



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: June 12, 2018

Approved

Date

6/13/18

REPLACEMENT

**SUBJECT: STATE OF CALIFORNIA SOFT STORY HAZARD MITIGATION
PROGRAM GRANT APPLICATION AND LOCAL FUNDING MATCH**

REASON FOR REPLACEMENT

The purpose of this replacement memorandum clarifies the recommendation, and adds authority for the City Manager or his designee to both negotiate and execute documents regarding the Hazard Mitigation Program Grant from the California Office of Emergency Services. This is necessary as the final program documents are not yet available.

RECOMMENDATION

Adopt a resolution:

- a) Authorizing the City Manager or his designee to submit an application to the California Office of Emergency Services Hazard Mitigation Program Grant (HMPG or Grant) for a grant award in an amount not to exceed \$5,000,000 with the following scope as determined by the Notice of Intent submitted by staff on January 30, 2018:
 - 1) Create an inventory of potentially vulnerable soft story buildings in San José;
 - 2) Explore strategies and a possible ordinance to facilitate seismic retrofits for soft story buildings in San José;
 - 3) Identify best practices for soft story retrofits for multiple standards of performance, including life safety and limited downtime;
 - 4) Identify potential incentives and funding mechanisms for San José building owners to retrofit soft story buildings; and,
 - 5) Develop and implement a pilot program to partially or fully fund the seismic retrofitting of selected soft story multifamily buildings in San José.

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- b) Authorizing the City Manager to allocate an amount not to exceed \$1,250,000 from the City's federal Community Development Block Grant funding as the local matching funds required for HMPG.
- c) Authorizing the City Manager or his designee to negotiate and execute the HMPG program application package, including a State of California Standard Agreement (Standard Agreement) in a total amount not to exceed \$6,250,000, as well as any and all other documents required or deemed necessary or appropriate to procure and accept an HMPG award as required by the State of California.

OUTCOME

City Council adoption of the resolution will authorize staff to submit a grant application to the State of California's Office of Emergency Services on or before July 2, 2018. The Hazard Mitigation Program Grant makes available federal funds administered by the State to help address cities' need for the mitigation of soft story buildings. The HMPG funds, if obtained, will support staff's development of a multifamily soft story seismic retrofit incentive program.

BACKGROUND

San José and the San Francisco Bay Area are prone to regular earthquake activity, which is considered the region's greatest natural threat. In 1989, the Loma Prieta earthquake registered 6.9 on the Richter scale and caused damage from Oakland to Santa Cruz. The earthquake was devastating – it caused 63 deaths, nearly 3,800 injuries, and an estimated \$6 billion in property damage from failed buildings and the collapse of portions of major freeways. The United States Geological Survey (USGS) estimates that the Bay Area has a 72% likelihood of experiencing a 6.7 earthquake, most likely centered along the Hayward fault which runs east of San José. An earthquake of this magnitude could cause significant impacts in San José. This memo discusses the impact of a potential major earthquake to a subset of housing in San José, soft story multifamily residential homes.

The City of San José has adopted building standards to ensure that newly-constructed buildings can withstand most seismic events. However, older buildings in San José were built to previous building code standards that were less stringent than today's with respect to seismic safety. One type of seismically-vulnerable building is multifamily "soft story" buildings. Soft story buildings pose a concern because one floor of the building (usually the ground floor parking or commercial space) has significantly less lateral rigidity than stories on top of them. These buildings have a greater risk than average of collapsing during an earthquake, which would render homes uninhabitable and could physically endanger residents.

Several Bay Area jurisdictions have recognized the need to address the risks of soft story buildings. San Francisco, Berkeley, Oakland, and other cities have created soft story building retrofit programs. In 2016, the Bay Area Council of Governments (ABAG) published a best

practices report along with a sample “soft story” ordinance to encourage local action on this issue.

San José has taken some actions in the past to address seismically-vulnerable privately-owned buildings. In the 1990s, the City required owners of some unreinforced masonry buildings to retrofit their structures. In addition, in 2010, the Housing Department funded seismic retrofits of 650 mobilehomes in 10 San José mobilehome parks through a State of California award of Federal Emergency Management Agency (FEMA) funds.

