

TO: JAMES L. APP, CITY MANAGER
FROM: ED GALLAGHER, HOUSING PROGRAMS MANAGER
DOUG MONN, BUILDING OFFICIAL
SUBJECT: SEISMIC SAFETY ORDINANCE UPDATE
DATE: APRIL 29, 2004

Needs: For the City Council to consider testimony from the public regarding a proposed updating of the City's Seismic Safety Ordinance.

- Facts:
1. At their meeting of March 16, 2004, the City Council authorized staff to circulate a DRAFT Seismic Code Amendment for public review and comment. Copies are attached.
 2. On March 29 and 31, letters transmitting a copy the draft were mailed to all 39 owners of unreinforced masonry (URM) buildings and to 29 architectural and structural engineering firms. A copy of the letter is attached.
 3. As of April 22, the City has received one letter from Mr. Ken Harris (copy attached) offering comments on the proposed ordinance.
 4. State Law (Revenue and Taxation Code Sections 70 and 74.5) provides that seismic retrofit work shall be exempt from assessment for property tax purposes for a period of 15 years from the completion of the work.
 5. Additionally, there are property tax savings and federal income tax credits available for rehabilitation of "historic" buildings, which would include retrofit work. (See attached March 30, 2004 memo explaining these incentives.)
 6. The City Council approved \$101,000 in 2004 CDBG funds for a seismic mitigation fund for making of loans or grants to owners of URM buildings for the preparation of structural analyses and construction plans for seismic strengthening improvements. Attached is a summary of facts about a previous CDBG-funded grant program for this purpose.

Analysis and
Conclusion:

Purpose of Seismic Code

The purpose of the City's Seismic Code is to protect lives during major seismic events. There is no code (yet) that can guarantee that a building will not suffer some damage in the event of an earthquake.

The City's current Seismic Code is based upon the 1994 Uniform Code for Building Conservation. The proposed revised seismic code would adopt the 2003 International Existing Building Code, which incorporates newer standards, including structural lessons learned from the 1994 Northridge Earthquake.

Revised Time for Compliance

The current Seismic Code prescribes the following deadlines for compliance (completion of retrofit work):

- December 31, 2008 for full strengthening of essential and high risk URM buildings (those designed/used for occupancy by 100 or more persons) or for bracing of parapets (portion of the exterior wall that projects above the roof line).
- December 31, 2018 for full strengthening of all other buildings.

The proposed revised Seismic Code would include the following deadlines for compliance:

- One year * for owners of URM buildings to submit structural analyses and construction plans to the City for the seismic strengthening of their buildings.
- Two years * for owners to complete construction of those improvements necessary to strengthen URM buildings.

* *From the date of a letter to be sent by the City’s Building Official to all owners of URM buildings following adoption of the amended Seismic Code.*

The following table illustrates a possible time line to implement the proposed revisions.

Date	Event	Time Elapsed
May 18, 2004	1 st Reading of Seismic Code Update Ordinance	
June 1, 2004	2 nd Reading and adoption of ordinance	
July 1, 2004	Effective date of ordinance; date of service of order (to URM building owners to retrofit their buildings)	Day 0
July 1, 2005	Deadline for submittal of seismic structural analysis and construction plans for retrofit	1 year
July 1, 2006	Deadline to complete retrofit work	2 years
<u>Assumptions:</u>		
<ol style="list-style-type: none"> 1. City staff solicits Statements of Qualification for structural engineers and architects in May and completes list in June. 2. CDBG funds are disbursed upon completion of seismic structural analysis and plans, not upon completion of retrofit work. 3. <u>Worst case scenario:</u> An owner submits their structural analysis and construction plans on 7/01/05; the plan check process takes 120 days (7/01/05 – 11/01/05, which allows for 45 initial plan check; 30 day turnaround for owner’s engineer; 45 day second plan check; this leaves the owner 245 days after plan check to hire a contractor and complete the retrofit work. 		

As indicated in Assumption #1, above, the City proposes to pre-qualify several structural engineers to aid URM building owners prepare CDBG-funded structural analyses and construction plans.

The proposed schedule would provides the best chance of protecting lives from future seismic events (as the probability of future events increases with the passage of time). The Council may consider longer time frames at its discretion.

Mr. Harris' letter suggests that a longer time frame would allow for work to be done in between the periods of existing tenant leases, thereby assuring less disruption of work.

Disruption of Business Operations

Some URM building owners and business owners have expressed concern that the necessary retrofit work will disrupt business operations, as was articulated when the retrofit deadlines were last extended. It should be noted that each building has its unique set of structural circumstances. For example, some URM buildings have only one wall that is unreinforced, others have several unreinforced walls. In some cases, it may be possible to do retrofit work by pulling merchandise away from a wall that is being strengthened without having to empty the building or suspend business operations.

