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To the General Land Office of Texas,

Thank you for the opportunity to submit these brief comments on the GLO's Action Plan for funds allocated for recovery from Harvey. The Sierra Club is a 501-C-3 and 501-C-4 organization and the Lone Star Chapter is the Texas-based chapter of the Sierra Club. We have over 27,000 members, about 5,000 of which live in the Houston-area. We have local volunteer groups in Houston, Corpus Christi, the Golden Triangle and the Lower Rio Grande Valley. We are generally supportive of other comments submitted by coalitions of environmental, economic and community organizations that have submitted separate comments.

We first of all want to state our general support for the approach the GLO is taking. First of all, we support the direct allocations to the City of Houston and Harris County of \$1.1 billion each. As the areas hardest hit by the flooding, and with the largest populations, it makes sense that a large amount of the funding would be designated for those areas, and that you would allow the local government -- in conjunction with the public -- to come up with a plan on how to spend that funding. We do, however, insist that the state and the GLO should still ultimately have the authority to assess any draft plan that the City of Houston and

Harris County come up, and we would also support making sure the wider public has the chance to also comment on those plans before they are ultimately turned over to HUD for final approval.

We do want to make a few general comments on the plan. First, we recognize that GLO did a better job at meeting with local government partners, and some non-profit organizations like Audubon and Texas Low Income Housing Information Services, but we believe that future plans would also benefit from more public participation from community organizations, and communities that were directly impacted by the Hurricane. At the very least, we hope the GLO will encourage the City of Houston and Harris County to hold their own public meetings on the planned use of the \$2.2 billion.

Second, it is time for the GLO and the state in general to recognize the impacts of climate change, and that future floods, and climate extremes are likely going forward. Rising temperatures, more frequent hurricanes, followed by droughts, rising sea levels and other expected impacts will require more planning and better use of public funds. Thus, we were pleased that some amount of the \$5 billion -- about \$137 million -- is dedicated to local, regional and state planning. According to the plan, these funds will “support long-term plans put in place by local and regional communities that promote sound, sustainable, long-term recovery planning informed by a post-disaster evaluation of hazard risk, especially land-use decisions that reflect floodplain management.” We would ask that as part of this planning process, you also consider future climate, population change, and the rising sea level that is expected. While we do not object to some of the money flowing to universities, we want to make sure these grants are competitive, also open to local government, and must include some public input process to assure they reflect local planning needs.

Infrastructure Needs

As we have previously stated, the GLO makes reference to an “infrastructure” plan, refers to an infrastructure list of perceived needs put forward by state and

local governments. We hardly believe this should count as an actual infrastructure plan. This list has not been vetted through the GLO's own Texas Coastal Resiliency Master Plan, has not received community input and has not gone through the normal NEPA process. We would urge the GLO to not assume the list of \$61 billion proposed infrastructure projects is a plan, as we believe many of the proposals are unnecessary and are not the best alternatives to solve flooding issues.

We would thus like the GLO to prioritize all funding to housing and related infrastructure in response to the actual hurricane, versus spending money on infrastructure projects that are designed to mitigate future storms. There are other funding streams that could potentially address future storms, but we should not be using HUD funding for these projects. To the degree that any GLO/HUD funding is spent on infrastructure, the GLO should mandate a cost benefit analysis for any and all future infrastructure spending in accordance with the National Environmental Policy Act and the Coastal Resiliency Plan.

That being said, the proposed spending of infrastructure dollars (\$413 million) through the COGs seems like a good approach. The list of eligible activities we note must be related to housing itself, which should avoid any large-scale projects. We appreciate that the money flowing to the COGs must go through a MOD developed by the COG. We again would reiterate that there should be an opportunity for public input into any infrastructure projects and MOD that are developed.

We would suggest that another eligible activity should be the purchase of land, or the replanting of land with native vegetation as a natural storm water management and flood control measure. Thus, we believe that it would be reasonable for local governments to utilize so-called "green infrastructure" such as buffers along creeks and rivers, park land or other largely undeveloped areas to help limit flooding of neighborhoods. We would suggest adding some language

making it clear such types of infrastructure would be eligible for funding.

Moreover, while restoration of infrastructure is eligible, we would also support use of funds for new technologies that could help boost electric infrastructure needed to keep electricity on in times of disaster. Thus, for example, we believe projects like battery storage as a back-up to interconnected buildings should be eligible.