In 2002, San José State University's Engineering Department initiated a countywide study on soft story buildings. The study estimated that San José has approximately 1,100 soft story multifamily buildings with nearly 11,000 apartments. The SJSU team inspected multifamily buildings in San José¹ to determine their soft story status, but exact addresses for those buildings were not documented. The team documented that they inspected all multifamily buildings in San José, which they estimated as approximately 2,823 at the time. However, staff believe this number to be a significant undercount, which means the study may not accurately represent the true scale of the problem.

At that time, the City also developed model soft story retrofit plans and hosted workshops for building owners in hopes of lessening the expense and information overload associated with undertaking a retrofit. The Housing Department made available guidance documents and generic blueprints upon request. Ultimately, only three building owners applied for a soft story retrofit permit.

On October 22, 2014, Councilmembers Sam Liccardo, Johnny Khamis, and Rose Herrera introduced a memo to the Rules Committee in remembrance of the 25th anniversary of the Loma Prieta earthquake. The memo directed staff to explore ways to incentivize the seismic retrofit of soft story buildings in San José. On October 23, 2017, the City Council ranked the development of a soft story retrofit program as the City's overall 8th policy priority.

Per this direction, Housing Department staff convened an interdepartmental working group on soft story to discuss various options for possible incentives. On January 30, 2018, the Housing Department submitted a Notice of Intent (NOI) to apply for grant funding from the California Office of Emergency Services Hazard Mitigation Program. This HMPG grant, if awarded, would fund planning and incentives for soft story retrofit construction. In March, California Office of Emergency Services (Cal OES) approved the City's NOI and invited the City to submit a full application by July 2, 2018. The State will notify award winners in late fall 2018, and funding would be available in early 2019.

¹Guna S. Selvaduray, S. Vukazich, J. Tran, *Santa Clara County Soft First Story Multi Unit Building Survey 2006*, http://scholarworks.sjsu.edu?utm_source=scholarworks.sjsu.edu%2fchem_mat_eng_pub%2f6&utm_medium=pdf&utm_campaign=pdfcoverpages/

ANALYSIS

Hazard Mitigation Grant Program

Disaster mitigation projects help reduce the impact of disasters by proactively supporting protection and prevention activities. Such activities can save lives and reduce the cost and time necessary for communities to recover from disasters. FEMA funds the federal Hazard Mitigation Grant Program to create plans and to build projects that reduce the effects of future natural disasters. In California, these funds are administered by the Cal OES under its Hazard Mitigation Grant Program unit. Local governments are eligible to apply for HMPG funding.

The City is familiar with this program, having received HMPG funding in the past. In 2009, the City's mobilehome seismic retrofit program was funded by an HMPG grant to perform retrofits on 650 homes. The program budget was \$4 million, composed of \$3 million HMPG plus \$1 million in redevelopment matching funds from the City. The estimated avoided negative impact to those mobilehome parks was \$466,840 per mobile home unit or \$303.4 million in total.²

The State made HMPG funds available in 2017 after the North Bay Wildfires disaster declaration. Approximately \$189 million in HMPG funds is available for a broad range of projects in California, not just for wildfires. Each sub-applicant can apply for up to \$5 million in a grant, requiring a 25% local match (\$1.25 million), for a local natural hazard mitigation project.

Scope of Work

The proposed scope of work for the HMPG application is informed by other cities' programs that are partially funded by the Cal OES HMPG grant, including Berkeley and Oakland. Oakland's seismic rehabilitation program combines HMPG with Community Development Block Grant (CDBG). San José's scope of work is also based on a recent best practices report on soft story programs from the Association of Bay Area Governments (ABAG).

Cal OES allows for projects to be completed in phases for sub-applicants to conduct the necessary studies and planning prior to construction of hazard mitigation projects. The research and planning work completed in Phase 1 will inform the design of the Phase 2 pilot program to subsidize residential soft story retrofits. The following scope was submitted to Cal OES:

“Implement a phased project that would:

- I. Create an inventory of potentially vulnerable soft story buildings in San José;
- II. Explore strategies and a possible ordinance to facilitate seismic retrofits for soft story buildings in San José;

² This figure includes avoided damage to mobilehomes, parks, and residents.

- III. Explore best practices for soft story retrofits for multiple standards of performance, including life safety and limited downtime;
- IV. Explore potential incentives and funding mechanisms for San José building owners to retrofit soft story buildings;
- V. Develop and implement a pilot program to partially or fully fund seismic retrofit construction for a sample of soft story multifamily buildings in San José.”