Consequences of Non-Compliance with the City's Seismic Code

Regardless of the actual timing of the deadlines, should the owner of a URM building fail to comply with the time specified in the Seismic Code, the City would have the authority to post a building for non entry, requiring that it not be occupied until such time that it is brought into compliance.

CDBG Funds for Seismic Structural Analyses and Construction Plans

The previous CDBG-funded program made grants to URM building owners without requiring them to do the retrofit work. There has been a suggestion to make assistance under the new program in the form of a grant that would be paid as a reimbursement for the structural analyses and construction plans upon completion of the seismic retrofit work. Such a condition will create one regulatory bottleneck and may cause another major problem.

The US Department of Housing and Urban Development (HUD), which supervises the CDBG Program, has informed the City and County that a grant program that requires completion of the work as a condition of payment will need to provide that construction plans be reviewed by the State Historic Preservation Officer (SHPO) prior to issuance of a building permit. Based on the City's experience with similar conditions for other CDBG-funded rehabilitation of commercial buildings, this review process can add several months of time, and potentially result in higher retrofit costs if SHPO determines that a proposed retrofit design does not adequately protect the historic value of a building, including the value of the interior improvements.

The other "major problem" referred to above, is that a grant program that requires the retrofit work to be completed first may trigger a requirement to comply with the federal Davis-Bacon (prevailing wage) Law. The City is awaiting an opinion from HUD on this matter.

The City could structure the CDBG grant program as it did in 1997 and disburse the funds directly to the engineers upon completion of the study. The City would then rely upon the new deadline dates and its authority to enforce the code, including posting a building for non-entry if necessary to ensure that the seismic retrofit work is completed.

Reference: Existing Seismic Code (Chapter 17.18 of the Municipal Code); 2003 International Existing Building Code; 1997 Uniform Code for Building Conservation; federal regulations governing the CDBG Program

Fiscal

Impact: Adoption of new standards would create a fiscal impact on owners of unreinforced masonry buildings but would address public safety concerns that cannot be easily quantified

Options: a. Accept public testimony on the proposed revised Seismic Code, provide staff direction for any desired refinements, and set May 18, 2004 as the date for 1st Reading of an ordinance amending the current Seismic Code.

b. Amend, modify, or reject the above option.

Attachments:

1. Discussion outline
2. Draft Ordinance
3. Sample letter to owners of URM Buildings re: April 29 Workshop
4. Letter from Ken Harris dated April 2, 2004
5. Seismic Structural Design Study Grant Facts
6. Memo Dated March 30, 2004 Regarding Seismic Retrofit Incentives

ED\CODE AMEND\SEISMIC 2004\CCR 042904

Discussion Outline
Suggested amendments to existing Seismic Safety Ordinance

Purpose:

To summarize possible parameters for an up-date of the City's Seismic Safety Ordinance.

The following topics are proposed to be incorporated into a Draft Amendment to the City's Seismic Safety Ordinance. Following public review and comment, a Draft Amendment would be presented to the City Council for formal consideration.

Noticing:

- All buildings not currently retrofitted shall be re-noticed informing property owners of any changes contained in a revised Seismic Safety Ordinance.
- Notices will be sent to individuals listed on the most recent tax roles as the property owner.

The Retrofit Code *

- Designs for retrofit of unreinforced masonry buildings shall use the 1997 Edition of the Uniform Code for Building Conservation, published by the International Code Council.
- Any values for materials provided for by the tables contained in the Uniform Code For Building Conservations applicable to any building in the City of Paso Robles shall be substantiated by actual testing.

* **Please note: There is no code to "save the buildings." The design criteria does not exist, not even for new buildings. We can only make them seismic resistant based on the information available at the time of their construction or repair.**

The stated intent of the Model Seismic Ordinance, is to promote the public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on existing unreinforced masonry bearing wall buildings. IE: retrofit buildings to perform well in a moderate seismic event, in the hope of preventing loss of life, knowing that the building will ultimately need some degree of repair.

Time frame for full strengthening:

Three different circumstances would trigger a requirement for retrofit:

- Full strengthening of all unreinforced masonry structures, including all parapets, regardless of the intensity of use within two (2) years of the date noted on the re-notifications.
- Any change or conversion of an unreinforced masonry structure changed from its existing use to a more intensive use prior to the two (2) year date shall be retrofitted prior to a Certificate of Occupancy being issued for the new use.
- The remodel of a unreinforced masonry structure covered in an amount equal to fifty (50) percent of the structure's value shall result in a retrofit being required prior to a Certificate of Occupancy being issued.

