is complete to the satisfaction of the COUNTY and in accordance with the grant. COUNTY reserves the right to authorize this final payment, for the purposes of closing out the grant eligible work. In this unusual situation, the RECIPIENT(S) reserves the right to take whatever action against the CONTRACTOR they feel is necessary to resolve the dispute. Any and all legal fees incurred by the homeowner in pursuit of any and all claims against the CONTRACTOR would be solely at the RECIPIENT(S)'S expense;
 9. Grant compliance reconciliation (if non-grant work was also performed);
 10. Contractor provided Engineer Concurrence as to 100% completion;
 11. Final elevation photographs minimum of three (3) views each of front and each side to show all four exterior walls.

2.01.02 In the event that the CONTRACTOR has not provided Payment and Performance Bonds, CONTRACTOR will not be given notice to proceed and the work will not begin until said Performance Bond is provided. If CONTRACTOR is unable to provide a Performance Bond, the RECIPIENT(S) will be instructed to choose another contractor. Performance Bonds, and Payment bonds shall be for the total Project costs, to include both grant eligible and RECIPIENT(S) (grant ineligible) costs.

2.02 Allowable costs shall be determined in accordance with the 2 Code of Federal Regulations (CFR) 200, and 44 CFR Part 79, and other applicable HMGP program guidance. The payment to the selected CONTRACTOR shall be provided upon request from the RECIPIENT(S) as each phase of the Project is completed and approved by the building inspection department and submittal of required receipts from the RECIPIENT(S) (WITH DIRECT SUPPORT FROM COUNTY AND THE COUNTY'S PROJECT MANAGEMENT CONSULTANT).

2.03 The final payment of funds to the CONTRACTOR will be made only after Project completion, submission of all required documentation and a formal request for final payment. Payment and retention of all funding under this AGREEMENT is subject to final review.

2.04 In recognition that the RECIPIENT(S) will have and receive full value and benefit from the Project, the RECIPIENT(S) waives any claim whatsoever to Project funds not received by the COUNTY from other funding sources for any reason including failure of the COUNTY to comply with program requirements, non-appropriation or any other reason irrespective of the COUNTY's fault or negligence.

2.05 Funds may be recaptured from the RECIPIENT(S) by the COUNTY or FEMA in the event of non-compliance with the terms and conditions of this AGREEMENT. The RECIPIENT(S) consents and agrees that in the event of a final determination of non-compliance, the RECIPIENT(S) shall immediately remit repayment of the ineligible expenses to the COUNTY. In the alternative, any other funds due and payable to the RECIPIENT(S) from either FEMA or the COUNTY may be retained by the COUNTY or FEMA for purposes of recapture. Recapture may result from any non-compliance, including but not limited to (1) failure to provide the required matching funds; (2) failure to complete the Project within the specified time or failure to complete the Project in accordance with applicable provisions of this AGREEMENT, FEMA regulations, or other applicable law or guidance.

2.06 It is understood that there are two Agreements associated with this elevation:

- This AGREEMENT between the COUNTY and the RECIPIENT(S); and
- The Elevation Agreement between the RECIPIENT(S) and the ELEVATION CONTRACTOR (Attachment B attached hereto).

The Elevation Agreement between the RECIPIENT(S) and CONTRACTOR indicates RECIPIENT(S) is responsible for payment under this grant, however, as indicated above, payment for work completed under the terms of this AGREEMENT, will be made from the COUNTY directly to the CONTRACTOR, on the RECIPIENT(S)'s behalf. Therefore, in the Elevation Agreement between RECIPIENT(S) and CONTRACTOR, the RECIPIENT(S) has

assigned its right to all monies the RECIPIENT(S) is entitled to be paid by the COUNTY for the work performed by CONTRACTOR. Additionally, the COUNTY hereby acknowledges CONTRACTOR as a third-party beneficiary to this AGREEMENT and further acknowledges that RECIPIENT(S) has assigned its right to be paid by the COUNTY to CONTRACTOR.

(3) INCORPORATION OF LAW, RULES, REGULATIONS AND POLICIES

3.01 Both the RECIPIENT(S) and the COUNTY shall be governed by applicable federal, Texas, and COUNTY laws, rules, regulations and agreements.

(4) PERIOD OF AGREEMENT

4.01 This AGREEMENT shall commence upon the Effective Date, and shall remain in full force and effect as to its provisions, terms and conditions until two years after the Effective Date unless terminated earlier in accordance with the provisions of paragraphs (7) or (11) of this AGREEMENT.

(5) MODIFICATION OF CONTRACT

5.01 Modification of the provisions of this AGREEMENT shall be with the mutual consent of the COUNTY and RECIPIENT(S). Modifications shall be valid only when reduced to writing, duly signed by COUNTY and RECIPIENT(S) hereto and attached to the original of this AGREEMENT.

(6) RECORDKEEPING, PROCUREMENT AND PROPERTY MANAGEMENT

6.01 All original records pertinent to this AGREEMENT shall be retained by the COUNTY, on the RECIPIENT(S)'s behalf, for three (3) years following the date of termination of this AGREEMENT or of submission of the final close-out report by the COUNTY, whichever is later, with the following exception:

If any litigation, claim or audit is started before the expiration of the three-year period and extends beyond the three-year period, the records will be maintained until all litigation, claims or audit findings involving the records have been resolved, or until the expiration of any minimum record retention requirement required by law, whichever is greater.

6.02 All records, including the supporting documentation of all program costs, shall be sufficient to determine compliance with the requirements and objectives of the Budget, Scope of Work and Schedule-- Attachments A, B, and C -- and all other applicable laws and regulations. The COUNTY, on the RECIPIENT(S)'S behalf, agrees to implement and maintain a recordkeeping and financial management system sufficient to meet FEMA and State of Texas financial reporting requirements and to document that HMGP funds have been used in accordance with applicable law.

6.03 The RECIPIENT(S), its employees or agents including all subcontractors or consultants to be paid from funds provided under this AGREEMENT shall allow access to the COUNTY'S, (on the RECIPIENT(S)'S behalf), records at reasonable times to the COUNTY, its employees or agents. "Reasonable" shall mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the COUNTY. To the extent that the RECIPIENT(S) uses the services of subcontractors and consultants in the performance of the RECIPIENT(S)'s duties and obligations under this AGREEMENT, this Section 6.03 must be contained in any subcontract or consultant agreement.

(7) REPORTS

7.01 The RECIPIENT(S) shall keep in close contact with the COUNTY and will notify the COUNTY of any contact information or Project circumstance changes. The COUNTY will issue official letters, call official meetings and require documentation to be submitted on a periodic basis. RECIPIENT(S) shall respond in writing to the COUNTY within ten (10) business days of the date of any written or oral inquiry by the COUNTY to ensure Project timelines are met and compliance with the state and federal government requirements are achieved.

If all required documentation and cooperation are not provided by the RECIPIENT(S) to the COUNTY, the COUNTY may withhold further payments until such documentation and cooperation are completed or the COUNTY may take such other action as set forth in paragraph (11)

The RECIPIENT(S) shall respond in writing to the COUNTY within ten (10) business days of the date of any written or oral inquiry by providing such additional Project updates or information as may be requested by the COUNTY.

(8) MONITORING

8.01 The COUNTY, on the RECIPIENT(S)'S behalf, shall constantly monitor the Project performance under this AGREEMENT to ensure that time schedules are being met; and the work included in the Contract between the RECIPIENT(S) and the CONTRACTOR ("Elevation Contract") Exhibit B and C is within specified time periods. Such a review shall be made for each function or activity as set forth in Attachments A, B and C to this AGREEMENT and the terms and conditions of this AGREEMENT. The COUNTY may perform on-site or other types of Project monitoring as it deems necessary. Should the elevation be found to be insufficient in meeting the stated terms of this AGREEMENT and/or the Elevation Contract, the COUNTY may request explanations, amendments or further specifications to the submitted report to which the RECIPIENT(S) shall respond in writing to the COUNTY within ten (10) business days of the date of any written or oral inquiry.

(9) LIABILITY

9.01 The RECIPIENT(S) agrees to be fully responsible for his own negligent acts or omissions or tortious acts. Nothing herein shall be construed as consent by the COUNTY or a State agency

or subdivision of the State of Texas to be sued by third parties in any matter arising out of this AGREEMENT.

9.02 The COUNTY ON THE RECIPIENT(S)'S BEHALF, represents and warrants that hazardous and toxic materials, if present at any locations where the Project will be performed, are at levels within regulatory limits and do not trigger action by the Federal, State or local laws or regulations. The RECIPIENT(S) (WITH DIRECT SUPPORT FROM COUNTY AND THE COUNTY'S PROJECT MANAGEMENT CONSULTANT) further represents and warrants that the presence of any condition(s) or material(s) on site, which are subject to Federal, State or local laws or regulations (including but not limited to: above ground or underground storage tanks or vessels, or asbestos, pollutants, irritants, pesticides, contaminants, petroleum products, waste, chemicals and septic tanks), shall be handled and disposed of in accordance with Federal, State or local laws or regulations.

(10) GENERAL INDEMNIFICATION

10.01 *General Tort Indemnity.* The RECIPIENT(S) agrees to and will at all times indemnify, save and hold harmless the COUNTY from all liability and claims, demands, damages and costs of every kind and nature, including attorney's fees at trial or appellate levels, and all court costs arising out of injury to or death of persons and damages to any and all property including loss of use thereof resulting from or in any manner arising out of the RECIPIENT(S)'s relationship with its employees, agents, contractors, and/or subcontractors, or those under their control's performance under this AGREEMENT, excepting only liability resulting from the sole negligence of the COUNTY. The RECIPIENT(S) shall, upon request from the COUNTY, defend and satisfy any and all suits arising from its use of the premises.

