



January 13, 2020

Texas Water Development Board  
Office of General Counsel  
Attn: Mr. Todd Chenoweth  
General Counsel  
P.O. Box 13231  
Austin, TX 78711-3231

Re: Proposed Rulemaking and Flood Intended Use Plan for Chapter 363 Funding of Flood Mitigation Projects through the Flood Infrastructure Fund

Dear Mr. Chenoweth:

I write today on behalf of the Greater Houston Partnership and the Houston business community, which spans the 11-county region that has experienced four 500-year floods since 2015. Hurricane Harvey in 2017 and Tropical Storm Imelda in 2019 were the wettest and fifth-wettest storms, respectively, to ever hit the continental United States. As local and federal efforts to improve our region's flood mitigation infrastructure are underway, we look forward to the forthcoming investments from the state that are needed to help mitigate devastating floods that are likely to continue to flood homes, damage businesses, damage critical infrastructure, and claim lives.

During the 86<sup>th</sup> Legislative Session, we were fortunate to provide substantial input into the creation of Senate Bill 7 and the accompanying \$793 million contained in Senate Bill 500 for the Flood Infrastructure Fund (FIF). We strongly supported the passage of FIF's enabling constitutional amendment in November. We now appreciate the opportunity to offer public comments and work with the Texas Water Development Board (TWDB) in the development of rules that would maximize and expedite the investments and impacts from FIF.

Our public comments are limited to application requirements concerning memoranda of understanding (MOUs), the definition of a "flood project," and financing requirements contained in certain financial assistance categories of the Flood Intended Use Plan (FIUP).

**Application Requirements Concerning MOUs - Section 363.407(1)**

The proposed requirement is broader than what is currently required under Texas Water Code Section 15.005 and could significantly delay the implementation of a beneficial flood project by requiring an applicant to enter into an MOU with what could be hundreds of political subdivisions in each affected watershed. We encourage TWDB to consider revising the proposed rule to align with the application requirements of Texas Water Code Section 15.005 and to only require applicants to submit MOUs obtained with political subdivisions that would be substantially affected by the proposed flood project.

### **Definition of a “Flood Project” – Section 363.402(6)**

The successful implementation of a flood project often includes obtaining and maintaining certain real estate interests for the storage and conveyance of flood water. Under the proposed rules, it is not clear that real estate interests are included in the definition of a “flood project.” We suggest revising the definition of a “flood project” to include “necessary real estate interests.”

### **FIUP Financial Assistance Category Financing Requirements**

It is our understanding that the intention of Senate Bill 7 was to limit grant and loan financing requirements related to Annual Median Household Income (AMHI) and Metropolitan Statistical Areas (MSAs) to Planning, Acquisition and Design as described in Category 1 of the FIUP and codified in Texas Water Code Section 15.405(f) by Senate Bill 7. We encourage the revision of FIUP Financial Assistance Categories 3, 4, and 5 to remove requirements related to AMHI and MSA to maximize the impact of FIF funds and to align with the intent of Senate Bill 7.

The creation of FIF as a first-of-its-kind state flood mitigation fund was a significant achievement for Texas. The work of TWDB and its partners will be critical in ensuring the success of the fund and the state’s involvement in flood mitigation efforts moving forward. We thank you for your consideration of these proposed revisions, and we look forward to working with you to advance the best solutions that will provide for the strategic, efficient and expedient implementation of flood mitigation projects across Texas and the greater Houston region.

Sincerely,



Bob Harvey  
President and CEO

Cc: Kathleen Jackson, Director, Texas Water Development Board  
Jeff Walker, Executive Administrator, Texas Water Development Board  
Jessica Zuba, Deputy Executive Administrator, Texas Water Development Board