Buildings with brick veneers:

- Owners of buildings with brick veneers constructed prior to 1975 shall be noticed and required to have those veneers examined to determine if they are anchored to the building structure consistent with the anchorage requirements contained in the 1997 Uniform Code for Building Conservation. Section A113.7.
- Owners of buildings where brick veneers, cornice work and/or parapets were removed as a result of the December 22, 2003 earthquake shall be noticed of their responsibility to replace cornices and/or parapets. The notice shall inform building owners that veneers, cornice work and/or parapets shall be replaced with materials providing the same architectural/historical features originally removed. All replacement work shall be completed within two (2) years of receipt of the notice.

ORDINANCE NO. _____ N.S.

**AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
REPEALING AND REPLACING CHAPTER 17.18 REGARDING
SEISMIC STRENGTHENING PROVISIONS FOR
UNREINFORCED MASONRY BEARING WALL BUILDINGS**

WHEREAS, the City desires to promote public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on existing unreinforced masonry bearing wall buildings; and

WHEREAS, the establishment of minimum standards for structural seismic resistance may reduce the risk of such life loss or injury;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 17.18 of the City of El Paso de Robles Municipal Code as adopted by Ordinance 646, N.S. and as amended by Ordinances 699 N.S. and 740 N.S. is hereby repealed and replaced to read as shown on the attached Exhibit A of this ordinance.

SECTION 2. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 4. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on _____, 2004, and passed and adopted by the City Council of the City of El Paso de Robles on the _____th day of _____, 2004 by the following roll call vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor Frank R. Mecham

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk



CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

March 29, 2004

To: Owners of Commercial Unreinforced Masonry Buildings in Paso Robles

The City of Paso Robles will conduct a public workshop to receive comments on a proposed amendment to its Seismic Code (Chapter 17.18 of the Municipal Code). The Seismic Code establishes regulations for the strengthening (retrofitting) of commercial unreinforced masonry (URM) buildings. *A copy of the draft code amendment is enclosed for your review.*

The regulations adopted by the current Seismic Code prescribe that URM buildings must be strengthened to meet structural standards set forth in the 1994 Uniform Code for Building Conservation by the following deadlines:

- December 31, 2008 for full strengthening of essential and high risk URM buildings (those designed/used for occupancy by 100 or more persons) or for bracing of parapets for any URM building that has a parapet (portion of the exterior wall that projects above the roof line);
- December 31, 2018 for full strengthening of all other buildings.

The proposed amendment to the Seismic Code would include the following changes to the current code:

- Updating the structural standards to those set forth in the 2003 International Existing Building Code;
- Establishing the following new deadlines for all URM buildings:
 - One year from the date of a letter * notifying owners of URM buildings to submit plans to the City for the seismic strengthening of their buildings in accordance with the new regulations;
 - Two years from the date of the same letter for owners to complete construction of those improvements necessary to strengthen URM buildings in accordance with the new regulations.

* *This letter will be sent by the City's Building Official to all owners of URM buildings following adoption of the amended Seismic Code.*

The public workshop will be conducted by the City Council on Thursday, April 29, 2004 at 7:00 pm in the Library Conference Center at Library/City Hall, 1000 Spring Street, Paso Robles, CA. *You are invited to attend and be heard on the matter of the proposed Seismic Code Amendment.*

Letter to Owners of Commercial Unreinforced Masonry Buildings in Paso Robles
March 29, 2004, Page 2

If you cannot attend the workshop meeting, you may submit a letter with your comments to the address indicated below, provided that the letter is received by the City prior to the date and time of the workshop meeting.

City of Paso Robles
ATTN: Ed Gallagher
1000 Spring Street
Paso Robles, CA 93446

The City Council will not be requested to take any action to adopt the Seismic Code Amendment at the April 29 Workshop. It is expected, however, that the City Council could give staff direction to further refine the draft amendment and to schedule a public hearing to consider adoption of a final draft amendment at a future City Council meeting.

If you have any questions about the draft Seismic Code Amendment, please contact either Ed Gallagher, Housing Programs Manager at (805) 237-3970 (e-mail: ed@prcity.com) or Doug Monn, Building Official at (805) 237-3970 (e-mail: dmonn@prcity.com).

Sincerely,



Ed Gallagher
Housing Programs Manager

Chong D Byon
2816 Spring St
Paso Robles, CA 93446-1256

Gene & Lois M Rauch Trust
6450 Marchant Ave
Atascadero, CA 93422-5120

Buchheim Family Inc
2983 Tulare St
Fresno, CA 93721-1429

Swanson Family Trust
212 Greenbriar Drive
Buffalo, MN 55313

Eugene & Wonja Keem Living Trust
11855 Santa Ana Rd
Atascadero, CA 93422-7731

Mari P. Webb
C/O Terry & Susan Webb
4999 Shadow Canyon Rd
Templeton, CA 93465-9714