10.02 *Environmental Indemnity.* The RECIPIENT(S) agrees to and will at all times indemnify, defend and hold harmless the COUNTY from including, without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs of cleanup, containment or other remediation, and all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney fees) arising from or in connection with (a) the actions or activities of the RECIPIENT(S), its employees, agents, contractors, and/or subcontractors, or those under their control that result in a violation of any environmental law, ordinance, rule or regulation or that leads to an environmental claim or citation or to damages due to such actions or activities, (b) any environmental, health and safety liabilities arising out of or relating to the operation or other activities performed in connection with this AGREEMENT by the RECIPIENT(S), its employees, agents, contractors, and/or subcontractors, or those under their control at any time or on prior to the day and year first above written or (c) any bodily injury, (including illness, disability and death, regardless of when any such bodily injury occurred, was incurred or manifested itself), personal injury, property damage (including trespass, nuisance, wrongful eviction, and deprivation of the use of real property) or other damage of or to any person in any way arising from any hazardous activity conducted by the RECIPIENT(S), its employees, agents, contractors, and/or subcontractors, or those under their control. The COUNTY will be entitled, but not required, to control any remedial action, any proceeding related to an environmental claim.

10.03. *Violation of Laws Indemnity.* The RECIPIENT(S) agrees to and will at all times indemnify, defend and hold harmless the COUNTY and Jeffrey S. Ward & Associates, Inc., from including without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney fees) arising from or based upon the violation of any federal, state or local laws, statutes, ordinances, resolutions, rules or regulations, by the RECIPIENT(S), its employees, agents, contractors, and/or subcontractors, or those under their control.

10.04 *Breach of Representations, Warranties and Obligations Indemnity.* The RECIPIENT(S) agrees to, and will at all, times indemnify, defend and hold harmless the COUNTY and Jeffrey S. Ward & Associates, Inc., from including, without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney fees) which may be incurred by, charged to or recovered from any of the foregoing, arising directly or indirectly out of (a) any breach of any representation or warranty made by the RECIPIENT(S), its employees, agents, contractors, and/or subcontractors, or those under their control pursuant to this AGREEMENT or (b) any breach of any covenant or obligation of the RECIPIENT(S), its employees, agents, contractors, and/or subcontractors, or those under their control set forth in this AGREEMENT or any other certificate, document, writing or other instrument delivered by the RECIPIENT(S), its employees, agents, contractors, and/or subcontractors, or those under their control pursuant to this AGREEMENT.

(11) DEFAULT, REMEDIES, TERMINATION

11.01 If any of the following events occur and the (“Events of Default”), all obligations on the part of the COUNTY to make any further payment of funds hereunder shall, if the COUNTY so elects, terminate and the COUNTY may at its option exercise any of the remedies set forth herein; the COUNTY may take, any payments or parts of payments after the happening of any Events of Default without thereby waiving the right to exercise such remedies and without becoming liable to make any further payment:

11.01.01.a. If any warranty or representation made by RECIPIENT(S) in this AGREEMENT or any previous AGREEMENT with the COUNTY shall at any time be false or misleading in any respect.

11.01.01.b. If the RECIPIENT(S) shall fail to keep, observe or perform any of the terms or covenants contained in this AGREEMENT or any previous agreement with the COUNTY, and the RECIPIENT(S) has not cured such Event of Default within thirty (30) days of the date of written notice to the RECIPIENT(S) from the COUNTY;

11.01.02. If Project funds from mortgage lenders or other sources are not received because of defaults in the mortgages, construction loan agreements, or other loan documents used for the RECIPIENT(S)'s funding of the Project and the RECIPIENT(S) has not cured such Event of

Default within thirty (30) days of the date of written notice to the RECIPIENT(S) from the COUNTY;

11.01.03. If any reports required by this AGREEMENT have not been submitted to the COUNTY or have been submitted with incorrect, incomplete or insufficient information and the RECIPIENT(S) has not cured such Event of Default within thirty (30) days of the date of written notice to the RECIPIENT(S) from the COUNTY;

11.01.04. If the RECIPIENT(S) (WITH DIRECT SUPPORT FROM COUNTY AND THE COUNTY'S PROJECT MANAGEMENT CONSULTANT) failed to perform and complete in a timely fashion any of the Project work required under the Elevation Contract attached hereto as Attachment B and C and the RECIPIENT(S) (WITH DIRECT SUPPORT FROM COUNTY AND THE COUNTY'S PROJECT MANAGEMENT CONSULTANT) has not cured such Event of Default within thirty (30) days of the date of written notice to the RECIPIENT(S) from the COUNTY;

11.01.05. If the necessary funds are not available to fund this AGREEMENT as a result of action by the COUNTY, Legislature, the State of Texas Office of the Comptroller or the Office of Management & Budget.

11.02 Upon the happening of an Event of Default, and upon the RECIPIENT(S)'s failure to timely cure, where applicable, the COUNTY may exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude the COUNTY from pursuing any other remedies contained herein or otherwise provided at law or in equity:

11.02.01. Termination;

11.02.02. Commence an appropriate legal or equitable action to enforce performance of this AGREEMENT;

11.02.03. Withhold or suspend payment of all or any part of a request for payment;

11.02.04. Exercise any corrective or remedial actions, to include but not be limited to, requesting additional information from the RECIPIENT(S) to determine the reasons for or the extent of non-compliance or lack of performance, issuing a written warning to advise that more serious measures may be taken if the situation is not corrected, advising the RECIPIENT(S) to suspend, RECIPIENT(S) to reimburse the COUNTY for the amount of costs incurred for any items determined to be ineligible; and,

11.02.05. Exercise any other action or remedies which may be otherwise available under law.

11.03 The RECIPIENT(S) shall return funds to the COUNTY if found in non-compliance with laws, rules, and regulations governing the use of the funds made available pursuant to this AGREEMENT. Funds shall be delivered by certified check or money order made payable to the COUNTY within thirty (30) days from the date of the written demand from the COUNTY.

11.04 This AGREEMENT may be terminated by the written mutual consent of both parties.

11.05 Notwithstanding the above, the RECIPIENT(S) shall not be relieved of liability to the COUNTY by virtue of any breach of AGREEMENT by the RECIPIENT(S). The COUNTY may withhold any payments to the RECIPIENT(S), from this or any other agreement between the RECIPIENT(S) and the COUNTY, for purpose of set-off until such time as the exact amount of damages due the COUNTY from the RECIPIENT(S) is determined.

(12) NOTICE AND CONTACT

12.01 All notices provided under or pursuant to this AGREEMENT shall be in writing, either by hand delivery or first class mail, certified mail or return requested to the representative identified below and the said notification attached to the original of this AGREEMENT.

12.02 The name and address of the COUNTY contract manager for this AGREEMENT is:

Caroline Egan
Fort Bend County Homeland Security & Emergency Management
1521 Eugene Heimann Cir
Richmond TX 77469

12.03. The name and address of the Representative of the RECIPIENT(S) responsible for the administration of this AGREEMENT is:

Edward and Robin Rogers
37721 Longhorn Rd
Wallis TX 77485

12.04. In the event that different representatives are designated by either party after execution of this AGREEMENT, notice of the name, title and address of the new representative will be rendered as provided in Section 12.02 and 12.03 above.

(13) OTHER PROVISIONS

13.01. The validity of this AGREEMENT is subject to the truth and accuracy of all the information, representations and materials submitted or provided by the RECIPIENT(S) in the Application, in any subsequent submission or response to the COUNTY request or in any submission or response to fulfill the requirements of this AGREEMENT and such information, representations and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall at the option of the COUNTY, cause the termination of this AGREEMENT and the release of the COUNTY from all its obligations to the RECIPIENT(S).

13.02. This AGREEMENT shall be construed under the laws of the State of Texas and venue for any actions arising out of this AGREEMENT shall lie exclusively in the courts of Fort Bend County. If any provision hereof is in conflict with any applicable Statute or Rule or is otherwise

unenforceable, then such provision shall be deemed severable but shall not invalidate any other provision of this AGREEMENT.

13.03 No waiver by the COUNTY of any right or remedy granted hereunder or failure to insist on strict performance by the RECIPIENT(S) shall affect or extend or act as a waiver of any other right or remedy of the COUNTY hereunder, or affect the subsequent exercise of the same right or remedy by the COUNTY for any further or subsequent default by the RECIPIENT(S). Any power approval or disapproval granted to the COUNTY under the terms of this AGREEMENT shall survive the terms and life of this AGREEMENT as a whole.

13.04 Utilities: RECIPIENT(S) is responsible for authorizing the disconnection of electricity, telephone, cable and gas as directed by the CONTRACTOR. RECIPIENT(S) is responsible for all utility bills during elevation. RECIPIENT(S) is responsible for authorizing reconnection of all utilities as directed by the CONTRACTOR. Any upgrades required by utility company for reconnection are not eligible costs hereunder.

13.05. This AGREEMENT may be executed in any number of counterparts any one of which may be taken as an original.

(14) FINANCIAL REQUIREMENTS

In addition to the requirements of Section 6 of this AGREEMENT:

14.01. The COUNTY ON THE RECIPIENT(S)'S BEHALF, agrees to maintain receipts and other documents in order to account for the receipt and expenditure of funds under this AGREEMENT.

