



STATE OF FLORIDA

# DIVISION OF EMERGENCY MANAGEMENT

Ron DeSantis  
Governor

Jared Moskowitz  
Director

Ms. Gracia B. Szczech  
Region IV Administrator  
Federal Emergency Management Agency  
3003 Chamblee–Tucker Road  
Atlanta, Georgia 30341  
(via email to [FEMA-R4-PA-Appeals@fema.dhs.gov](mailto:FEMA-R4-PA-Appeals@fema.dhs.gov))

Re: 1<sup>st</sup> Appeal Request on Behalf of Applicant  
City of Fernandina Beach  
DR-4283; FloridaPA #831 and #1085  
PA ID: 089-22175-00

Dear Ms. Szczech:

The Florida Division of Emergency Management (Recipient or FDEM) has received the attached letter from the City of Fernandina Beach (Applicant or City) appealing the denial of funding for the above projects. Although the total amount in controversy is \$5,989,821.68, Applicant seeks to replace its facility.

<u>Project #</u>	<u>Amount in Controversy</u>	<u>DM Date</u>
831	\$5,796,827.00	05/28/2020
1085	\$192,994.68	05/28/2020

Applicant appealed FEMA's decisions by letter, which was received by Recipient on 08/28/2020. On 03/30/2020, FEMA issued a memorandum extending deadlines established under 44 CFR 206.204, 44 CFR 206.206, 44 CFR 206.209, and Section 423 Arbitration to 05/30/2020. On 05/28/2020, FEMA issued a second memorandum extending filing deadlines, extending the deadline for this appeal to 08/30/2020. The appeal was timely submitted to the Recipient and the Recipient also herein timely transmits this recommendation and the accompanying appeal to FEMA Region IV.

## Background and Issue on Appeal

The Recipient respectfully recommends that FEMA grant the Applicant's appeal as it relates to the above referenced projects. The issue on appeal is whether Applicant's facility is eligible for replacement rather than repair.

Hurricane Matthew caused wind and pressure-driven storm surge damage to Applicant's wave attenuator system, resulting in sporadic structural damage throughout Municipal Dock 1 and ancillary buildings. Although both projects are for repairs to one

facility, FEMA determined it was appropriate to separate costs for the northern and southern portions into separate PWs.

The estimated eligible cost of repairing, restoring, reconstructing, or replacing a public facility is on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards applicable at the time of the disaster. A facility is considered repairable if the cost to repair the disaster-related damage does not exceed 50 percent of the cost to replace the facility based on its pre-disaster size, capacity, and function; and it is feasible to repair the facility so that it can perform the pre-disaster function as well as it did prior to the disaster.

Applicant conducted several inspections of its facility to evaluate the repair costs. Applicant determined that the repair costs for its facility exceeded 50% of the cost for replacement, thus entitling Applicant to funding to replace its facility. FEMA disagreed, instead determining much of the costs for repair fell well below the 50 percent threshold and only awarded what it determined as the costs to repair. For other portions of the facility that it determined did exceed this threshold, FEMA did award the cost to replace. Applicant argues that FEMA misinterpreted Applicant's cost estimate, and provides clarifying information that its repairs do exceed 50% of the cost for replacement. Recipient refers FEMA to Applicant's appeal letter and included exhibits, which demonstrate that Applicant has shown that its facility is eligible for replacement.

### **Relief Requested**

For the reasons stated in the Applicant's appeal and accompanying documentation, as well as in this letter, the Recipient respectfully recommends that FEMA grant the Applicant's appeal as it relates to the above referenced projects and fully fund the costs to replace its facility.

### **Conclusion**

An adequate basis has been provided upon which FEMA can render a determination regarding this appeal. If you have any further requests for technical information regarding this request, or for informal dispute resolution, please contact Appeals Officer Sherin Joseph by telephone at (850) 815-4445 or via email at [Sherin.Joseph@em.myflorida.com](mailto:Sherin.Joseph@em.myflorida.com) and [FDEM-PA-Appeals@em.myflorida.com](mailto:FDEM-PA-Appeals@em.myflorida.com).

Sincerely,

Allison McLeary  
Recovery Bureau Chief  
Governor's Authorized Representative  
Florida Division of Emergency Management