Claire L Macklin
725 Ivy Ln
Paso Robles, CA 93446-2316

Jerry L & Kim L Felgenhauer
402 Experimental Sta Rd
Paso Robles, CA 93446

Betty A Baldwin Revocable Trust
196 Edgewater Lane
Paso Robles, CA 93446-2449

Christine C Henderson Family Trust
PO Box 600
Paso Robles, CA 93447-600

Lana D Atkinson
c/o Thomas Harper
742 Trigo Ln
Paso Robles, CA 93446-2349

Robert F Hansen
PO Box 76
Anahola, HI 96703

Bridge Living Trust
1319 Spring Street
Paso Robles, CA 93446-2272

Robert F Hansen
c/o David C. Peterson
7730 Morro Rd, Ste 207
Atascadero, CA 93422-4413

Margo Maggiani
278-22 Monroe Dr
Mountain View, CA 94040

Olive M Caletti
23 University Dr
Menlo Park, CA 94025

Kathy McIntire
1229 Park St
Paso Robles, CA 93446-2234

Anthony B Horzen
7350 Benton
Paso Robles, CA 93446

Lamas Family Trust
3440 Monterey Rd
Atascadero, CA 93422-1869

Ali Salmanzadeh
1245 Park Ave
Paso Robles, CA 93446-2234

Rover C. Lyon
PO Box 922
San Luis Obispo, CA 93406-922

William Jacobson
1401 Valley View Rd #120
Glendale, CA 91202

On The Park LLC
1160 Summit Rd
Santa Barbara, CA 93108-2452

Martin & Hobbs LLC
PO Box 12060
San Luis Obispo, CA 93406-2060

Joseph P. Ontiveros
1027 Olivia Court
Paso Robles, CA 93446

Clark Cali
1031 Pine Street
Paso Robles, CA 93446

Hunter Family Trust
501 Riverside Ave
Paso Robles, CA 93446

Silva Martha J 1966 Trust
PO Box 366
Paso Robles, CA 93447-366

Kenneth G Harris Trust
PO Box 636
Paso Robles, CA 93447-636

Heirs of Charles H Schinbine
c/o William Schinbine
228 - 42nd St
Manhattan Beach, CA 90266

Letters/Notices sent March 30, 2004

Pioneer Auto Parts
c/o Steve Encell
Route 2, Box 178A
Templeton, CA 93465

Richard Woodland
3945 Buena Vista Drive
Paso Robles, CA 93446

Seismic Structural Design Study Grant Facts

- ❑ Between 1997 and 2001, a total of about \$126,000 in CDBG funds were used to provide grants to owners of 25 unreinforced masonry (URM) buildings to have seismic studies prepared.
- ❑ “Seismic studies” included structural analyses and construction plans with which the necessary seismic strengthening improvements could be built. The City conducted plan check on all of the 25 plans and is holding the plans until 2018 (the current deadline to complete retrofit work). Owners who had the studies prepared can pull a building permit to do the work specified in the plans.
- ❑ The grants were never made directly to the URM building owners. The studies were prepared under grant agreements in which the City paid the consulting engineers directly.
- ❑ Of the 25 buildings that received grants, two have been retrofitted (Paso Robles Inn and Bistro Laurent), two are presently being retrofitted (Kuehl-Nicolay Funeral Chapel and “Julia’s Building at 835 – 12th Street), two were demolished (Acorn and Marlow Buildings) and three were found not to be unreinforced after all. This leaves 16 buildings with completed studies that have not yet been retrofitted.
- ❑ At one time (ca 1996), up to \$200,000 in CDBG funds had been allocated for this program. The City sent letters to owners of all URM buildings inviting them to participate in the grant program. However, the owners of 19 URM buildings elected not to participate in the grant program and the unused CDBG funds were re-allocated to other projects.
- ❑ The average grant over 25 buildings came to \$5,039.
- ❑ Attached is a sheet that shows three tables for the following categories of URM buildings: (1) those which received grants but have yet to retrofit; (2) those which either retrofitted, are being retrofitted, were demolished, or were found not to be unreinforced; and (3) those that did not participate in the program. The first two tables show the amount of grant funds per building.
- ❑ The current City Seismic Code, upon which the 25 studies were prepared, is based on 1994 Uniform Code for Building Conservation.
- ❑ Of the 19 URM buildings for which seismic studies were not prepared, two have been approved for demolition (Richard Woodland’s 2 buildings on Pine Street) and one may no longer be required to be retrofitted as it is presently being used as a residence (1527 Park Street).
- ❑ If the Council decides to adopt the 2003 IEBC, then the 16 remaining CDBG-funded seismic studies will need to be updated (i.e., reviewed by a structural engineer and revised, if

necessary, to comply with the newer code). It is estimated that the cost of updating the seismic studies will be about \$1,000 each.