14.02. These records shall be available at all reasonable times for inspection, review or audit by State personnel and other personnel duly authorized by the COUNTY. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m. local time, Monday through Friday.

14.03 The COUNTY ON THE RECIPIENT(S)'S BEHALF shall maintain the records, reports, or financial statements for the purposes of auditing and monitoring the funds awarded under this AGREEMENT and the RECIPIENT(S) shall respond in writing to the COUNTY within ten (10) business days of the date of any written or oral request.

14.04 The COUNTY ON THE RECIPIENT(S)'S BEHALF shall retain all financial records, supporting documents, statistical records and any other documents pertinent to this contract for a period of three (3) years after the date of the submission of the final expenditure report. However, if litigation or an audit has been initiated prior to the expiration of the three-year period, the records shall be retained until the litigation or audit findings have been resolved.

(15) SUBCONTRACTS

15.01. If the RECIPIENT(S) subcontracts any or all of the work required under this AGREEMENT, the RECIPIENT(S) agrees to include in the subcontract that the subcontractor is bound by the terms and conditions of this AGREEMENT with the COUNTY.

15.02. The RECIPIENT(S) (WITH DIRECT SUPPORT FROM COUNTY AND THE COUNTY'S PROJECT MANAGEMENT CONSULTANT) agrees to include in the subcontract that the subcontractor shall hold the COUNTY and the RECIPIENT(S) harmless against all claims of whatever nature arising out of the subcontractor's performance of work for the RECIPIENT(S).

15.03 Contractual arrangements shall in no way relieve the RECIPIENT(S) of his responsibility to ensure that all funds issued pursuant to this AGREEMENT be administered in accordance with all Federal, State or local laws or regulations.

(16) TERMS AND CONDITIONS

16.01. This AGREEMENT constitutes the entire agreement between the COUNTY and RECIPIENT(S) hereto for the Services to be performed and furnished by either party hereunder. No statement, representation, writing, understanding, agreement, course of action or course of conduct, made by either party, or any representative of either party, which is not expressed herein shall be binding.

(17) ATTACHMENTS

17.01. All attachments to this AGREEMENT are incorporated as if set out fully herein.

17.02. In the event of any inconsistencies or conflict between the language of this AGREEMENT and the attachments hereto, the language of such attachments shall be controlling but only to the extent of such conflict or inconsistency.

17.03. This AGREEMENT has the following attachments:

Attachment A	Grant Award to County by TDEM
Attachment B	Elevation Contract between RECIPIENT(S) and CONTRACTOR
Attachment C	Model Acknowledgement of Conditions for Mitigation of Property in a Special Flood Hazard Area with FEMA Grant Funds
Attachment D	HOA Acknowledgement
Attachment E	Non-Eligible Work Acknowledgement

(18) STANDARD CONDITIONS

18.01 The RECIPIENT(S) agrees to be bound by the following standard conditions:

18.01.01. The State of Texas's performance and the COUNTY's performance and obligation to pay under this AGREEMENT is contingent upon an annual appropriation by the Legislature and subject to any modification in accordance with Chapter 216 and Chapter 252.37, F.S. or the Texas Constitution.

18.01.02. If mutually agreed by the COUNTY and RECIPIENT(S), an extension of this AGREEMENT shall be in writing for a period not to exceed three (3) months and shall be subject to the same terms and conditions set forth in this AGREEMENT. There shall be only one extension of this AGREEMENT granted to the RECIPIENT(S) unless the RECIPIENT(S) can prove to the satisfaction of the COUNTY that failure to meet the criteria set forth in this AGREEMENT for completion is due to events beyond the control of the RECIPIENT(S). Any extension of this AGREEMENT is contingent upon receipt of written permission from the State and Federal agencies involved with this AGREEMENT to extend their agreements with the COUNTY to accommodate an extension request of this AGREEMENT by the RECIPIENT(S).

18.01.03 All bills for fees or other compensation for services or expenses shall be submitted in Detail sufficient for a proper pre-audit and post-audit thereof to the COUNTY.

(19) STATE LOBBYING PROHIBITION

19.01. No funds or resources received from the COUNTY in connection with this AGREEMENT may be used directly or indirectly to influence legislation or any other official action by the Texas Legislature or the COUNTY.

(20) LEGAL AUTHORIZATION

20.01. The RECIPIENT(S) certifies with respect to this AGREEMENT that the RECIPIENT(S) possesses the legal authority to receive the funds to be provided under this AGREEMENT. The RECIPIENT(S) also certifies that the RECIPIENT(S) possesses the authority to legally execute and bind the RECIPIENT(S) to the terms of this AGREEMENT, and that the RECIPIENT(S) are all persons having legal or equitable title to the property on which the Project is being accomplished.

(21) ASSURANCES

21.01. The RECIPIENT(S) shall comply with the Statement of Assurances included in Attachment A. Failure of the RECIPIENT(S) to comply with the federal, state and local laws, Executive Orders, agreements and regulations referenced in Attachment A of this AGREEMENT as well as failure to comply with any other term of this AGREEMENT or federal, state or local laws and regulations shall be cause for the immediate suspension of payments or the immediate termination of this AGREEMENT at the option of the COUNTY.

(22) SECTION HEADINGS

22.01. Section headings appearing herein are inserted for convenience or reference only and shall in no way be construed to be interpretations of text.

(23) CONSTRUCTION

23.01. Both parties acknowledge that they have had meaningful input into the terms and conditions contained in this AGREEMENT. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this AGREEMENT. The rule sometimes referred to as "*Fortius Contra Preferentum*" shall not be applied to the interpretation of this AGREEMENT.

(24) WARRANTIES

CONTRACTOR will be required to provide Warranties to RECIPIENT(S) for all work performed under this AGREEMENT, CONTRACTOR will provide limited warranties and building and performance standards in accordance with the Texas Residential Construction Commission standards in place prior to the time that the Texas Residential Construction Commission ceased to exist. At a minimum Contractor will be required to provide to each homeowner for which they complete a home elevation a written 10/2/1 warranty from third-party warranty provider. This warranty will be 10 years on the structural foundation system, 2 years on the mechanical reconnections, and 1 year on workmanship, and will include a provision that the warranty company will complete required warranty work if the Contractor is unable to perform such covered work.

CONTRACTOR will not be eligible for final payment hereunder until such Warranty policy has been delivered to RECIPIENT(S) with copy provided to COUNTY with such copy signed by RECIPIENT(S) evidencing RECIPIENT(S)'S receipt of such Warranty policy.

(25) STATE AUDITOR CLAUSE

25.01 By executing this AGREEMENT, the RECIPIENT(S) accepts the authority of the State Auditor's Office, under direction of the legislative audit committee, to conduct audits and investigations in connection with any and all state funds received pursuant to this AGREEMENT. The RECIPIENT(S) shall comply with and cooperate in any such investigation or audit. The RECIPIENT(S) agrees to provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. The COUNTY, on the RECIPIENT(S)'S behalf, also agrees to include a provision in any subcontract related to this AGREEMENT that requires the COUNTY, on the RECIPIENT(S)'S behalf, to submit to audits and investigation by the State Auditor's Office in connection with any and all state funds received pursuant to this AGREEMENT.

(26) FINANCIAL RECORDS

26.01 The COUNTY, on the RECIPIENT(S)'S behalf and its contracted parties shall maintain satisfactory financial accounting documents and records, including copies of invoices and receipts, and shall make them available for examination and audit by the TDEM. Accounting by

the COUNTY, on the RECIPIENT(S)'S behalf and its contracted parties shall be in a manner consistent with generally accepted accounting principles.

(27) OWNERSHIP

27.01 TDEM shall have unlimited rights to technical or other data resulting directly from the performance of services under this AGREEMENT. It is agreed that all reports, drafts of reports, or other material, data, drawings, computer programs and codes associated with this AGREEMENT and developed by the COUNTY, on the RECIPIENT(S)'S behalf or its contracted parties pursuant to this AGREEMENT shall become the joint property of the RECIPIENT(S), the COUNTY, and TDEM. These materials shall not be copyrighted or patented by the RECIPIENT(S) or by any consultants involved in this AGREEMENT unless the EXECUTIVE ADMINISTRATOR of TDEM approves in writing the right to establish copyright or patent; provided, however, that copyrighting or patenting by the RECIPIENT(S) or its CONTRACTOR(S) will in no way limit TDEM's access to or right to request and receive or distribute data and information obtained or developed pursuant to this AGREEMENT. Any material subject to copyright and produced by the RECIPIENT(S) or State pursuant to this AGREEMENT may be printed by the RECIPIENT(S) or TDEM at their own cost and distributed by either at their discretion. The RECIPIENT(S) may otherwise utilize such material provided under this AGREEMENT as it deems necessary and appropriate, including the right to publish and distribute the materials or any parts thereof under its own name, provided that any copyright is appropriately noted on the printed materials.

The RECIPIENT(S) and its contracted parties agree to acknowledge TDEM in any news releases or other publications relating to the work performed under this AGREEMENT.

(28) NO DEBT AGAINST THE STATE

28.01 This shall not be construed as creating any debt by or on behalf of the State of Texas, or TDEM, and all obligations of the State of Texas are subject to the availability of funds. To the extent the performance of this AGREEMENT transcends the biennium in which this AGREEMENT is entered into, this AGREEMENT is specifically contingent upon the continued authority of TDEM and appropriations therefore.

