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SUGAR LAND, TEXAS

SUBMITTED TO
UNITED STATES SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
“REAUTHORIZATION OF THE NATIONAL FLOOD INSURANCE PROGRAM: PART I”
MAY 18, 2021

The following statement is presented on behalf of the Greater Fort Bend Economic Development Council (FBEDC), Fort Bend Flood Management Association (FBFMA), and Fort Bend County Levee Improvement District No. 2 (FBCLID 2).

FBEDC is a public-private partnership established in 1986 to promote quality growth including business recruitment and retention, business climate, master planned community development, and high value infrastructure necessary to support quality growth in Fort Bend County, Texas.

FBFMA is a non-profit corporation organized in 2009 under the laws of the State of Texas. We cooperate with FEMA, USACE, and other federal, state, and local agencies to hasten the accomplishment of economic flood risk reduction and management in Fort Bend County.

FBCLID 2 is responsible for providing flood protection and storm water management services for more than \$5 billion worth of property and structures in the City of Sugar Land. The District protects more than 5,300 acres of property while operating and maintaining 11 miles of levees, 8 miles of drainage ditches and two pump stations.

Fort Bend County, Texas

Fort Bend County occupies 862 square miles of Gulf Coastal plain along the Brazos River on the southwest side of the Houston metropolitan area. Since the 1970s, Fort Bend has maintained one of the fastest county growth rates in the United States with a population that has almost tripled since 2000 to nearly 900,000 residents today. Residents in Fort Bend County enjoy the



benefit of a community diverse in its cultures, cities, people, and lifestyles. We have recently been identified as one of the most ethnically and racially diverse counties in the United States with a 2020 ESRI [diversity](#) index of 81 percent.

One of the key factors in Fort Bend's immense success is its award-winning master planned communities. These outstanding communities provide some of the finest amenities available, including nature parks, green belts, lakes, golf courses, hike and bike trails, and community education. The average household income in Fort Bend County is \$125,000, and we have 279,000 housing units that are 78 percent owner occupied. ESRI calculates our 2020 housing [affordability](#) index at 152, meaning a family earning the median income has 152 percent of the income necessary to qualify for a median-priced home in Fort Bend County. Our communities boast a tremendous quality of life, with exceptional schools and varied recreation. Our educated and highly skilled workforce is the number one reason businesses report moving to and expanding in Fort Bend County. Fort Bend County is regularly listed among the top-ranked places in the country to live, work, and raise a family.

Fort Bend County Infrastructure

The Fort Bend County success story is built on our decades-long commitment to careful planning and high-quality infrastructure that increases our safety, improves our efficiency, protects property values, and minimizes our impact on the environment. We have never forgotten that public safety is the most important task of local government. Local planning and investment to reduce flooding and improve mobility are our priorities and the foundation underlying the health and welfare of our residents, affordable housing, and job creation.

Flood Protection Systems

The sustainability of Fort Bend County is intertwined with its 19 major levee systems. Nearly 100 miles of levees in Fort Bend County help to protect more than 240,000 residents and \$27 billion worth of property value, of which more than \$21 billion are residential and commercial structures. Our levee systems are locally funded, and we have invested more than \$750 million to finance their design and construction. Levee districts in Fort Bend County have neither sought nor received any Federal money to construct, operate, or maintain area levee systems or other related flood control works.

To be recognized by FEMA under the National Flood Insurance Program (NFIP) as providing protection from the 100-year flood on Flood Insurance Rate Maps, levee systems must meet minimum design, operation, and maintenance requirements set by FEMA. Levees and other related flood control works in Fort Bend County have been engineered and constructed to the highest national and local standards. In addition to being accredited by FEMA under the NFIP as protecting to the 100-year flood, Fort Bend County imposes additional requirements that



generally enable area systems to achieve protection against the 250-year flood or greater, known locally as the “Fort Bend Foot.”

Floodplain Management

As described by FEMA, the [Community Rating System \(CRS\)](#) is a voluntary program recognizing and encouraging community floodplain management practices that exceed the minimum land use and control requirements of the NFIP. Of the more than 22,000 NFIP participant communities in 56 states and jurisdictions, a subset of approximately 1,500 communities are enrolled in the CRS, including the cities of Sugar Land and Missouri City, the two largest cities in Fort Bend County.