- ❑ At its meeting of March 11, 2004, the City Council allocated about \$101,000 in 2004 CDBG funds to a Seismic Mitigation Program, which could include making additional seismic study grants. Under such a program, existing seismic studies could be updated and new studies (for the 16 remaining buildings that did not participate in the previous grant program) could be funded.
- ❑ If the \$101,000 in 2004 CDBG funds proves to be insufficient to meet the demand, the City could advance General Funds to the grant program and be reimbursed with 2005 CDBG funds. This would ensure that all URM owners could participate and comply with the new deadlines, if they are adopted.

HARRIS INVESTMENTS

P. O. Box 636 TELEPHONE (A/C 805) 238-0115
PASO ROBLES, CALIFORNIA 93446

April 2, 2004

The City of Paso Robles
ATTN: Ed Gallagher
1000 Spring Street
Paso Robles, CA 93446

Gentlemen:

Re: Seismic Code Amendment

I am the owner of the property at 1306-1316 Pine Street in Paso Robles. Neither building sustained damage from the December 2003 earthquake and both buildings were approved for occupancy almost immediately. However, the building at 1316 is unreinforced masonry and will need to be retrofitted under the existing City Ordinance.

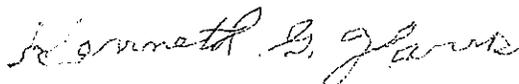
I am writing this letter because I am faced with a dilemma, and one which may be facing other owners of buildings that are required to be retrofitted. My building is occupied by three tenants, each with a lease that has a different termination date. The last one ends in March 12, 2006.

If the City Council decides to use the two-year deadline for completion of the retrofit, I, or someone else, could be forced to pay the tenants in order to either work around their leasehold, or to have the work done after hours (which could be very expensive). Or, in the event that an owner should decide to sell the property to someone else, and the new property owner had plans that did not include the current tenants, one could imagine that the new owner might have severe problems completing the retrofit. I do not know what the answer is to this particular problem, but perhaps lease termination dates might be taken into consideration along with the other factors involved in the retrofit schedule.

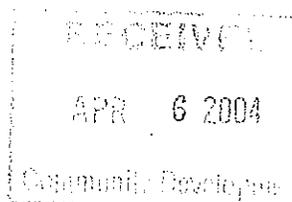
Perhaps the two-year deadline could be applied first to the buildings where the conditions of the building and the danger to the occupants have been determined to be the most grave. The balance of the buildings could be phased in according to the severity of their condition, in 6-9 month segments. This extension of the timeline would allow local contractors and property owners to schedule repairs without the crush of everything having to be finished at once, and the additional costs of securing outside help would be mitigated.

Thank you for your consideration.

Sincerely yours,



Kenneth G. Harris



TO: Jim App, City Manager
FROM: Ed Gallagher, Housing Programs Manager
SUBJECT: Seismic Retrofit Incentives
DATE: March 30, 2004

The Council recently suggested that they send a letter to State and Federal legislators requesting sponsoring legislation to provide tax relief for owners of commercial unreinforced masonry buildings who are required to retrofit their buildings.

Existing Incentives

Tax incentives already exist at both the State and Federal levels as follows:

1. **Federal (Income Tax)**: There are two tiers of income tax credits:
 - a. Owners of buildings listed on the National Register of Historic Places or included within a National Register Historic District * may be eligible for a federal income tax credit equal to 20% of the cost of rehabilitation provided that the work complies with the Secretary of the Interior's Standards for Preservation of Historic Buildings and that the cost of the rehabilitation work (which may be more than just the retrofit work) exceeds the pre-rehabilitation value of the building.
 - * Buildings that have been determined by the State Historic Preservation Office for individual listing in the National Register or that may be included in a local certified historic district or in a historic district that is potentially eligible for listing in the National Register may also qualify for the credit.
 - b. Owners of non-historic, commercial buildings built before 1936 may be eligible for a federal income tax credit equal to 10% of the cost of construction work provided that the cost of the rehabilitation work exceeds \$5,000.

The following should be noted:

- Applications for tax credits should be applied for prior to undertaking the rehabilitation work, or the tax credit may be invalidated.
- The 20% and 10% tax credits are not available to owners of buildings that have been demolished and rebuilt, even if rebuilt to replicate the historic building.

Applications for listing on the National Register and for an income tax credit may be filed with the California Office of Historic Preservation.

2. **State (Property Tax)**: Sections 70 and 74.5 of the Revenue and Taxation Code provide that the value (cost) of seismic retrofit work be exempt from property tax assessment for 15 years.

To ensure that owners receive the property tax exemption, the Building Division needs to indicate on the Building Permit that the purpose of the permit is for seismic retrofitting. If a building permit includes more work than just seismic retrofitting (e.g. other tenant improvements or non-seismic rehab work), separate valuations need to be provided so that the Assessor can identify the value associated with just the retrofit work.