(29) LICENSES, PERMIT, AND INSURANCE

29.01 For the purpose of this AGREEMENT, the RECIPIENT(S) will be considered an independent RECIPIENT(S) and therefore solely responsible for liability resulting from negligent acts or omissions. The COUNTY, on the RECIPIENT(S)'S behalf shall obtain all necessary insurance, in the judgment of the COUNTY, on the RECIPIENT(S)'S behalf, to protect themselves, the RECIPIENT(S), TDEM, and employees and officials of TDEM from liability arising out of this AGREEMENT.

THE RECIPIENT(S) SHALL INDEMNIFY AND HOLD TDEM AND THE STATE OF TEXAS HARMLESS, TO THE EXTENT THE RECIPIENT(S) MAY DO SO IN ACCORDANCE WITH STATE LAW, FROM ANY AND ALL LOSSES, DAMAGES,

LIABILITY, OR CLAIMS THEREFORE, ON ACCOUNT OF PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE OF ANY NATURE WHATSOEVER CAUSED BY THE RECIPIENT(S), ARISING OUT OF THE ACTIVITIES UNDER THIS AGREEMENT.

IN WITNESS THEREOF, the COUNTY and RECIPIENT(S) have caused this Agreement to be executed by their undersigned officials as duly authorized.

RECIPIENT(S)

By: Robin Rogers

Printed Name: Robin Rogers

Date: 9/23/2020

By: Edward Rogers

Printed Name: Edward Rogers

Date: _____

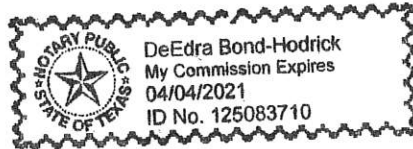
FORT BEND COUNTY, TEXAS

By: DeEdra Bond-Hodrick

ATTEST:

DeEdra Bond-Hodrick

DATE: 9-23-2020



Attachment A
Contract between COUNTY and State of Texas

Contract is incorporated by reference and can be reviewed at COUNTY offices

Attachment B
Elevation Contract between RECIPIENT(S) and ELEVATION



1245 West Cardinal Drive, Beaumont, TX 77705

877.390.5438

www.excellohomes.com

Elevation Agreement

Introduction Parties

This agreement is made by an between Excello Homes as the contractor and the Homeowner: Ed & Robin Rogers each of whom is a party hereto enter who are collectively referred to herein as the parties, and is effective upon the full execution of this agreement with the date of the last party executing hereto.

In exchange for the mutual promises contained herein, another good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the parties agree as follows:

Article 1. Description of Professional Services

Contractor will perform professional services associated with turnkey elevation services located at 37721 Longhorn Road, Wallis, Texas, 77485; as described in contractor's completed work write up a project cost sheet attached hereto as Plans and Specifications (Exhibit A). It is understood and agreed that the time for performance of the scope of services under this agreement shall begin with contractors' receipt of the notice to proceed.

Article 2 Administrative Contacts

The following persons are designated by each receptive party here to serve as that parties contact for purposes of administrating this agreement and the following list the contact information for each receptive parties' designee.

Contractor Name of Company: Excello Homes

Name of Designated Contact Person: Jim Griffin

Address: 1245 W Cardinal Dr Beaumont TX 77705

Telephone: 877.390.5438

Email Address: jgriffin@excellohomes.com

Homeowners:

Name of homeowner(s) (list all persons and are entities listed as current grantees within real property records on file in the jurisdiction for the property);



Name of Title of the Property Is In: Ed & Robin Rogers

Homeowners Contact: 832.520.6707

Address of Homeowner: 37721 Longhorn Road Wallis, TX 77485

Telephone (Primary and Secondary): 832.861.7709

Email Address: rrogers@pantexennerflo.com

*Only those person(s) listed within the real property records on file in the jurisdictions as a current grantee of the property may serve as the homeowner's designated contact(s) under this agreement. If homeowner wishes to designate any other person, the homeowner must provide a certified copy of a power of attorney covering such a transaction to the contractor are provide a certified copy of letters of appointment as Guardian of the estate covering the person listed as grantee of the property. Such certified documents must be presented to contractor prior to execution of this agreement.

Article 3. Acronyms and Definitions

A. Acronyms. The following acronyms have them meanings ascribed herein for purposes of this agreement:

1. **ADA** means The Americans with Disabilities Act an implementing regulation.
2. **FEMA** means The United States Department of Homeland security Federal Emergency Management Agency.
3. **GSA** means the United States General Services Administration.
4. **HMA Unified Guidance** means the Hazard Mitigation Assistance Unified Guidance published June 1, 2010 by feet by FEMA and which provides federal guideline requirements in the FMA Program.
5. **ICC** means "Increased Cost of Compliance" and here in refers to that coverage under the national flood insurance program under which the non-federal share of cost may be claimable.
6. **NFIA** means the National Flood Insurance Act of 1968, as amended.
7. **NFIP** means the National Flood Insurance Program.
8. **FMA** means Flood Mitigation Assistance an refers to the Flood Mitigation Assistance Program to assist in the effort to reduce or eliminate the risk of repetitive flood damage to structures insurable under the National Flood Insurance Program.
9. **IRC** means International Residential Code.
10. **Construction Delay** means any calendar day(s) that were caused by documented inclement weather and/or revisions to plans and specifications requested by contractor's engineer. The construction delay effects the completion date.

Definitions. The following terms shall have the meanings ascribed herein for purposes of this agreement. Defined terms are also indicated using parenthetical.

1. **Agreement** means this agreement in all exhibits attached here to that are incorporated herein, which are the following Exhibits:
 - a. Exhibit A: Contractors Completed Work Write-Up / Project Cost Sheet (Plans and Specifications)

- b. Exhibit B Turnkey Elevation Work to Be Performed
 - c. Exhibit C: Elevation Contractors Draw Schedule
2. **Bond** means a payment bond and performance bond each an amount equal to the elevation contract amount issued by solvent company authorized to do business in the state, which is compliant with all legal requirements, as security for the faithful payment of all contractor's obligation under this agreement.
 3. **Commencement Date** means the date that is represented on the notice to proceed and is delivered from the Jurisdiction / State / Administrator.
 4. **Completion Date** means the 120-workday following the commencement date.
 5. **Contractor** means Byrdson Services, LLC DBA Excello Homes is responsible for completing the home elevation under this agreement.
 6. **Jurisdiction** means Municipality / County / City which is administrating FMA program through its grant administrator.
 7. **Elevation Amount** means the total amount contractor is charging to elevate improvements at the property as defined in plans and specifications (Exhibit A), contract amount **does not** include non-elevation costs.
 8. **Elevation Cost** means the miscellaneous cost itemized and plans and specifications (Exhibit A) as elevation cost elevation are those costs arising from certain structure elevation activities and their associated cost which are eligible cost under the FMA program in accordance with FEMA.
 9. **Code Minimum** means work is to be performed at IRC standards of the adopted year.
 10. **Final Completion** means when the improvements are fit for their intended use in accordance with the plans and specifications (Exhibit A), in all the following have been executed and delivered to the County:
 - a. Certificate of Occupancy or Certificate of Completion for the home from applicable governmental authorities, local jurisdictions and/or third party with certification authority;
 - b. A final inspection report from the contractor signed by and approve inspector showing the 100% of the construction covered by this agreement has been completed in accordance with this agreement including but not limited to:
 - i. verified work completed in compliance with terms of grant;
 - ii. verify design Engineering compliance;
 - iii. verified ADA compliance (if required);
 - iv. Submit copy of new elevation certificate FEMA form
 11. **Lien Waiver Affidavit** means documents that states contractor liabilities and bills have been paid.
 12. **Homeowner** means the eligible applicant(s) and recipient of FMA elevation grant funds under this agreement as identified in the introduction of this agreement.
 13. **Improvements** means that the single-family residence and related improvements eligible for elevation under the FMA Program and to be elevated at the property, as set forth in the work order in accordance with the corresponding plans and specifications (Exhibit A) approved by the jurisdiction. The elevation of that single-family residence may consist of the following:
 - a. Slab elevation;
 - b. Slab separation and elevation;

- c. Pier and beam elevation;
 - d. Piling and beam elevation;
 - e. Demolition /removal;
 - f. Project scoping;
 - g. Engineering design;
 - h. Other as specified in Plans and Specifications (Exhibit A)
14. **Homeowner Upgrades** means any work requested by the homeowner above the eligible grant allowed work defined in the plans and specifications (Exhibit A). The cost of the additional work is at the homeowner expense.
 15. **Mitigation Amount** means the amount equal to the total budgeted project hard cost minus non elevation cost as described in plans and specifications (Exhibit A), in accordance with each term and condition of this agreement. This price for specific items of work is stated in plans and specifications (Exhibit A).
 16. **Non-Elevation Cost** is defined as the miscellaneous cost itemized in plans and specifications exhibit a comma as non-elevation cost if any. Non elevation cost includes those costs arising from certain structure elevation activities and their associated costs which are ineligible cost under the FMA program. Such costs are **not eligible** for reimbursement with grant funds and cannot be payable to the contractor directly from homeowner. Non elevation and its ensuing not cost are pursuant to a separate contract solely between homeowner and contractor, but not incorporated into this agreement.
 17. **Plans and Specifications** means the final working drawings and specifications for the elevation of the improvements at the property, as provided by contractor and engineer. Plans and Specifications are attached to this agreement as (Exhibit A).
 18. **Program** means the Jurisdiction/Administrator of this grant program.
 19. **Property** means that certain parcel of real property that is the site of the home to be elevated an includes the real property, the home, and other improvements on the real property parcel and is not part of this agreement.
 20. **Temporary Housing** means a place to live for a limited period of time and for the purpose of this agreement further means the lodging cost incurred by homeowner during the period of time that homeowner is displaced from their home due to eligible elevation to such home. The reimbursement for temporary housing will be determined by the Program Administrator/Jurisdiction. These monies cannot be paid by the contractor.
 21. **Work Order** is also referred as Work Write-Up Project Cost Sheet as defined in an is attached hereto as plans and specifications (Exhibit A).
 22. **Worksite** means the site within the property where the elevation is occurring and any surrounding area within the property necessary for contractor's ingress to, egress from, and performance of the elevation work.