Several organizations and coalitions are submitting extensive comments on many of these issues, but we would echo many of these points and ask the GLO to specifically consider:

1. Prioritizing the needs of low and middle income households and communities;
2. Incorporating principles related to environmental justice, recognizing that some communities were impacted not only by flooding but by hazards related to chemicals, oils, sewage, waste or air pollution during the event;
3. Prioritizing rebuilding affordable rental housing;
4. Addressing hazard mitigation spending to lessen or eliminate the impact from pollution for future events;
5. Prioritizing funding construction and reconstruction that will lead to more resilient buildings that use less energy and water, and incorporate new technologies that will help mitigate future flooding and extreme weather events.
6. Ensuring that buyout programs include funding to ensure that LMI families have a real opportunity to relocate and make the program effective, and do not violate civil rights and fair housing laws;
7. Assuring that the majority of funding for buy-outs are focused on LMI families, and that there is a plan to build affordable housing in other areas;
8. Incorporating equity into planning, and evaluation of programs and projects from the beginning, and making clear that equity is not just a legal

- requirement and best practice for housing programs but for infrastructure and all recovery programs and projects;
9. Emphasizing mitigation and resilience, and incorporating the GLO's Texas Coastal Resiliency Master Plan ("Coastal Resiliency Plan") prioritizing coastal conservation strategies and nature-based resiliency measures that are cheaper and have long term benefits;
 10. Providing training on civil rights requirements for local grantees, a form of technical assistance that local jurisdictions have indicated they want; and,
 11. Reaffirming the State's commitment to ensuring that all Texans affected by Hurricane Harvey benefit equitably from public disaster recovery funds.

Additional considerations

The GLO should match current Harris County regulations, as well as the ongoing discussions at the City of Houston on elevation standards. Thus, the GLO should consider adopting a 24-inch above the 500-year floodplain. On December 5, 2017, Harris County adopted new building code standards for new developments to 24 inches above the 500-year flood plain.¹ More recently, Houston also made similar changes to its own development code. While the GLO recognizes that "applicable state, local or tribal codes" would be followed regardless of the application of federal rules to the 100-year floodplain, the GLO should adopt the County's and City's elevation standard as the County is in the best position to make that decision for all residents. As such, GLO should specifically amend its elevation standards to follow the County's provision for all new construction as well as repair or improvement to ensure that mitigation and resiliency measures are being adopted for future rain events. We believe these same standards can be extended to other counties impacted by Harvey.

¹ <https://www.houstonpublicmedia.org/articles/news/2017/12/05/254510/ed-emmitt-harris-county-has-nations-toughest-floodplain-development-regulations/>

Buy-Outs Should Include Storm water Controls

The GLO is considering spending some \$275 million for the buy-out or acquisition of homes throughout the disaster area. We believe that these buy-out programs should be coupled with stronger storm water controls. Buying out repetitive flood prone properties can only be successful when there is a regional plan in place regarding the purpose of those buy-outs and how such additional retention/detention/or conveyance properties are utilized to address on-going watershed concerns. Thus, the GLO Plan should examine how the buy-outs with additional storm water controls can assist with flood mitigation and how it could consider ongoing flood management planning. At the very least the buy-outs should be coordinated with bay and estuary planning.

Moreover, as mentioned, the buy-outs should prioritize LMI families, and assure that the majority of these buy-outs help these families. Finally, buy-outs should consider the ability to be used in conjunction with added green space, parks, and compatible recreation. We want to assure that areas that are bought-out because they are in flood prone areas are not redeveloped but viewed as potential spots for green infrastructure and compatible uses with flood prone areas. Areas that are bought out should not be redeveloped for housing, or major non-green infrastructure projects.

Address Environmental Justice Principles for Hazard Mitigation

Similarly, this action plan being proposed should adopt environmental justice principles for hazard mitigation. Neighborhoods or neighbors that were doubly impacted by flood waters polluted with chemicals, oils, waste, or sewage as indicated with overlays should be prioritized. By doing so, the GLO better directs resources towards both hazard **and** flood mitigation. Thus, in areas like Beaumont and Port Arthur, special consideration should be given to these areas.

