



Atascadero City Council

Staff Report - City Manager's Office

City Appeal of Federal Emergency Management Agency (FEMA) Funding City Administration Building

RECOMMENDATION:

Council approve the *First Level Appeal of PW 229-1 (Atascadero City Hall)* submitted to the Office of Emergency Services (OES) on February 1, 2008.

DISCUSSION:

The repair and rehabilitation of our historic City Hall remains a priority, as it is the center of Atascadero's downtown. After receiving disappointing preliminary news from the Federal Emergency Management Agency (FEMA) in May 2007 that our funding would be significantly less than necessary, staff began preparing for the appeal process. Kermani Consulting Group, a firm with considerable experience in working with FEMA, was hired to create a comprehensive document for the first-level appeal.

On December 13, 2007, the City received FEMA's much-anticipated project worksheet which indicated a funding obligation totaling \$15,816,218 as follows:

Repair	\$ 4,628,602.
Hazard Mitigation	\$ 10,830,863.
Architecture/Engineering	\$ 356,753.
TOTAL	\$ 15,816,218.

In response, staff prepared official appeal documents and submitted them to OES on February 1, 2008, prior to the February 3, 2008 deadline. The appeal consists of 8 volumes of information. The first volume, which is included in this agenda packet, consists of the Appeal Letter, the Table of Contents for the appeal documents, and three critical summaries prepared for this appeal. The remaining 7 volumes of the appeal are available for review at City Hall and consist of supporting documentation and reports for the appeal. OES will now have 60 days to review the appeal and request

additional information, revisions or clarifications before forwarding the document to FEMA.

The appeal included the following:

Repair of Unreinforced Masonry Walls

The classification of funding for the repair of unreinforced masonry walls in the building has been a major issue. FEMA regards the repair method proposed by the structural engineer as not justified by 'applicable code', and therefore ineligible for funding as repair. As part of the appeal, the City's submitted information showing:

- Recent sample wall corings have been performed in the building, which show the cracks visible from the outside to be through all three wythes of unreinforced masonry.
- Non-linear computer analysis of the crack damaged URM walls indicates a 43% loss of strength due to the earthquake.
- Chapter 34 of the 2001 CBC states: "... *repairs may be made to any building or structure without requiring the existing building or structure to comply with all the requirements of this code, **provided the addition, alteration or repair conforms to that required for a new building or structure.***"
- FEMA's proposed repair method of re-pointing and selective brick replacement does not meet current code, does not re-store the structural integrity of the building to its pre-disaster condition, and does not follow FEMA's own guidelines for repair of URM walls.

Repair of the City Hall Foundation and Settlement Issue

The classification of funding for the repair of settlement in the building has been a contentious issue. As a result of the San Simeon Earthquake, the North side of the building settled approximately 7" relative to the South side of the building. FEMA states that they did not find sufficient evidence to support that claim and therefore is unable to fund repair of the foundation. (FEMA did however approve \$7.8 million for up-grade of the foundation as cost-effective hazard mitigation). The City's appeal includes the following:

- Geotechnical engineers, Earth Systems Pacific stated "*In our opinion, the data and analyses described above support the conclusion that liquefaction did indeed occur at the site during the 2003 San Simeon Earthquake, and demonstrate that the majority of the settlement observed at City Hall is attributable to dynamic settlement of the structure that occurred in conjunction with the liquefaction.*"
- URS (FEMA's geotechnical consultants) stated that "*it would not be unreasonable to conclude that soil liquefaction is possible....for those conditions experienced during the 2003 San Simeon Earthquake.*"
- The settlement is consistent with the directionality of the earthquake.
- Since liquefiable soils are well below the surface of the site, no visual surface evidence of the liquefaction would be expected.
- Additional boring tests conducted in May 2007 confirm prior boring data regarding liquefiable soils.

FEMA did not provide funding for repairing the façade of the building for damage caused by re-leveling work. Nor did FEMA provide funding for repairing any cracks or spalls to the 2nd & 3rd floor concrete floors. The City presented arguments and requested that FEMA provide language declaring these repairs eligible when they are found and quantified.