ARTICLE IV. ELEVATION OF IMPROVEMENTS FINANCIAL SUMMARY AND DRAW SCHEDULE

1. Financial Summary

Contract Amount	<u>\$157,440.83</u>
*Non-Elevation Cost (paid separately)	<u>if needed on a separate contract</u>

*Non-Elevation cost are pursuant to a separate agreement between homeowner and contractor.



2. Payments to Contractor/ Draw Schedule

- a. Elevation Contractor Draw Schedule is attached here to as (Exhibit C) for the elevation projects eligible in the FMA program. The contractor shall be entitled to request up to four (4) disbursements from the elevation contract amount after completion of each phase of the work and supplemental required documents.

ARTICLE V. HOMEOWNER'S OBLIGATIONS

- A. **Taxes:** Homeowner will pay all real estate taxes an assessment of every kind on the property before the same become delinquent and jurisdiction may at any time require homeowner to provide evidence that taxes have been paid current period property taxes may be paid current be deferred or homeowner must be current on payment plan with the jurisdiction tax assessor and collector in order to avoid any delinquency.
- B. **Homeowner Cooperation:** Homeowner will cooperate generally with a reasonable request of contractor, Jurisdiction, and FEMA as such request related to elevation repairs, or installation of the improvements. Homeowner will cooperate with contractor in arranging for inspections by representative of the Jurisdiction of the progress of the elevation from time to time and will promptly comply with Jurisdictions requirements or satisfy any objections regarding construction of the improvements or the progress thereof.
- C. **Utilities:** Homeowner is responsible for authorizing the disconnection of electrical, telephone, cable and gas as directed by the contractor. Homeowner is responsible for all utility bills during elevation. Homeowner is responsible for authorizing reconnection of all utilities as directed by the contractor. Any upgrades required by utility company for reconnection are not eligible cost hereunder.
- D. **Homeowner understands that all work will be done according to code minimum.** All aesthetic work such as stucco, skim coat, stamped concrete, larger catwalks and decks, upgraded decking materials, metal handrails, concrete stairs, spiral stairs, cantilever steel supports are not considered an allowable grant eligible cost. Homeowner further understands that some architectural plans or home renderings may depict non allowable costs. Any such depictions are not included in the scope of this agreement and are not grant allowable costs. Routine homeowner maintenance is suggested to maintain the integrity of the pressure treated wood decking and stairs.
- E. **Duty to Inform:** Homeowner is responsible for informing the contractor of any known property hazards such as asbestos, lead paint, buried lines, tanks, septic systems, water wells, bees, and propane tanks. Homeowner is also responsible for notifying contractor before signing the agreement if the homeowner has medical issues which could entitle the homeowner to special types of access facilities. In case where a homeowner or member of the homeowner's family has a permanent physical disability, a physician's written certification is required before handicapped, special needs access facilities can be allowed as in eligible elevation cost. Please inform the program administrator and our municipality of any special accessibility needs, please send the physician's certification directly to the program administrator and our municipality. Contractor is not responsible for determining if homeowner receives the ADA access routes.
- F. **Landscaping:** Homeowner shall be solely responsible for removing, storing, and replacing any existing landscaping, speakers and landscape lighting that homeowner

wishes to retain prior to the start of the work. The contractor is not responsible for the lighting and/or speakers or reinstallation of the lighting and/or speakers. Contractor is not responsible for any rock gardens. Homeowner may at their own expense bring in and install specialized dirt prior to the installation of grass so long as it does not delay the completion of the project. This request from the homeowner must be done in writing by the homeowner, no later than the second phase of the elevation project. Contractor is not responsible for the sprinkler system, or any components necessary for sprinkler system to function. Including, shutoff valve, backflow preventer, main lines, sprinkler zones, zone lines, valves, heads, controller. The contractor is not responsible for any mosquito misting and our bug control systems.

- G. **Concrete:** Decorative concrete, stamped concrete, tile, stone are considered homeowner upgrade. Any concrete are curbs that must be removed to facilitate home elevation will be replaced with standard concrete in the areas removed. Sidewalks and driveways that are damaged prior to commencement of project will not be replaced. Predetermined concrete damage have been documented by the contractor. Any concrete that the contractor removes for access during the elevation process will be repaired. During the mobilization phase heavy machinery will be transported on homeowner property. This weighty equipment is necessary for the elevation process. Due to the substantial load of said equipment some inevitable cracks could occur on driveways and sidewalks. Contractor will repair any additional cracks visualized after elevation which were not previously documented with a recommended masonry product. Homeowner cannot request any additional sidewalks, ramps, concrete patios to be framed and poured. Any additional concrete work is considered a homeowner upgrade and is not allowed by the elevation program. The addition of skim coat and stucco or/any other aesthetic work to the slab or columns are considered homeowner non-eligible work / homeowner upgrades and are at the expenses of the homeowner and not included in this agreement. If necessary, the contractor will pour a concrete pad at the end of the stairs.
- H. **AC Heating System:** The contractor will disconnect and reconnect the outdoor AC unit(s) as necessary. The HVAC Unit(s) will be secured on a steel platform attached to the slab and raised with the home. Homeowner understands that if the unit is low on freon contractor will inform the homeowner and give them the option to pay for the freon directly to the AC contractor. Contractor is not responsible for any aspects of the functionality of the indoor-outdoor units, or the pilot lights for heaters. Contractor is not responsible for condenser and or machinery connected to AC System. Contractor will work with the homeowner to reconnect the AC systems as soon as feasibly possible. Contractor is not responsible for any damage to home or personal belongings caused by mold or elevated levels of humidity.
- I. **Electrical:** Contractor is responsible for the disconnection and reconnection of electrical lines to the home. Homeowner understands that bringing all electrical up to code is outside the scope of this project. Homeowner understands that lighting and outlets below base flood elevation is considered a homeowner upgrade and outside the scope of this project.
- J. **Plumbing Systems:** Contractor is responsible for disconnecting and reconnecting the sewer water gas line as well as, making repairs to the plumbing under the home.

Homeowner understands that repairing plumbing system inside the home are bringing the plumbing system up to code or outside the scope of this agreement. Further, Homeowner understands that repairing septic systems, lift stations, sump pumps are the installation of a new sewer lines are taps are outside the scope of this grant agreement. Existing water spigots that are attached to the home will be brought to ground level and will be properly insulated according to code. Any additional spigots are at homeowners' expense and must be requested in writing by the homeowner during phase two (2) of the elevation process. Homeowner cannot request or direct plumber or subcontractor to complete any additional work.

- K. **Fences /Walls:** Contractor will detach fences and reset fences and walls as necessary to facilitate the elevation project. Contractor is not responsible for fencing that are damaged rotten or not installed properly prior to commencement of this project. Existing wood walls covered in stucco and CMU walls that do not have proper foundation or footers, (determined by contractor) are not the responsibility of the contractor to repair or reconnect after the elevation process.
- L. **Columns/Piers:** Construction and placement will be determined by the contractor's professional engineer.
- M. **Steel Beams:** Some homes will require steel beams to support the original slab of the home. Placement and size and number will be determined by the contractor's professional engineer.
- N. **ADA Personal Lift:** (Approved by the Jurisdiction or Program Administrator) The ADA lift will be installed per program requirements; the personal lift will be an external non-enclosed lift that will meet FEMA guidelines. The selection of the ADA personal lift will be provided by the contractor. The standard lift is a two (2) stop lift. A three (3) stop lift is considered an upgrade and will require a written change order, the homeowner will assume the additional cost. The change order will need to be submitted prior to completion of phase two (2) of the elevation process.
- O. **Flood Vents:** (in areas where required) Contractor will install the flood vents according to FEMA guidelines. The specific type, locations and number of flood vents will be the decision of the contractor. Ornamental and engineered flood vents are homeowner upgrades and outside the grant eligible cost.
- P. **CMU Wall:** (in areas where required) All walls will be constructed of standard CMU blocks. Homeowner understands that split face is a homeowner upgrade. Any openings for windows must be denoted by the homeowner prior to construction of the wall, there are no credits for blocks not in the openings. This credit is offset by the installation of the required lintels. This Agreement includes standard concrete masonry units (CMU) block wall, the blocks are porous. It is recommended as routine maintenance for the homeowner to provide waterproofing to prevent water leakage through the CMU block wall.
- Q. **Swimming Pools/ Jacuzzi:** The homeowner is responsible for maintaining and placing the proper chemicals into the pool/jacuzzi. The contractor is not responsible for the functionality of the pool/jacuzzi equipment and/or components including the mechanical control equipment, filters, heaters, pumps, valves, gaskets, or vacuum systems or lights. The contractor is not responsible for the replacement of the concrete pool equipment pad. If concrete is damaged during the elevation process, the crack will

be repaired. The contractor is not responsible for the pool light or its functionality. The contractor is not responsible for cleaning the pool or jacuzzi after the elevation process is complete.