Due to limited funding and the three-year period of performance, staff estimates the program could subsidize approximately 100-120 buildings. This would constitute approximately 9% of the estimated 1,100 soft story buildings in San José. Eligible properties would perform retrofit work and then be reimbursed by program funds through a rebate. These rebates would be a potential incentive as part of a broader multifamily soft story retrofit program.³

Community Development Block Grant (CDBG)

The City of San José is considered a HUD Entitlement Community and receives an annual CDBG allocation. Each activity funded by CDBG must meet one of the following national objectives for the program: benefit low- and moderate-income persons; prevent or eliminate slums or blight; or address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available. CDBG can be used for grants, loans, loan guarantees, interest subsidies, or other forms of assistance to homeowners for the purpose of repairs, rehabilitation, or reconstruction. Staff has determined that retrofitting soft story buildings is an eligible CDBG activity under the low/mod benefit and housing category.

Retrofit projects funded using CDBG would require 51% of the rehabilitated housing to be occupied by low- and moderate-income residents. The Federal Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) also requires non-discrimination in emergency assistance. If San José is awarded the HMPG grant, all soft story property owners would be eligible to apply for the retrofit rebate program, regardless of income. To reconcile these two requirements, soft story retrofit rebate applicants will be asked to provide documentation of the incomes of the residents living in the soft story buildings. The portion of the rebate budget comprised of CDBG will then be dedicated to projects which meet the low/mod income resident qualification. If residents do not meet the income qualifications for CDBG, the HMPG funds would be used for that building.

The requirements for both FEMA and HUD funding vary. The City Council may want to consider the impact of the funding sources' restrictions on the smooth implementation of the program. If the program is to continue, it would be of benefit to potential users to use a different, more flexible source of funding for the local match in the future.

³ For more information, please refer to a second City Council memorandum to be heard on June 19, 2018, titled “Developing a Multifamily Soft Story Seismic Retrofit Program.”

EVALUATION AND FOLLOW-UP

Staff intends to provide an update on the HMPG award and results from public outreach to the City Council's Community and Economic Development Committee (CEDC) by the end of 2018. Staff has started public outreach and eligible grant pre-award activities described in Phase 1 of the project in preparation of the HMPG grant sub-application. Staff will continue with eligible pre-award activities until early 2019.

POLICY ALTERNATIVES

Alternative: Do not pursue HMPG grant.

Pros: Would reduce staffing costs and eliminate the local match requirement, freeing up CDBG to be used for other capital projects.

Cons: The State funds are available to localities for soft story programs, and the City would lose an opportunity to develop a soft story inventory and program if staff did not seek HMPG funds.

Reason for not recommending: Staff costs are fundable by the grant. The City should take advantage of this valuable opportunity to obtain State funds and to leverage federal dollars to address local soft story building risks.

PUBLIC OUTREACH

Staff held initial meetings on this topic with stakeholders including the California Apartment Association and the Renters' Rights Coalition. Staff intends to conduct more robust public outreach after obtaining additional City Council direction regarding development of a soft story retrofit program. This memorandum will be posted on the City's website for the June 19, 2018, City Council Agenda.

COORDINATION

This memorandum was coordinated with the City Manager's Office, the Office of Emergency Management, City Manager's Budget Office, the Department of Planning Building and Code Enforcement, and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

The Housing and Community Development Commission will consider the use of CDBG for a soft story program within consideration of the draft FY 2018-2019 Annual Action Plan at its June 14, 2018, meeting.

COST SUMMARY/IMPLICATIONS

If awarded, the City will receive a Cal OES Hazard Mitigation Program Grant in the amount of \$5,000,000 requiring a 25% match. The \$1,250,000 matching requirement will be 100% funded by the Community Development Block Grant Fund (441). Matching funding of \$200,000 in the Community Development Block Grant Fund for the first year's work will be appropriated as part of the 2018-2019 annual funding process. As part of the 2019-2020 budget process, additional funding recommendations will be brought forward to fully implement the program funded by the Grant.

BUDGET REFERENCE

The table below identifies the fund and appropriation proposed to fund the actions recommended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Total Appn.	Amount of Agreement	2018-2019 Proposed Operating Budget Page	Last Budget Action (Date, Ord. No.)
441	7482	Neighborhood Infrastructure Improvements	\$3,000,000	\$200,000	X-16	N/A

CEQA

Not a Project PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application.

/s/
 JACKY MORALES-FERRAND
 Director, Department of Housing

For questions, please contact Kristen Clements, Division Manager, at (408) 535-8236.