Removal of Mold & Pigeon Guano

Immediately following the earthquake, the City hired construction firms to remove loose brick and generally seal the building; however there are still areas of the building that were not sealed due to safety concerns. As a consequence, pigeons have taken roost in City Hall and water continues to infiltrate the building. FEMA has denied funding for the removal of pigeon guano and mold, stating they will re-look at it “*upon receipt of comprehensive documentation quantifying the damage and delineating and justifying the requested scope of work.*” As part of the appeal, the City requested that language declaring clean up of the mold and pigeon guano is eligible.

- The accumulation of guano, mold and mildew are on-going biological processes that will not end until they are cleaned up, therefore going to the expense of quantifying them at this point does not make sense.
- Cal OSHA recommends that resources should be spent to remove mold rather than extensive testing for mold.
- The City had a Level I mold assessment performed that indicated the presence of mold and pigeon guano.

Heating, Ventilation and Air Conditioning System

FEMA continues to contend that damage to the HVAC system was not a result of the earthquake. They also contend that the City has not proved that the system is damaged, or that the proposed replacement is cost effective. The City’s appeal includes the following:

- Gayner Engineers prepared a new study in June of 2007. They find “The condition of the building mechanical and electrical systems (MEP) systems is a direct result of the earthquake, and the building being vacated after the seismic event.”
- Gayner finds that the closed circuit cooler, boiler, pumps and associated controllers were irreparable and need replacement. They also found that the 40 heat pumps and associated controllers on the 1st – 4th floor were also beyond repair and require replacement.
- Davis Langdon prepared a Cost Model report showing that the proposed repair methods were the most cost effective repair methods.

Re-Start MEP Systems

As a result of the Gayner study prepared in June 2007, the cost to drain, clean, leak test, repair and sanitize the MEP systems was identified as a cost the City will incur in order to repair the building. As part of the appeal, we submitted this new information to FEMA and requested funding.

Code Requirements

FEMA has denied funding for certain items identified as code requirements by our architects and engineers. These are items that are triggered by the building code because the structural, MEP or architectural repairs will affect an area or system that is not code compliant. As part of the appeal, the City's structural engineer clarifies the 2001 CBC.

Paint

There are several areas in the building where FEMA and the City disagree on the area eligible for painting. Although the nuance for each specific area is slightly different, the general FEMA argument is that they will pay for painting damaged areas only. The City's appeal points out painting anything less than the entire room would not restore the building to its pre-disaster condition as the rooms were uniformly painted prior to the earthquake. (No matter how closely you match the paint, the walls/areas will have a different level of faded and dirty paint.)

Damage to Roof Drains and Second Floor Lavatories

As a result of the Gayner study prepared in June 2007, damage to several roof drains and lavatories was found and documented. As part of the appeal, this new information was submitted to FEMA and funding was requested.

Lighting

FEMA denied funding for lighting replacement stating "The 'repair' items are ineligible because of the lack of damage." The City concurs with FEMA's assessment that the replacement of the entire lighting system as proposed in original *Damage Assessment and Rehabilitation Plan* should not be eligible; however replacement of damaged fixtures should be eligible. The Gayner report documented specific fixtures that were damaged and the City's request for funding for lighting was significantly reduced in this appeal. The City's appeal also requested that lighting that needs to be removed because of structural, MEP, or architectural work also be funded as part of that work.

Grounds

FEMA has denied funding for repairing the landscaping around City Hall. The City provided several arguments in the appeal as to why this is an important repair element and should be funded.

City Costs Incurred to Date

FEMA failed to include in the PW funding for various City costs incurred to date. These costs include:

- The cost of renting the temporary fence around City Hall. (Installation of the more permanent decorative fence is not an eligible expenditure.)
- The cost storing the bricks that have fallen from City Hall. (The City will be re-using these bricks in order to preserve the historic fabric of City Hall.)
- The installation of protective netting around the top of City Hall.

The City had been assured by OES that these items would be included in the final PW, however they were not included. As part of the appeal, the City is requesting funding for these items.

Architectural, Engineering & Other Services (A&E)

FEMA included funding for architectural and engineering services based on a request by the City in January 2005 to increase the amount of funding for preliminary A&E. This request was not intended to cover A&E costs for the entire project. The PW includes funding for eligible A&E costs incurred through January 2005 which amounts to approximately 2% of the current PW amount. The City estimates these costs will come in significantly higher and has requested, as part of the appeal, that FEMA fund A&E services at 19% of the project cost.