3. **State (Property Tax)**: The Mills Act provides that owners of buildings listed on the National Register of Historic Places or on a State or local historic property register may be eligible for annual property tax savings of approximately 50% if they pledge to rehabilitate and maintain the historical and architectural character for a minimum of 10 years. Contracts are renewed annually but may be cancelled by the owner (in a manner similar

to Williamson Act Agricultural Preserve Contracts) or by local government if it believes the contract has been breached. Contracts run with the land and automatically transfer with sale of the property. Under the Mills Act, properties are assessed using the “capitalization of income method” rather than on market value. (NOTE: The County Assessor’s Office reports that, because of the way the capitalization of income method works, if the Base Year for a property’s assessment is 1975 or earlier, the Mills Act will not provide any appreciable tax relief.)

To apply for a Mills Act Contract, owners must first request that the City Council approve their request for a Mills Act contract. Once such approval has been granted, the owner files an application for a Mills Act contract with the County Assessor. (NOTE: There are presently 19 Mills Act contracts in the City of San Luis Obispo, but none other contracts in the County.)

Caveats for Incentives

Having a building listed on the National Register of Historic Places, or even a state or local register, subjects the property to additional governmental review (by the State Historic Preservation Office) and potentially limitations on design of renovation, rehabilitation, or even demolition work should the owner seek state or federal funding for such work. For example, in order to use CDBG funds to install an elevator in the IOOF Building, the State Historic Preservation Office mandated that the elevator be placed in a location that would not interfere with the light that would ordinarily be seen from existing windows. (i.e. The owners could not place the elevator behind windows – even if the window panes were made to be opaque glass.)

Additionally, Public Resources Code Section 5028 provides that a listed building that is damaged as a result of a natural disaster (e.g. earthquake) may not be demolished, destroyed, or significantly altered, except for restoration to preserve or enhance its historical values, unless the building presents an imminent threat to the public of bodily harm or of damage to adjacent property, or unless the State Office of Historic Preservation determines, via a process involving City Council review, that the building may be demolished, destroyed, or significantly altered.

If the City should opt to form a historic district, the restrictions discussed above could extend to non-URM or non-historic buildings located within the district that seek to obtain state or federal funds for renovation, rehabilitation, or demolition. The State Historic Preservation Office will be concerned with the impact of new construction on the character of the district.

Opportunities for Expanded Incentives

Although there appear to be substantial federal and state tax incentives for assisting owners of URM buildings, the Federal Tax Credit and Mills Act incentives were created for the purpose of preserving historic buildings. Although most URM buildings may ultimately qualify for historic building status, there are limitations that may serve as disincentives. Those incentives were not created with the objective of protecting the public safety. Only the property tax exemptions in the Revenue and Taxation Code address the public safety objective.

Letters to legislators could request that the state and federal government develop tax incentives for retrofit work related directly to protecting people and property from natural disasters without having to qualify as historic properties.

EXHIBIT A

Chapter 17.18

AMENDMENTS TO THE INTERNATIONAL EXISTING BUILDINGS CODE

17.18.010 Purpose.

- A. The purpose of this chapter is to promote public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on existing unreinforced masonry bearing wall buildings.
- B. The provisions of this chapter are intended as minimum standards for structural seismic resistance and established primarily to reduce the risk of life loss or injury. Compliance with these provisions will not necessarily prevent loss of life or injury, or prevent earthquake damage to rehabilitated buildings.

17.18.020 International Existing Building Code.

The 2003 Edition and subsequent editions of the International Existing Building Code, Appendix A, Chapter A1, entitled Seismic Strengthening Provisions for Unreinforced Masonry Bearing Wall Buildings, with the amendments set forth in this Chapter, is adopted.

17.18.030 Scope.

- A. The provisions of this Chapter shall apply to all existing buildings having at least one unreinforced masonry bearing wall. Except as provided herein, all other provisions of the California Building Code shall apply.
- B. Exceptions. Detached one- or two-family dwellings and detached apartment houses containing less than five dwelling units and used solely for residential purposes.

17.18.040 Definitions.

For the purpose of this chapter, the following applicable definitions shall be in addition to those contained in the International Existing Buildings **Code Section A103** as adopted and modified by the City of El Paso de Robles:

- A. **“Qualified historical building” means any structure included on the National Register of Historic Buildings, the state list of Significant Historic Buildings.**

B. "Seismic zone(s)" means that zone or geographic area referenced under the State Building Code establishing the potential earthquake hazard of a given area.

