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MEMORANDUM

TO: Board of Directors

FROM: Nancy Kwon Carter

DATE: October 23, 2017

RE: Fort Bend County Levee Improvement District No. 19 (the “District” or “LID 19”)

2017 Hurricane Harvey – Observations From District’s General Counsel

I. Executive Summary

This memorandum represents an effort to provide a background and summary of the District’s General Counsel’s observations pertaining to the District during Hurricane Harvey. It is important to note that this memorandum does not reflect any formal findings or recommendations of the Board, and the recommendations of General Counsel described below are merely for consideration by the Board, and do not constitute specific legal advice. Further, this memorandum and any recommendations that we are making below do not include or account for any analysis and recommendations that may be performed by the District’s engineer and operator, and thus may not represent a complete picture of the event or appropriate actions for the District to take going forward.

Below, we provide General Counsel’s observations and feedback related to communications, coordination with other governmental entities, law enforcement, recovery efforts, and federal grants and reimbursement. Our primary areas for consideration by the Board include the following:

- Review website communications, including frequency of updates, procedures for responses to website inquiries, and comprehensive review of content.
- Consider methods to provide additional telephone and email responsiveness to residents.
- Work with Fort Bend County to understand procedures for issuance of evacuation orders and communication of safe evacuation routes.
- Discuss protocols for reporting law enforcement needs to contract deputies serving overlapping municipal utility districts.
- Review methods to assist in expediting the County’s debris removal efforts.

II. Communications

a. Website

- i. Background and Event Summary: Over the last year, the District created and implemented a website. The main landing page was shared with Fort Bend County Levee Improvement District No. 15 (“LID 15”) so that common information pertaining to the regional levee system serving the District and LID 15 could be shared with the public. Prior to the event, the webmaster confirmed the ability to post emergency information during severe weather. The webmaster further confirmed that an onsite generator was available for backup power, and that out-of-state personnel would be available to provide further assistance if needed. During the event, the webmaster was able to provide timely updates and email alerts, usually within 10 minutes of receipt.
- ii. Areas for Improvement: All web content was provided by The Muller Law Group (“MLG”), as general counsel to the District. The Board should consider designation of additional personnel to draft web content to provide more frequent updates. In addition, the Board should consider protocols and procedures for responses to inquiries submitted through the District’s website.

b. Emergency Notification System

- i. Background and Event Summary: The District engaged Classic Messaging to provide emergency communications to residents through text messaging, voicemail, and email alerts. Prior to the event, test communications were sent to all participants. During the event, Classic Messaging was able to provide timely emergency communication alerts.
- ii. Areas for Improvement: Prior to the event, the number/percentage of residents who had opted-into the program was unclear. The Board should consider periodic review of participation statistics and whether additional outreach is appropriate to achieve increased participation.

c. Emails and Voicemails

- i. Background and Event Summary: The District currently employs no full-time staff. The Board engages various consultants to provide services to the District. In addition, the District does not own or maintain a physical office. The Board has designated the office of the District’s general counsel, MLG, as the address of record for the District. During the event, due to the widespread regional impacts, MLG’s offices were closed and personnel were unavailable at MLG’s offices to receive phone inquiries. Several emails (through the District’s website) were forwarded to MLG staff and voicemails were left at MLG’s main office line. Many of these messages went unanswered. To the extent possible, MLG staff attempted to respond to email messages. However, due to the shortage of available personnel, it was not possible to answer every email and voicemail message.
- ii. Areas for Improvement: The Board may want to consider alternate phone answering services during emergency operations. In addition, if answering

services are impractical, the Board should consider alternatives, such as voice recordings or auto-replies at MLG’s main office line, that will assist in directing residents to other emergency contacts (i.e. Levee Management Services, Fort Bend Office of Emergency Management or Sheriff’s Department).

d. Community Informational Meeting

- i. Background and Event Summary: After the event, the District held a community meeting to provide information to residents regarding the District’s levee and drainage system and emergency operations during Hurricane Harvey. Approximately 900 residents attended the meeting. The District requested that residents submit written questions prior to the meeting, and LID consultants attempted to answer those questions as part of the presentation. In addition, the District allowed residents in attendance to submit additional questions to the panelist during the meeting.
- ii. Areas for Improvement: The meeting lasted for over 5 hours, as the LID consultants attempted to answer every question submitted. The LID may consider live webcasts or video recording of future events of this nature to allow residents to receive the information at their convenience. In addition, it may be helpful to create a dedicated informational link on the District’s website that answers the most frequently asked questions.