Items Not Appealed

The *Damage Assessment & Rehabilitation Plan* originally submitted by the City to FEMA included several items that FEMA declared as ineligible and after further research, the City concurs with FEMA’s findings. These items that were not appealed include, replacement of the elevator, certain lighting and electrical costs, and other minor items originally believed to be code requirements.

SUMMARY

Below is a table summarizing the appeal items and their estimated cost, using 2005 1st quarter construction costs.

	A & E Services	Repair	Hazard Mitigation*	Total
5.2 URM Walls	\$ -	\$ 1,179,941	\$ (1,179,941)	\$ -
5.3 Repair of Settlement	-	7,838,387	(7,509,567)	328,820
5.4 Mold & Pigeon Guano Abatement	-	1,308,917	-	1,308,917
5.5 HVAC System	-	3,043,908	-	3,043,908
5.6 Re-Start Systems	-	902,585	-	902,585
5.7 Code Requirements	-	918,612	-	918,612
5.8.1 Paint	-	189,734	-	189,734
5.9 Damage to Roof Drains & 2nd Floor Lavatory	-	48,563	-	48,563
5.10 Lighting	-	9,585	-	9,585
5.11 Grounds / SITESCAPE	-	71,886	-	71,886
5.12 City Costs Incurred to Date	-	36,417	-	36,417
6.1 Architecture, Engineering, Special Services & Studies	2,660,628	-	-	2,660,628
6.1 Construction Management, Testing & Inspection	-	899,613	(416,572)	483,041
TOTAL APPEAL AMOUNT	2,660,628	16,448,148	(9,106,080)	10,002,696
APPROVED PROJECT WORKSHEET	356,753	4,628,602	10,830,863	15,816,218
TOTAL REQUESTED PROJECT WORKSHEET	\$ 3,017,381	\$ 21,076,750	\$ 1,724,783	\$ 25,818,914

* We are requesting these items that FEMA has funded as *Hazard Mitigation* be instead funded as *Repair*.

Council Decision Points

Based on the table above, staff is requesting an additional \$10,002,696 from FEMA. Staff is looking for Council direction this evening to confirm staff requests. Specifically:

- Does the City Council approve staff's appeal of the classification of URM Wall repairs and the arguments/facts presented in the appeal?
- Does the City Council approve staff's appeal of the classification of foundation repairs necessary to repair the settlement of City Hall and does the City Council approve the arguments/facts presented to FEMA in support of appealing the classification of foundation repairs?
- Does the City Council approve staff's appeal of the removal of pigeon guano and mold as an eligible repair and approve the arguments/facts presented in support of such appeal?
- Does the City Council concur with staff on the appeal of the repair of HVAC as eligible funding? Does Council find that the supporting facts and arguments were justified?
- Does the City Council concur with staff in asking for funding for re-starting the MEP systems, repairing damage to identified roof drains and repairing damage to 2nd Floor lavatories?
- Does the City Council concur with staff that building code upgrades triggered by the issuance of the building permit should be appealed as eligible expenditures?
- Does the City Council approve staff's appeal of the paint quantities needed to bring the building back to its pre-disaster condition and the arguments/facts presented in the appeal as support?
- Does the City Council concur with staff that the appeal amount requested for lighting funding should be greatly reduced from the amount presented in the original *Damage Assessment & Rehabilitation Plan* and that the City should appeal the amount needed to repair identified damaged light fixtures?
- Does the City Council approve staff's appeal of repair of the surrounding grounds and sitescape and the arguments/facts presented in support of the appeal?
- Does the City Council approve staff's appeal of City costs incurred to date and support of the facts/arguments presented in support of such appeal?
- Does the City Council concur with staff that the City should appeal amounts included for architecture, engineering and construction management services?
- Does Council support staff in not appealing items such as replacement of the elevator, and certain MEP costs originally thought to be code requirements, later found not be code requirements?

FISCAL IMPACT:

The City is requesting \$10,002,696 in new funding from FEMA and is requesting the reclassification of \$9,106,080 from Hazard Mitigation Funding to Repair Funding.

ATTACHMENTS:

Volume I of the First Level Appeal of PW 229-1.