Affirmatively Further Fair Housing (AFFH)

Rather than allowing all subrecipients to “certify that *they will satisfy the AFFH rules in their grant agreements*,” the Sierra Club requests that the GLO amend this assessment to require that any funds utilized to buy-out homes that currently serve low-to-moderate income persons are supplemented 2 to 1 (i.e., that each home bought requires the County to ensure two (2) affordable homes are added to existing stock). Assuring adequate affordable housing will make it possible that those being bought-out have somewhere to live.

Address Multi-Family Housing and Public Housing More Fully

Sierra Club recognizes the difficult position the GLO is in while quickly conducting a needs assessment and implementation plan for recovery over virtually the entire Texas coast. But we would note that the amount earmarked for the affordable rental program -- of \$250,000,000 -- seems very low. Essentially, the GLO is prioritizing single-family housing over affordable rental property - including public housing. Public housing is identified as only a \$25,000,000 gap, which seems very low. This means that those impacted by the storm who are not able to rebuild are likely forced completely from their homes and communities due to the lack of alternatives within the region. We would ask that you consider amending the plan and increasing the amount going to the affordable rental program and/or specifically public housing. Indeed, the summary of total unmet needs provided on Table 18 suggested there is more than \$2.7 billion in losses or a gap for rental-occupied housing.

Indeed, the state’s plan asks for \$251 million for state administration, more than is asked for the affordable rental program (\$250 million). We would suggest lowering the amount for state administration to a more reasonable amount -- perhaps 2.5% of the amount -- and increasing funding for MFU construction and rehabilitation. Otherwise, we would suggest that some of the money -- perhaps

25% of the total -- earmarked for local infrastructure and economical revitalization to be transferred to public housing and multi-family housing.

New and Reconstructed MFUs and Homes Should be Energy and Water-Efficient

We believe it is critical that any repair or reconstruction meet modern and energy-efficient building codes and standards. Thus, we are generally supportive of the quality construction standards suggested in the draft plan. That is, the GLO is proposing to require quality inspections and code compliance inspections on all projects and to encourage local strengthening of codes.

In addition, the draft plan currently states that any reconstruction or new construction of residential buildings will follow the Energy Star program, and/or the HUD CPD Green Building Retrofit Checklist for non-substantially damaged residential buildings. These are good first steps. In addition to meeting the Energy Star program for residential properties, we wanted to assure that any new construction or major reconstruction would meet other provisions required by the City of Houston, including that any new residential buildings are solar-ready, thus easily able to incorporate solar energy in the future by reserving adequate roof space. All construction should also meet modern energy codes, including the energy chapter of the 2015 International Residential Code, and/or the 2015 International Energy Conservation Codes, which have been adopted by the State of Texas through legislative and administrative action. Similarly, new construction or reconstruction should similarly meet modern plumbing codes, such as the 2015 UPC or 2015 IPC. (As an example, the City of Houston has adopted the 2015 UPC). The 2015 energy and plumbing codes assure that any construction will help lower utility and energy bills generally.

We also believe that more specificity may be needed, particularly for multi-family buildings as Energy Star is generally associated with single-family homes and

townhouses. Thus, at a minimum, the State of Texas has adopted the 2015 International Energy Conservation Code for all commercial buildings, including multi-family buildings over three stories. The GLO could also consider giving priority to new construction or major reconstruction of multi-family buildings that are designed to meet a more robust standard, such as the ASHRAE 189.1 - 2014 Standard for the Design of High-Performance Green Buildings, or the recently published ASHRAE 189.1 - 2018 Standard for the Design of High-Performance Green Buildings, which is also a compliance path for the 2018 International Green Construction Code. These recently released standards apply to any multi-family buildings that are above three stories and would be an important way to assure that new buildings were resilient, “green” and led to less energy and water use.

GLO Should Consider a Revolving Loan Fund for Rehabilitation

Given that there is unlikely to be enough funding to cover all the housing needs in the Texas coastal region, the GLO should consider creating a revolving loan fund for rehabilitation of housing. This would be particularly useful to families that are not considered the LMI, but do not have the cash to rehabilitate their homes. In the past, other states like Connecticut, Pennsylvania and Kentucky have enacted statewide programs sometimes referred to as WHEEL programs (Warehouse for Energy Efficiency Loans) that combine some public dollars with access to private capital to buy down interest rates and create a revolving loan fund for making existing homes more energy efficient. A similar concept could be used to create a small pilot program in the coastal region to help rehabilitate homes, and also add water conservation and energy efficiency features.