III. Emergency Operations

a. Coordination with Other Governmental Entities

i. FBC Office of Emergency Management (“OEM”)

1. Background and Event Summary: OEM conducted daily conference calls to allow governmental entities to report on field conditions and identify unmet needs or concerns. During the event, OEM established a dedicated call for entities operating levee systems. Generally, the operators and engineers for the levee systems, including the District, participated in all calls. At times, MLG or Director Thompson also participated in the calls.
2. Areas for Improvement: Due to the emergency nature of the event, upon conclusion of the calls, the engineer or operator had limited time to report back to others. The Board should consider a protocol whereby a designated representative participate in the calls and distribute written call summaries to key personnel and Board members.

ii. Evacuation Orders

1. Background and Event Summary: On the daily calls, OEM provided updated projections from the National Weather Service for the Brazos River and regarding localized rainfall. At times, the National Weather Service (“NWS”) representatives participated in the calls. As the NWS projections for the Brazos River reached 59’ at the Richmond Gauge, Fort Bend County Judge Hebert requested that each levee district provide data and recommendations regarding

flood risks and potential for the river to overtop the levee system. The District's engineer reported that a projection of 59' at the Richmond Gauge would not likely result in overtopping of LID 15 or LID 19's levee system, but overtopping in other leveed areas within the region could pose a flood risk to the District. Accordingly, and in consideration of many other factors, the County ordered a voluntary evacuation order for the District. However, once the NWS projected a third consecutive day of extreme rainfall, the District's engineer identified and reported to OEM that a specific flood risk due to localized rainfall was imminent, and the County ordered mandatory evacuation for the District.

2. Areas for Improvement: The District should request clarification from the County regarding specific procedures for ordering evacuation and criteria by which evacuation orders are evaluated. In addition, the District was not advised of a formal decision on evacuation orders until it was publicly released on OEM's website/email distribution. Some of this delay may be due to OEM's preference to distribute information relating to multiple entities in a single press release. However, if the District can be advised as soon as possible, rather than waiting for a formal press release, the District can take measures to contact residents as soon as possible. In addition, the District does not have the ability to monitor evacuation routes and road conditions. The District may consider discussions with the County to develop real-time programs to communicate impassable roads or recommended routes for evacuation. In addition, the District should consider annual educational efforts to remind residents to maintain emergency supplies and/or planning measures in the event of another extreme weather event.

b. Law Enforcement

- i. Background and Event Summary: During the event, all law enforcement officers were dispatched to serve emergency operations. Once rainfall within the District made roads impassable, law enforcement officers were dispatched to assist stranded motorists and residents within the District. Upon the issuance of the mandatory evacuation order for the District, it was reported that law enforcement officers knocked on doors to identify residents in need of assistance and to notify residents of the imminent flood risk. In addition, through the overlapping municipal utility districts ("MUDs") serving Riverstone, specific traffic control was provided (i) to allow trucks carrying heavy equipment and personnel to the District, and (ii) to direct cars during periods of heavy traffic as residents returned to the District and volunteers attempted to provide recovery assistance. Finally, after the event, the MUDs' contract deputies resumed general law enforcement services to the community

- ii. Areas for Improvement: The LIDs did not participate in law enforcement activity during emergency operations. As noted above, the LID should consider providing phone personnel to direct residents in need of assistance to the appropriate law enforcement or OEM contact. In addition, the LID should establish a protocol with the MUDs to communicate law enforcement needs for the community. Finally, the LIDs may want to explore private supplemental security services in the event additional contract deputies are unavailable.
- c. Recovery – Debris Removal
 - i. Background and Event Summary: After the event, the primary concern for residents was removal of debris. The developer and HOA were able to provide maps of areas in need of debris removal. The County mobilized its authorized contractor for debris removal, but the County indicated that trucks were not able to begin work in the District until Thursday, September 7. Residents expressed concern over delays in debris removal, and the LID worked with the HOA and developer to explore other methods to remove debris. Dumpsters were scarce, but several were acquired by the developer and placed within the District. However, many homeowners were unable to make use of these dumpsters due to the volume of debris. In addition, options for private removal were considered. However, due to specific procedural requirements related to reimbursement of costs by the Federal Emergency Management Agency (“FEMA”), the LID was not able to engage private haulers to move debris to an offsite location for removal by the County.
 - ii. Areas for Improvement: The Board should consider ways to more effectively communicate areas in need of debris removal (i.e. GIS reporting system) and other ways to expedite removal, such as temporarily staging debris offsite.
- d. Recovery – Other
 - i. Background and Event Summary: Due to the volume of floodwater, the District implemented a mosquito-control program prior to the return of residents in the community. The District was advised that the product sprayed was safe and approved by regulatory agencies, including the Department of Agriculture, for public spraying. In addition, public areas, including streets and public recreational areas, were swept or cleaned by the homeowners association.
 - ii. Areas for Improvement: The District should consider having contractors or vendors pre-qualified and prepared to commence recovery work, such as mosquito abatement, street sweeping, and power-washing, prior to any major weather event. Budgets should be established and protocols for approving variations from budgeted amounts should be discussed by the Board.

IV. Federal Grants & Reimbursement

- a. Background: The District intends to participate in FEMA’s Public Assistance program to be reimbursed for eligible costs related to Hurricane Harvey. The

District has previously requested FEMA assistance for other disaster declarations, specifically related to Brazos River flood-fighting events in 2015 and 2016.

- b. Areas for Improvement: The Board should consider engaging a consultant who specializes in FEMA claims to assist in reimbursement of eligible costs. In addition, the consultant could also provide assistance in reviewing any pre-qualified contractors and contracts in the event of a future disaster and recommending possible grants or efficient financing tools for any capital improvements to the District's levee or drainage system.