- R. **Home Rendering:** Prior to the commencement of the project home renderings may be provided to the homeowner. Homeowner understands that the cost incurred for changes to these plans after the commencement of construction is the responsibility of the homeowner.
- S. **Interior Work:** Floor or sheetrock damage may be caused by the elevation process; contractor is not responsible for repair damage. As efficient as the unified jacking system is during the home elevation process; there is no guarantee that a blemish will not occur. Contractor is not responsible for any existing drywall repair that was previously done or pre-existing cracks to the home. The elevation process could reopen and/or widen the interior cracks that were once repaired.
- T. **Subcontractors:** Homeowner cannot hire subcontractors directly to perform any work during the grant elevation process; any work must be done after contractor receives the Jurisdiction approval of work complete or certificate of occupancy. Contractor cannot be responsible for any warranty concerns that were performed by subcontractors that the homeowner paid directly. Homeowner cannot communicate directly with any subcontractor or give written or verbal directives to perform any work by subcontractor during the grant elevation process. This communication will cause a breach of contract.
- U. **Stop Work Action:** Our team at Excello Homes is responsible for creating a culture where homeowners are aware of all elevation work that is required to complete their home in a timely manner. Excello Homes is bound by completion date that begins once we receive a notice to proceed from the Jurisdiction. Excluding any documented weather delays, the calendar days are recorded, and the contractor could be subject to fines for not completing the project within the determined timeframe. If a homeowner requests a stop work order, our team cannot continue as scheduled and this causes undue hardship. The homeowner may be charged \$150.00 per day for lost work and time.
- V. **Many homes or out of level before any elevation work begins:** The contractor can reduce the amount the house is out of level during the elevation process. However, this may cause sheetrock, ceiling trim damage and wall cabinets could be shifted. If the homeowners elect to level their home, the contractor is not responsible for any damage to interior components of home will be replaced.
- W. **No Changes in Scope of Work:** No changes will be made in the plans and specifications (Exhibit A), except on the written approval of the same by the Jurisdiction. No extra work shall be allowed to contractor or any subcontractor or material change made by any contract or subcontract without the Jurisdiction prior written approval and consent.
- X. **Limitations on Non-Elevation Construction:** All non-elevation construction and its related non elevation cost are ineligible cost under the FMA program, or the sole responsibility of the homeowner, and, if occurring, are constructed and funded pursuant to a separate contract between homeowner and contractor. Homeowner and contractor understand and agree that the only non-elevation construction allowed on the property prior to the date of final completion of the elevation of the eligible improvements is a non-elevation construction that is directly related and necessarily

incidental to the construction required by the plans and specifications for the elevation of the improvements. For example, the construction of a new building or an auxiliary structure is not directly related and necessarily incidental to the elevation of the improvements and shall not be constructed prior to final completion of the elevation of the eligible improvements pursuant to this agreement. However, an upgrade to split face block rather than concrete blocks is directly related and necessarily incidental to the elevation construction required by plans and specifications for the elevation of the improvements and may be performed by the contractor prior to final completion of the elevation of the eligible improvements. Extra lift height is an ineligible cost, if homeowner ops for additional lift type, contractor must provide lift height quote. With all costs to be borne by homeowner. Any additional non eligible non elevation work will be at the discretion of the jurisdiction.

- Y. **Insurance Provision in Filing a Deed Restriction:** Homeowner agrees to maintain flood insurance insuring against loss of the real property an improvement in an amount at less equal to the project cost.
- Z. **Homeowners Representation:** Homeowner represents the following to the contractor;
 - 1. Homeowner is the simple owner of the property.
 - 2. Other than any first lien holder whose prior written consent has been obtained by homeowner, there are no liens, mortgages, claims, charges are unpaid assessment against the property.
 - 3. No written contract or affidavit regarding an oral contract regarding the elevation of all or any portion of the improvements has been recorded in the jurisdiction.
 - 4. All warranties, representations and certifications made, and all information and materials submitted or caused to be submitted to the Jurisdiction in connection with the Elevation Offer are true and correct, and there have been no material changes in our conditions affecting any of such warranties, representations, certifications, material or information prior to the date of the signing event.
- AA. **Homeowner shall not assign or otherwise transfer this agreement** in whole or in part without prior written approval of the contractor. Such consent, if granted, shall not relieve the homeowner at any of its responsibilities under this agreement.
- BB. **Contractor Payment Request Form:** Contractor will send via DocuSign or hand deliver a payment request form to the homeowner for review, acceptance, and execution at the completion of each phase. If homeowner accepts the payment request form, then the homeowner must provide an executed signature and date within four (4) calendar days. If homeowner does not accept the payment request form, then homeowner must notify the contractor within four (4) calendar days and provide written justification for not signing the payment request.

ARTICLE VI. CONTRACTOR OBLIGATIONS

- A. **Standards of Elevation:** In addition to the other requirements of this agreement, the improvements will be constructed, repaired or installed in a good and workmanlike manner, fit for their intended purposes, fully equipped with materials of high quality, strictly in accordance with the work order the plans and specifications (Exhibit A), the warranty standards, FEMA floodplain regulations; If applicable, all applicable federal, state, and local laws, rules and regulations including the international residential code (IRC).
- B. **Elevation Corporation:** Promptly after signing event, contractor will determine whether in fact alternate living arrangements must be made by the homeowner and all occupants during the construction. As specified in plans and specifications Exhibit A). When such determination is made, homeowner and all occupants must vacate their property within two (2) days in order to allow for elevation to commence in a timely manner. Homeowner will make arrangements for securing personal property out of the construction area. Contractors is not allowed to assist homeowner to move or secure their personal property. Contractor is not responsible for any personal belongings that are left outside the premises. Displayed from the work site due to eligible elevation construction means that period of time commencing when the home is uninhabitable due to the disconnection of utilities and are that the home is unsecured from its foundation, as applicable whichever is earlier, and running there from until such time that the home is re secured to its foundation are new construction complete and utilities promptly restored. Utilities that are restored within two (2) business days after the re securing of the home to its foundation show complete presumptively considered promptly restored. Cost in curd by homeowner due to the displacement from the work site during any time that homeowner is displaced due to non-elevation work is not eligible for reimbursement, and such ineligible displacement costs are also including any elongation of the time. For the provision of elevation work that has occurred because of the provision of non-elevation work.
- C. **No Changes in Scope of Work:** No changes will be made in the plans and specifications (Exhibit A) except on the prior written approval of the same by jurisdiction no extra shall be allowed to contractor or any subcontractor or material change made and any contract or subcontract without the jurisdictions prior written approval and consent. Homeowners cannot give directives to subcontractors to perform work. Homeowners cannot give a stop work action to delay the progression over the elevation work to be performed. Homeowner cannot make any payments directly for work to be performed to subcontractor. If homeowner pays any subcontractor to perform work this will void any warranty on the property.
- D. **Corrective Action:** If contractor is notified that any inspections by the municipality or its designee has uncovered any noncompliance issues, contractor shall immediately correct such issues. Contractor shall maintain a detailed record of every noncompliance and correction action taken. Such noncompliance includes documenting any and all preexisting damages as documented in plans and specifications (Exhibit A) homeowner will be required to sign off on the same.
- E. **Elevation Timing:** Contractor shall commence elevation of the improvements as soon as possible after the commencement date.

- F. **Notice to Proceed Date:** No later than ten (10) days after the commencement date, contractor shall begin the work would do diligence, and shell achieve final completion of the improvements by the completion date. Any weather delays can affect the completion date.
- G. **Limitations on Non-Elevation:** Construction all non-elevation construction are non-mitigation construction and its related non elevation cost that are ineligible costs under the FMA program, are the sole responsibility of the homeowner, and if occurring are constructed and funded pursuant to a separate contract between homeowner and contractor. Homeowner and contractor understand and agree that the only non-elevation construction are allowed on the property prior to the date of final completion of the elevation of the eligible improvements is not elevation construction or non-mitigation construction that is directly related and necessarily incidental to the construction required by the plans and specifications for the elevation of the improvements. For example, the construction of a new building or an auxiliary structure is not directly related and necessarily incidental to the elevation are of the improvement and shall not be constructed prior to final completion of the elevation add the eligible improvements pursuant to this agreement however, an upgrade to split face block rather than concrete blocks is directly related and necessarily incidental to the construction required by plans and specifications for the elevation of the improvements and may be performed by contractor prior to formal final completion of the elevation of the eligible improvements. Extra lift type is an ineligible cost if homeowner ops for additional lift height contractor must provide a quote all cost to be borne by homeowner.
- H. **Insurance:** At all times during elevation or installation of the improvements, contractor will obtain and maintain an full force an effect the following insurance policies, which shall list the municipality as additionally insured and shall be issued by company that is licensed to do business in the state of work performed and that has a rating equal to or exceeding a; VII from A.M. Best.
 - a. A commercial general liability positive policy including coverage with the combined single limit of \$1,000,000 per current and 2,000,000 General aggregate;
 - b. An automobile liability policy with a combined single limit of \$1,000,000 per accident for bodily injury and property damage to include owned, hired in non-own autos;
 - c. workers compensation policy providing statutory benefits;
 - d. All liability insurance may be obtained by any combination of underlying and excess/umbrella policies.
- I. **Utilities:** Contractor shall be responsible for notifying the homeowner when to disconnect utilities. Contractor is responsible for any fees incurred for disconnecting the utilities. Contractor is also responsible for notifying the homeowner when to reconnect the utilities.
- J. **Warranty:** Contractor will provide for services performed under this agreement a set of limited warranties;
 - a. a one-year workmanship and materials warranty;
 - b. a two-year mechanical and delivery systems warranty;

- c. a ten-year structural warranty.
 - d. Any warranty claims made by the homeowner shall be directed to the contractor with a written notice specifying in detail the homeowner's concerns.
- K. **Under No Circumstances** will the contractor be responsible for any cost incurred with respect to any latent or unknown defects that exist at the project site. Any and all cost incurred by the contractor with respect to the cure of such latent or unknown condition need to be recoverable by the contractor.