C. "Seismic Retrofit" means all work necessary to comply with the requirements of this chapter.

17.18.050 Compliance Requirements.

- A. The owner of each building within the scope of this chapter shall, upon service of an order and within the time limits set forth in this Chapter, cause a structural analysis to be made of the building by an engineer or architect licensed by the state to practice as such and, if the building does not comply with earthquake standards specified in this chapter, the owner shall cause it to be structurally altered to conform to such standards or shall cause the building to be demolished.
- B. *Within one year of the date of service of the order*, the owner of a building within the scope of this chapter shall comply with the requirements set forth above by submitting to the Building Official for review:
1. A structural analysis, which is subject to approval by the Building Official and which shall demonstrate that the building meets the minimum requirements of this Chapter; or
 2. Structural analysis and plans for structural alteration of the building to comply with this Chapter; or
 3. Application and plans for the demolition of the building. Issuance of a permit for demolition of a building shall be subject to compliance with the provisions of Chapter 17.16 (Demolition of Buildings and Structures) of this Title.
- C. *Within two years of the date of service of the order*, the owner of a building within the scope of this Chapter shall complete construction of structural alterations or complete demolition of the building, as applicable.

17.18.060 Historical Buildings.

Alterations or repairs to qualified historical buildings shall comply with the State Historical Building Code (Title 24, Building Standards, Part 8), in addition to this Chapter.

17.18.070 Order - Service.

The building official shall issue an order as provided in this section to the owner of each building within the scope of this Chapter.

17.18.080 Order - Contents.

The order shall be in writing and shall be served either personally or by certified or registered mail upon the owner as shown on the last equalized assessment roll, and upon the person, if any, in apparent charge or control of the building. The order shall specify that the building has been determined by the Building Official to be within the scope of this Chapter and, therefore, is required to meet the minimum seismic standards of this Chapter. The order shall be accompanied by a copy of Section 17.18.050, which sets forth time limits for compliance.

17.18.090 Appeal from Order.

The owner of the building may appeal the Building Official's initial determination that the building is within the scope of this Chapter to the Board of Appeals established by Section 17.04.020(C) of this Title. Such appeal shall be filed with the board within sixty (60) days from the service date of the order described in Section 17.18.090. Any such appeal shall be decided by the board no later than ninety (90) days after writing and the grounds thereof shall be stated clearly and concisely. Appeals or requests for modifications from any other determinations, orders or actions by the Building Official pursuant to this Chapter shall be made in accordance with the procedures established in Sections 105.1 and 105.2 of the California Building Code.

17.18.100 Recordation.

At the time that the Building Official serves the aforementioned order, the Building Official shall also file with the San Luis Obispo County Clerk-Recorder's Office a certificate stating that the subject building is within the scope of this chapter and is a potentially earthquake hazardous building. The certificate shall also state that the owner thereof has been ordered to structurally analyze the building and to structurally alter or demolish it where compliance with this Chapter has not been demonstrated.

If the building is either demolished, found not be within the scope of this Chapter or is structurally capable of resisting minimum seismic forces required by this Chapter as a result of structural alterations or an analysis, the Building Official shall file with the San Luis Obispo County Clerk-Recorder's Office a form terminating the status of the subject building as being classified within the scope of this Chapter.

17.18.110 Enforcement.

- A. If the owner in charge or control of the subject building fails to comply with any order issued by the Building Official pursuant to this Chapter within the time limits set forth in Section 17.18.050, the Building Official shall verify that the recorded owner of this building has been properly served.

- B. If the order has been served on the record owner, then the Building Official shall order that the entire building be vacated and that the building remain vacated until such order has been complied with.
- C. If compliance with such order has not been accomplished within ninety (90) days after the date the building has been ordered vacated or such additional time as may have been granted by the Board of Appeals, the Building Official may order its demolition in accordance with the provisions of Section 102 of the California Building Code. Any demolition would be subject to those conditions set forth in the Chapter 17.16 (Demolition of Buildings and Structures) of this Title.

17.18.120 Full strengthening required prior to time frames provided for under Section 17.18.050.

The Building Official shall require full compliance with the minimum seismic standards contained within this Chapter and the **International Existing Building Code** before the time frames set forth under Section 17.18.050, subject to the following conditions:

- A. Any change or conversion of an unreinforced masonry structure from its existing use to that of a more intensive use.
- B. The remodel of a structure covered by this Chapter, in an amount equaling fifty percent of the structure's replacement value as determined using the latest edition of the Building Standards Valuation, published by the International Conference of Building Officials.
- C. The Building Official may, upon receipt of a written request from the owner, order such owner to bring his building into compliance with this code prior to the normal service date for such building set forth in this chapter.

17.18.130 Certificate of compliance.

- A. In accordance with Chapter 3, Section 70(d)(3) of the Revenue and Taxation Code, the Building Division shall, upon the completion of a seismic retrofit, file a certificate of compliance with the County Assessor's Office on or before the following April 15th.
- B. The certificate of compliance shall establish that the work associated with the seismic retrofit was the result of a local ordinance related to seismic safety, and therefore shall not add value to the assessment role.