The CRS program is intended to incentivize the reduction of flood and erosion risk, as well as the adoption of more effective measures to protect natural and beneficial floodplain functions. FEMA awards points that assign a community’s “class” rating in the CRS on a scale of 1 to 10, with 1 being the highest ranking. Points are awarded for an array of improvements for how the community informs its public on flood risk; maps and regulates its floodplain; reduces possible flood damage; and provides warnings and responds to flooding incidents.

The City of Sugar Land currently has a CRS class rating of 7, earning its NFIP policy holders in a special flood hazard area a 15 percent discount on premiums. In July of this year, after the City’s Hazard Mitigation Plan is formally adopted, it is expected that Sugar Land will improve its CRS class rating to 6, thereby further increasing that policy discount to 20 percent. Missouri City also has attained a class 7 CRS rating and is working on projects like its new Flood Alert System to improve its CRS rating.

In a 2018 post-Hurricane Harvey [report](#) published by the Rice University Baker Institute for Public Policy, it was recommended that a neighboring county adopt the more stringent development regulations that are applied in Fort Bend County. The optimal Fort Bend approach demonstrates that the separate and distinct missions of flood control and flood plain management can serve as the tandem components of successful, economic flood protection.

FEMA Risk Rating 2.0

The geography and history of Fort Bend County make clear that our future is tied to successful flood damage reduction and access to affordable flood hazard insurance. These interdependent aims have guided decision making in Fort Bend County almost since inception of the NFIP. Our significant local investment in federally recognized flood projects and local adoption and enforcement of floodplain management standards that exceed minimum Federal requirements have given rise to more than \$27 billion in land and improvements across Fort Bend County. **We are concerned that the value of these investments and our future are being**



threatened by ill-conceived Federal policy proposals, including the FEMA “Risk Rating 2.0: Equity in Action” overhaul of NFIP rate calculation practices.

Data Gap

The drastic changes by FEMA under Risk Rating 2.0, ostensibly being proposed to better reflect flood risk using a blend of public and proprietary information and tools, are alarmingly devoid of requisite underlying data and assumptions. We are reminded of the regrettable outcomes that arose from implementation of rate reforms authorized in the Flood Insurance Reform and Modernization Act of 2012. The immediate, exorbitant premium rate increases prompted Congress to act in 2014. Clearly the unprecedented overhaul now being contemplated by FEMA through Risk Rating 2.0, which risks precipitous declines in residential and commercial property values with derivative impacts, warrants close scrutiny.

The internally developed Risk Rating 2.0 plan lacks the transparency that policyholders require to test FEMA methodologies and verify the accuracy and fairness of their future rates.

The minimum data needed for communities to assess Risk Rating 2.0 include—

1. The flood elevations and flood frequency curves at the locations in each community used (or assumed) to generate the full array of premiums from rating factors
2. The estimated average annual losses (with confidence intervals or error bands) at the locations in each community used to develop the premiums
3. The results of the “generalized linear models” used to develop the rating factors based on such parameters as “distance from the water,” “elevation above the water,” “foundation type,” etc., including the confidence intervals, error bands and p-values (i.e., measure of the probability that an observed difference could have occurred just by random chance) for the estimates
4. Documentation of how the flood and storm models use Monte Carlo methods to draw artificial years from an imaginary set of probability relationships together with the assumed events, consequences, and probabilities (Casino Premiums) to forecast possible outcomes
5. The extent to which estimates of premiums reflect modeled events, consequences and probabilities that have rarely, perhaps never, occurred in the flood history, e.g., levee failures and over-topping, as yet unobserved flood flows, as yet unobserved flood stages, etc.

Until such time that requisite information is made publicly available, FEMA should not proceed with implementation of Risk Rating 2.0.



Application of Information Quality Act to Risk Rating 2.0

FEMA should comply with the Information Quality Act by developing Risk Rating 2.0 to be transparent and reproducible. We ought not rely on opaque and bewildering proprietary data and models from third-party contractors as is done under the current Risk Rating 2.0. FEMA should conduct and make available peer reviews of all scientific assessments and models used to support Risk Rating 2.0.

Until such time that the transparency and reproducibility requirements of the Information Quality Act are fulfilled, FEMA should not proceed with implementation of Risk Rating 2.0.