ARTICLE VIII. DEFAULT AND REMEDIES

- A. **Homeowners Default:** Homeowner will be in default under this agreement upon the occurrence of any of the following events;
- 1. Homeowner fails to perform the terms of this agreement and such failure continues for three (3) business days after delivery of written notice of the failure;
 - 2. Homeowner becomes insolvent or unable to pay its debts as they become due, or declare bankruptcy, or makes an assignment for the benefit of the creditors;
 - 3. Homeowner commits a default under any other contract it has entered into with the Jurisdiction.
 - 4. Homeowner has misused the proceeds of the mitigation offer; or
 - 5. Homeowner has made any misrepresentations in connection with this agreement. In the event of homeowners default the jurisdiction shall have the right, without prejudice to any other right or remedy, to take any, all, or none of the following actions, at its sole discretion;
 - a. Terminate this agreement on written notice to homeowner.
 - b. Direct the contractor to stop work on the improvements, either temporarily or permanently notwithstanding the foregoing, sums earned by contractor for elevation and delivery of the improvements prior to any notice to contractor of all misuse of funds or misrepresentation by homeowner shall be payable from the jurisdiction to the contractor.
 - c. Cancel disbursement of any unearned portion of the mitigation offer amount under this agreement.
 - d. Sue homeowner for damages, injunctive, or equitable relief.

ARTICLE IX. MISCELLANEOUS PROVISIONS

- A. **Inspection:** Representatives from FEMA, the Jurisdiction, and their designees shall have the right to inspect all work performed under this agreement. Homeowner will take all steps necessary to ensure that representatives from FEMA, the Jurisdiction, or their designees are permitted to examine and inspect the improvements, the work site and the property.
- B. **Entirety of Agreement:** This agreement contains the entire agreement and understanding among the parties and supersedes and replaces any and all prior or contemporaneous proposals, agreements, promises, negotiations, understandings, commitments, and our representation of any kind, whether written or oral relating to the subject matter herein or the services or deliverables to be provided hereunder.

- C. **Duty to Provide Additional Information:** Homeowner shall provide copies of all notices received that pertain to the property, including notices from any; governmental or private authority having jurisdiction over the property; Insurance companies carrying a policy pertaining to the property; Linder holding only nor securing interest against any part of the property; any person asserting a claim against homeowner, contractor are the property.
- D. **Severability:** If any provision of this agreement shall for any reason be held to be invalid, illegal, are unenforceable in any respect, such invalidity, illegality, or unenforceable shall not affect any other provision here of, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- E. **Validity Enforceability:** If any current or future legal limitations affect the validity or enforceability of a provision of this agreement, then the legal limitations are made a part of this agreement and show operate to amend this agreement to the minimum extent necessary to bring this agreement into conformity with the requirements of the limitations, and so modified, this agreement shall contain continue in full force and effect.
- F. **Force Majeure:** No party shall be liable for any failure of or delay and performance of its obligation under this agreement to the extent such failure or delay is due to acts of God, acts of public enemy, fires, floods, power outages, wars, civil disturbances, epidemics, pandemics, sabotage, terrorism, accidents, intercessions, blockades, embargos, storms, explosions, labor disputes (whether or not the employees demands are reasonable and are within the party's power to satisfy), failure of common carriers, Internet service providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, authorizations, licenses, franchises are permits, inability to obtain labor, materials, power, equipment, our transportation, or other circumstances beyond its reasonable control (collectively referred to herein as Force Majeure Occurrences). Any such delays shall not be a breach of our failure to perform this agreement or any part thereof and the date on which the obligations here under are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays . No party shall be liable to the other for any liability claims, damages are other losses caused by a resulting from a Force Majeure Occurrence.
- G. **Authority:** Each party represents and warrants for itself that the individual executing this agreement on its behalf has the full power in authority to do so and this agreement constitutes the legal, valid comment and binding agreement of each party hereto.
- H. **Amendment:** This agreement may be amended only by written instrument duly authorized by each party hereto and duly executed by each respective party hereto.

Proposal

Contractor: Excello Homes		1st Floor sqft. 2073		
Home Owner: Edward & Robin Rogers		Total sqft. 2073		
Address: 37721 Longhorn Road		BFE		
City, St, Zip: Wallis, TX 77485		Floor Elevation		
Foundation Type: Slab Elevation		Freeboard 2		
Temporary Living Allowance Days: 120 Days		Target BFE		
		Total Elevation 7.1		
Item	Description	Qty	Unit Price	Price
Pre-Construction Activities				
1		1	\$5,934.05	\$5,934.05
SUBTOTAL				\$5,934.05
Site Preparation/Development				
2		1	\$3,123.18	\$3,123.18
SUBTOTAL				\$3,123.18
Excavation, Pilings, Elevation				
3		1	\$35,135.80	\$35,135.80
SUBTOTAL				\$35,135.80
Foundation				
4		1	\$84,013.59	\$84,013.59
SUBTOTAL				\$84,013.59
Utilities				
5		1	\$7,198.93	\$7,198.93
SUBTOTAL				\$7,198.93
Flatwork				
6		1	\$468.48	\$468.48
SUBTOTAL				\$468.48
Steps, Landings, and Carpentry				
7		1	\$7,908.94	\$7,908.94
SUBTOTAL				\$7,908.94
Finish-Outs and Landscaping				
8		1	\$3,358.00	\$3,358.00
SUBTOTAL				\$3,358.00
ADA Approved Items				
9		1	\$0.00	\$0.00
SUBTOTAL				\$0.00
Subtotal Grant Eligible Costs				\$147,140.96
Bonding and Insurance				\$10,299.87
GRANT ELIGIBLE COSTS TOTAL				\$157,440.83
TOTAL CONTRACTED PRICE				\$157,440.83

DS
RR

This Agreement is hereby executed by the parties hereto, each respective party acting by and through its duly authorized representatives, to be effective on the date specified herein.

Homeowner:

DocuSigned by:
Robin Rogers
9EB591829A0242B...

5/22/2020

Signature of Homeowner

Date

Contractor:

Jim Griffin

5.14.2020

Jim Griffin, President of Byrdson Services, LLC dba Excello Homes

Date

DRAW SCHEDULE

1. **Phase 1 Pre-elevation/mobilization** - 20% of the total ELEVATION CONTRACT AMOUNT upon receipt of inspector's report plus the submittal of the following:
 2. CONTRACTOR invoice;
 3. Progress Report;
 - a.) Engineering feasibility letter
 - b.) Initial elevation certificate
 - c.) Copies of requisite permits
 - d.) Copy of fully executed ELEVATION CONTRACT between HOMEOWNER and CONTRACTOR.
 4. Pre-elevation photographs – minimum of two (2) views each of front and back to show all four exterior walls and an adequate number of pictures for the interior;
 5. Signed and notarized CONTRACTOR Lien Waiver Affidavit (Interim) Form; and
 6. Signed and notarized Subcontractor Lien Waiver Affidavit (Interim) Form.

2. **Phase 2 Raised, ready to set, building department inspections** –40% of the total ELEVATION CONTRACT AMOUNT, provided that at least 60% of the Elevation construction is complete and CONTRACTOR'S submittal of the following:
 1. CONTRACTOR invoice;
 2. Progress Report;
 - a.) Escambia County building department concurrence
 - b.) Engineer's Concurrence as to 60% completion
 - c.) Copies of requisite permits
 - d.) Grant compliance
 - e.) HOMEOWNER acceptance
 3. Phase 2 elevation photographs – minimum of two (2) views each of front and back to show all four exterior walls and an adequate number of pictures for the interior;
 4. Signed and notarized CONTRACTOR Lien Waiver Affidavit (Interim) Form; and
 5. Signed and notarized Subcontractor Lien Waiver Affidavit (Interim) Form.

3. **Phase 3 Structure elevated to design height, foundation installed, mechanicals reconnected** - 30% of the total ELEVATION CONTRACT AMOUNT, provided that at least 90% of the Elevation construction is complete and upon receipt of inspector's report plus the submittal of the following:
 1. CONTRACTOR invoice;
 2. Progress Report;
 - a.) Engineer's concurrence as to 90% completion
 - b.) ADA compliance (if required)
 - c.) Grant compliance
 - d.) HOMEOWNER acceptance
 3. Phase 3 elevation photographs – minimum of two (2) views each of front and back to show all four exterior walls and an adequate number of pictures for the interior;
 4. Signed and notarized CONTRACTOR Lien Waiver Affidavit (Interim) Form; and
 5. Signed and notarized Subcontractor Lien Waiver Affidavit (Interim) Form.