17.18.140 Requirements for plans-- Structural engineering.

The following construction information shall be included in the plans required by this Chapter:

1. Dimensioned floor and roof plans showing existing walls and the size and spacing of floor and roof framing member and sheathing materials. The plans shall indicate all existing and new crosswalls and their materials of construction. The location of the crosswalls and their openings shall be fully dimensioned or drawn to scale on the plans;
2. Dimensioned wall elevations showing openings, thicknesses, heights, the type of veneer, its thickness and its bonding and/or ties to the structural wall masonry shall also be reported;
3. The extent and type of existing wall anchorage to floors and roof when used in the design;
4. The extent and type of parapet corrections which were previously performed, if any;
5. Repair details, if any, of cracked or damaged unreinforced masonry walls.

17.18.150 Material requirements.

- A. General. All materials permitted by this Chapter, including their appropriate allowable design values substantiated by testing may be utilized to meet the requirements of this chapter.
- B. Existing Materials. All existing materials utilized as part of the required vertical load-carrying or lateral force-resisting system shall be tested or shall be repaired or removed and replaced with new materials.

17.18.160 Upgrade design--Requirements for expanded or continued use of a structure.

- A. Except as modified herein, the analysis and design relating to the alteration of, or addition to, an existing building shall be in accordance with the California Building Code.
- B. Contractors providing structural upgrades shall be licensed by the State of California in the trade(s) being performed to accomplish the upgrade.
- C. Design documents and specifications pertaining to structural upgrades shall be prepared by an architect, structural engineer or civil engineer specializing in structural work, licensed by the State of California to practice as such.

D. Design documents and specifications shall comply with the International Existing Building Code, Appendix A, Chapter A1.

17.18.170 Special requirements for qualified historical buildings.

A. Plans for seismic upgrading of qualified historical buildings shall be reviewed by the Development Review Committee. The basis of review shall be the design guidelines established by the City and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Properties, with the following special requirements:

1. Features of architectural or historical significance shall be retained and reattached, braced or stabilized, as required by applicable codes and/or the Building Official.
2. In-wall anchors shall be used on qualified historical buildings instead of through-wall anchors, especially on the principal facade.
3. Through-wall anchors on other facades may be permitted, provided that their locations and treatment are approved by the Development Review Committee.
4. Closure of historic openings on the principal facade shall not be permitted and shall be discouraged on secondary facades. If closure of such openings on secondary facades is unavoidable, the materials used shall be compatible with the existing exterior materials of the secondary facade wall.
5. Historic parapets shall be braced rather than removed.
6. Historic architectural veneer posing a safety hazard shall be stabilized and re-anchored to the building.

B. The purpose and intent of the plan review and guidelines shall be to minimize the effects of seismic strengthening on the exterior appearance of the building.

C. 1. In order to minimize the effect on the exterior appearance of a qualified historical building, plans showing proposed shear-test locations shall be submitted for review and approval by the Community Development Director or his/her designee, prior to any testing of the structure taking place.

2. Repairs after testing shall match the original adjacent existing building facade materials.

17.18.180 Buildings with brick veneers, cornice work and/or parapets.

A. 1. The owner of each building constructed prior to 1972 with a brick veneer shall, upon service of an order and within the time limits set forth in this Chapter, cause an analysis to be made of the veneer by an engineer or architect licensed by the state to practice as

such have such veneer examined to determine if it is anchored to the building structure in a manner consistent with the anchorage requirements contained in **the International Existing Building Code** Section A113.7.

2. ***Within one year of the date of service of the order***, the owner of a building within the scope of this Subsection shall submit a report of said veneer examination to the Building Official for review.
 3. ***Within two years of the date of service of the order***, the owner of a building within the scope of this Subsection shall obtain a building permit and complete anchoring of the brick veneer if indicated by said report.
- B.
1. Each owner of a building from which brick veneers, cornice work and/or parapets were removed as a result of the December 22, 2003 earthquake shall replace said veneers, cornices, and/or parapets.
 2. The owners of buildings within the scope of this Subsection shall be served written orders informing them of the requirement to replace said veneers, cornices, and/or parapets in the manner set forth in Sections 17.18.070 and 17.18.080. Said order shall inform building owners that veneers, cornice work and/or parapets shall be replaced with materials providing the same architectural/historical features originally removed.
 3. ***Within one year of the date of service of the order***, the owner of a building within the scope of this Subsection shall submit plans for the replacement of veneers, cornice work and/or parapets to the Building Official for review.
 4. ***Within two years of the date of service of the order***, the owner of a building within the scope of this Subsection shall obtain a building permit and complete all replacement work.
- C. The owners of buildings within the scope of this Section shall be served written orders in the manner set forth in Sections 17.18.070 and 17.18.080.
- D. Appeals of orders specified in this Section shall be handled in the manner set forth in Section 17.18.090.