Risk Rating 2.0 Limits Policyholder Appeals

As explained recently by the Congressional Research Service in a March 12, 2021, report for Congress (Report No. [R45999](#))—

Flood zones are to no longer be used in calculating a property's flood insurance premium following the introduction of Risk Rating 2.0; instead, the premiums are to be calculated based on the specific features of an individual property. However, as proposed, flood zones will still be needed for floodplain management purposes; for example, all new construction and substantial improvements to buildings in Zone V must be elevated on pilings, posts, piers, or columns. The boundary of the SFHA will still be required for the mandatory purchase requirement. The FIRM map appeal process will still exist, but once Risk Rating 2.0 begins, map appeals are not to have any effect on the premium that a policyholder pays. [emphasis added]

Thus, the Risk Rating 2.0 decoupling of flood zones and the policy premiums for a property would seem to install new, unacceptable limitations on a policyholder's ability to appeal the new FEMA-assigned rate.

Public Notice and Comment

Although NFIP rate-setting authority was granted by Congress to the Administrator of FEMA, it seems unlikely that the biggest change in how flood insurance premiums are calculated in the NFIP since its inception in 1968 was contemplated or should be allowed without congressional involvement.

Until such time that FEMA solicits and considers public comment consistent with the Administrative Procedure Act, the agency should not proceed with Risk Rating 2.0.



Residual Risk Behind Levees

In April the House Financial Services Committee released a NFIP Discussion Draft containing a provision (Sec. 209) that, if passed, would direct FEMA to establish a “New Zone for Levee-Impacted Areas”. The language is problematic because it—

- 1) represents a sudden hard turn on decades-long policy for leveed areas that essentially mandates a new form of taxation in the guise of arbitrary insurance premiums, seemingly levied for revenue rather than actuarial purposes;
- 2) would incentivize residents to demand levee districts, after satisfying debt service obligations, cease levying taxes for operation and maintenance and instead rely solely on the “protection” provided by the NFIP to avoid paying a tax for levee maintenance and another for flood hazard coverage; and
- 3) would result in a precipitous decline in residential and commercial property values, depressed realtor commissions, reduction in overall taxable market value, necessitate reduction in governmental services or increased tax rates, and frustrate local performance of sound community floodplain management practices.

The effect of the new language will be to keep communities that invested in levees from deriving their full benefit, which is understood to be that a well-built and well-maintained levee affords reliable flood protection, allows for reasonable local governance of land use and floodplain management, and avoids mandatory purchase of flood insurance in areas sufficiently protected from flood. These concerns should be addressed as follows--

- 1) for levees FEMA-accredited or provisionally accredited, prevention of the mandatory purchase or floodplain management requirements in the leveed area; and
- 2) for all levee-protected areas, the use of Administrative Procedure Act rulemaking to establish a new rate structure so to ensure the use of sound methodology, quality source data, and provide for proper vetting through public notice and comment, as well as begin establishment of the administrative record.



Conclusion

We have laws and administrative [guidelines](#) promulgated by OMB to protect the quality, objectivity, utility, and integrity of information disseminated and used by Federal agencies. There are longstanding, bipartisan administrative requirements in place under the Administrative Procedure Act that are there to ensure good government and open and transparent consideration of regulatory actions. These requirements are being bypassed as the agencies seek to overhaul their treatment of levees in Federal programs. Both FEMA and the U.S. Army Corps of Engineers, who are working together on key NFIP elements, continue to restrict public information disclosure, formal peer review and solicitation and consideration of public input. Too many of these important public protections are being set aside.

Some proponents find that the FEMA Risk Rating 2.0 proposal represents change that is “long overdue” and that Risk Rating 2.0 should “increase public confidence in the program” while “putting NFIP on stronger financial footing.” Others, including FEMA, are making similar claims about the need to charge rates that more accurately reflect risk. All of those statements might be true, but no one can know because the core underlying data and assumptions used to produce Risk Rating 2.0 have not been made available and there can be no confidence that new premiums are reproducible for an individual property or that leveed areas are comparably and fairly treated.

We request that Congress step in before it is too late. Until such time that FEMA fills the public Risk Rating 2.0 data gaps, abides by the terms of peer review and reproducibility under the Information Quality Act, reinstates effective rights of appeal for policyholder premium-setting, and guarantees meaningful public participation opportunities through rulemaking, Risk Rating 2.0 should not go forward.

Thank you for the opportunity to submit these views.