Community Engagement and Preservation and Anti-Displacement

The GLO needs to Prioritize in situ community engagement. Again, while the GLO should absolutely consult with local officials, they should also meet directly with impacted communities. We encourage the state to re-build with cultural and

economic preservation in mind by making an Anti-Displacement Plan (one was meant to appear in the State Action Plan). Many LMI communities in urban areas are already under the threat of displacement due to gentrification. We encourage the General Land Office to implement creative solutions such as community-benefit agreements or community land trusts when re-building in these areas.

JOBS

The recovery monies can create good safe jobs that benefit all of Houston and can lead to economic development. The state plan should incorporate worker safety, contractor requirements and screening, and training development into this and future plans. We are supportive of a part of the monies -- \$100 million -- for economic development, but want to make sure that worker safety, contractor requirements and screening and training guides are in place.

Worker Safety

Considering the dangers of demolition work, the state should ensure all crews have OSHA-10 training and proper PPE, and inspect sites for safety and health concerns.

Contractor Requirements and Screening

Disaster recovery is notorious for bad labor conditions and wage theft. The GLO should require all Contractors funded by the Action plan to be screened for previous labor violations. Residents living in areas impacted by Harvey and who are qualified for rebuilding work should be prioritized for contracting jobs using public funds. Doing so assists the local economy rebuild by putting local residents back to work quickly.

Training and Development

Recovery dollars should be leveraged towards training and career development by requiring contractors to participate in apprenticeship programs. Hurricane Harvey victims that have been displaced from work should be placed in job

training programs that will increase their options at gaining alternative employment.

Air Quality

It is well known that TCEQ recommended that all air monitors be shut down and releases of unknown amounts of air toxins permitted to be released on neighboring communities, causing an “invisible flood of air toxins.” Because communities impacted by the storm were already beset by problems caused by Hazardous Air Pollutants, we recommend that a portion of GLO funds are used to create and develop a Regional Air Toxins Plan. As we move towards a Regional Flood Plan we must not neglect the consequences of extreme air toxin released into neighboring communities. To both avoid future flooding and improve quality of life, Houston should be required to establish common sense zoning laws to create a safe environment for all citizens.

There are many examples of fence line communities in harms way, but one that really stands out is the Manchester Community in Houston’s East End, Over a period of 15 years, numerous researchers have found that the residents of Manchester are exposed to seven cancer causing chemicals on a daily basis, yet very little in terms of trying to remedy the situation for the residents of Manchester is being addressed. Planning is an eligible use of CDBG-DR funds. That planning must include environmental and land use considerations in order to truly address the impact of Hurricane Harvey and mitigate the impact of future storms on Texas. We know that this involves a community that will be covered by a future amendment to the plan, but wanted to make that point now. We believe there are other neighborhoods in Port Arthur and Beaumont that have similar issues, with communities living in close proximity to industry, some of which had spills and accidental releases of emissions in the aftermath of the hurricane.

Chemical Security

Chemical Security is a huge issue for communities bordering the Houston Ship

Channel, yet very little is being done to secure the health and safety of communities along the petrochemical corridor. We request that the State to create a plan for addressing relocation assistance for communities bordering polluting industries, particularly as they were also impacted by the storm. Recovery monies should be used to ensure that communities long threatened by dangerous chemical facilities, and who breath air polluted by those same actors, are empowered to improve the environmental conditions in their neighborhoods, or if that is not possible, move.

Conclusions

We appreciate the hard work of the GLO to allow for this review and dissemination of this information. We encourage the GLO to continue to seek public involvement and to promote transparency in this long road to recovery. We recognize that this initial plan is for the first of two large amounts of money -- \$5 billion today, and another \$5 billion in the future --but we want to assure that even if some of the issues raised can not be addressed initially, with the subsequent rounds of funding, we hope the GLO can address these common-sense requests by the Sierra Club and many of our coalition members. Again, we would ask that green infrastructure be recognized as an eligible infrastructure need, and that more of the money be earmarked for public housing in multi-family units by lowering the amount of money going to administration and/or some of the money for infrastructure and economic development.

Sincerely,

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