DS
KR

4. Phase 4 Final Inspection, occupancy certificate, all grant requirements met - 10% of the total ELEVATION CONTRACT AMOUNT, provided that the elevation construction is 100% complete and upon receipt of inspector's report plus the submittal of the following:

1. Final CONTRACTOR invoice;
2. Post Elevation - Elevation Certificate;
3. Certificate of occupancy, or equivalent;
4. Signed and notarized Lien Waiver Affidavit CONTRACTOR (**Final**) Form;
5. Signed and notarized Lien Waiver Affidavit Subcontractor (**Final**) Form;
6. Copy of CONTRACTOR Warranties that have been signed by HOMEOWNER
7. HOMEOWNER acceptance;
8. Grant compliance reconciliation (if non-grant work was also performed); and
9. Final elevation photographs – minimum of three (3) views each of front and each side to show all four exterior walls and an adequate number of pictures for the interior.

DS
RR

Attachment C

**MODEL ACKNOWLEDGEMENT OF CONDITIONS
FOR MITIGATION OF PROPERTY IN A SPECIAL FLOOD HAZARD AREA
WITH FEMA GRANT FUNDS**

Property Owner: Edward and Robin Rogers
Property Address: 37721 Longhorn Rd, Wallis TX 77485

As a RECIPIENT(S) of Federally-funded hazard mitigation assistance under the Hazard Mitigation Grant Program, as authorized by 42 U.S.C. §4102a, the Property Owner accepts the following conditions:

1. That the Property Owner has insured all structures that will **not** be demolished or relocated out of the SFHA for the above-mentioned property to an amount at least equal to the Project cost or to the maximum limit of coverage made available with respect to the particular property, whichever is less, through the National Flood Insurance Program (NFIP), as authorized by 42 U.S.C. §4001 *et seq.*, as long as the Property Owner holds title to the property as required by 42 U.S.C. §4012a.
2. That the Property Owner will maintain all structures on the above-mentioned property in accordance with the flood plain management criteria set forth in Title 44 of the Code of Federal Regulations (CFR) Part 60.3 and City/County Ordinance as long as the Property Owner holds title to the property. These criteria include, but are not limited to, the following measures:
 - i. Enclosed areas below the Base Flood Elevation will only be used for parking of vehicles, limited storage, or access to the building;
 - ii. All interior walls and floors below the Base Flood Elevation will be unfinished or constructed of flood resistant materials;
 - iii. No mechanical, electrical, or plumbing devices will be installed below the Base Flood Elevation; and
 - iv. All enclosed areas below Base Flood Elevation must be equipped with vents permitting the automatic entry and exit of flood water.

For a complete, detailed list of these criteria, see COUNTY Ordinance.

3. The above conditions are binding for the life of the property. To provide notice to subsequent purchasers of these conditions, the Property Owner agrees that the COUNTY will legally record with the county or appropriate jurisdiction's land records a notice that includes the name of the current property owner (including book/page reference to record of current title, if readily available), a legal description of the property, and the following notice of flood insurance requirements:

"This property has received Federal hazard mitigation assistance. Federal law requires that flood insurance coverage on this property must be maintained during

the life of the property regardless of transfer of ownership of such property. Pursuant to 42 U.S.C. §5154a, failure to maintain flood insurance on this property may prohibit the owner from receiving Federal disaster assistance with respect to this property in the event of a flood disaster. The Property Owner is also required to maintain this property in accordance with the flood plain management criteria of Title 44 of the Code of Federal Regulations Part 60.3 and City/County Ordinance.”

4. Failure to abide by the above conditions may prohibit the Property Owner and/or any subsequent purchasers from receiving Federal disaster assistance with respect to this property in the event of any future flood disasters. If the above conditions are not met, FEMA may recoup the amount of the grant award with respect to the subject property, and the Property Owner may be liable to repay such amounts.

(Continued on next page)

This Agreement shall be binding upon the respective parties' heirs, successors, personal representatives, and assignees.

Fort Bend County

A Texas municipal corporation

By: _____
[Name, Title]

of Fort Bend County

&

Robin Rogers

Robin Rogers
Signature

Edward Rogers

Edward Rogers
Signature

WITNESSED BY:

Shawn Stafford
[Printed Name of Witness]

Shawn Stafford
Signature of Witness

[SEAL]

Notary Public

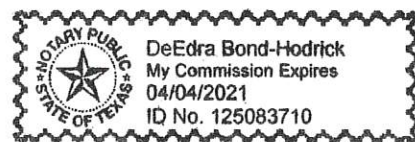
ACKNOWLEDGEMENT

State of Texas, County of HARRIS

Before me, DeEdra Bond-Hodrick, on this day personally appeared SHAWN STAFFORD / ROBIN ROGERS + EDWARD ROGERS, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 23rd day of September, 2020.

DeEdra Bond-Hodrick
Notary Public's Signature



Attachment D

See Attached
Email

HOA Acknowledgement

Property Owner: Edward and Robin Rogers
Property Address: 37721 Longhorn Rd, Wallis TX 77485

This is to acknowledge that I live in a neighborhood that has a Homeowner Association. I further acknowledge that the grant does not cover costs for items required by the HOA that are not otherwise grant eligible (such as concrete steps, finishes on the three-sided enclosures, etc.)

I acknowledge that it is my responsibility to get HOA concurrence for the work to be done relative to the elevation

By signing below, I acknowledge that I have or will obtain HOA approval for all required alterations, additions or changes made to the exterior of the above listed home.

Robin Rogers
Edward A Rogers
Signature of Property Owner(s)

9-23-2020
Date

Signature of COUNTY Representative

Date

Robin Rogers

From: Brenda Ellington <Brenda.Ellington@ciaservices.com>
Sent: Monday, September 28, 2020 11:53 AM
To: Robin Rogers
Subject: 37721 Longhorn Rd.

Morning Ms. Rogers,

Hope this e-mail finds you well and staying safe!

I'm the new manager for Valley Lodge Libby has moved back to her home town.

I'm in receipt of your e-mail to Libby concerning the elevation of your home through FEMA. The Board discussed this at the meeting last night and there is nothing that is needed for the HOA. The board advised you will need to make sure you have all permits needed from the City and County.

Hope this helps!

Thank you,


Brenda Ellington


VLPOA Community Manager

C.I.A. Services, Inc.

Systems. Structure. Stewards.

713-981-9000 | www.ciaservices.com

 We strive to provide excellent customer service at C.I.A. Services. Please email CSM@ciaservices.com to contact our Customer Service Manager and let us know how we are doing.

 This email is intended only for the individuals named above and may contain information that is confidential, privileged and protected from disclosure. Any unauthorized use or dissemination of this email is prohibited and will be prosecuted to the fullest extent of the law. If you are not the intended recipient, please do not read, copy, use or disclose the contents of this email to others and alert the sender by reply e-mail after deleting all copies of the communication and attachments, if any.

 Please consider the environment before printing.

We strive to provide excellent customer service at C.I.A. Services, please send an email to CSM@ciaservices.com to email our Customer Service Manager and let them know how we are doing.

This email is intended only for the individuals named above and may contain information that is confidential, privileged and protected from disclosure. Any unauthorized use or dissemination of this email is prohibited and will be prosecuted to the fullest extent of the law. If you are not the intended recipient, please do not read, copy, use or disclose the contents of this email to others and alert the sender by reply e-mail after deleting all copies of the communication and attachments, if any.

Please consider the environment before printing.

Attachment E
Non-Eligible Work Acknowledgement

AFFIDAVIT OF EDWARD AND ROBIN ROGERS

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

"I/we, Edward & Robin Rogers, do solemnly swear and affirm that I/we have not directly or indirectly asked for, requested, or solicited, or paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value for the giving of a contract for services related to home elevation, and which is not disclosed in the contract for services for the property owner (the "Home Elevation Contract"). In particular, I/we have not induced, by any means, any contractor to enter into a contract for home elevation services for my/our property ("Home Elevation Contract") that would include building systems or components that are not eligible for FEMA funding for Structure Elevation as provided in the Federal Emergency Management Agency, Hazard Mitigation Guidance Addendum, Hazard Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program pp. 74-80 (February 27, 2015).

Further, I/we agree to report to the Disaster Recovery Manager, Homeland Security & Emergency Management, Fort Bend County, in writing, any and all offers of any money or thing of value from a contractor or other person related to the Elevation Project Agreement or a Home Elevation Contract in the County.

Finally, I/we agree to affirm that the Home Elevation Contract with my/our chosen contractor is genuine and not collusive or a sham, and that I/we did not collude, conspire, connive or agree, directly or indirectly, in any manner, directly or indirectly, to fix the price for the Home Elevation Contract, in order to secure any advantage against the County or to provide any gifts or services for me/us or my/our property for participating in the County's elevation project other than those building systems or components eligible for FEMA funding that are clearly disclosed in the Home Elevation Contract.

I/we understand and acknowledge that I/we am subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument."

Further affiant sayeth not.

Robin Rogers
Homeowner/Affiant Signature

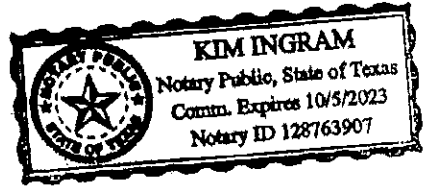
11/5/19
Date

[Handwritten Signature]
Homeowner/Affiant Signature

11/5/19
Date

37721 Longhorn Rd, Wallis, TX 77485
Homeowner/Affiant Address

SWORN TO AND SUBSCRIBED before me on the 5 day of November, 2019 by
Robin Rogers
{Homeowner/Affiant Name}



[Handwritten Signature]
Notary Public for the State of Texas