



Town of Fairfield

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February 25, 2022

Dear Ms. DiBetitto:

RE: Town of Fairfield – PA ID: 001-26620-00, FEMA-4087-DR-CT, Project Worksheet 680

Reference is made to a Notice of Violation (“NOV”) dated November 28, 2018 with regard to noncompliance with minimum floodplain management criteria, sent by FEMA and received by the Town of Fairfield (“Town”) with respect to the Penfield Pavilion. The NOV was held in abeyance until a final decision was reached in the Town’s appeals of FEMA’s determinations underlying the NOV. On March 31, 2021, a decision on the Town’s second appeal was issued by Ana Montero, Division Director of FEMA’s Public Assistance Division. The Town has chosen not to file any further appeals and has accepted FEMA’s March 31, 2021 decision as final.

The purposes of this letter are to summarize select historical background regarding the Penfield Pavilion as a prelude to our currently scheduled meeting of March 3, 2022, to discuss next steps with FEMA on closing out the NOV.

Historical Background

The Town decided to replace the original Penfield Pavilion, which had stood for approximately eight decades, with a larger, more modern building, to better serve the needs of the public on the coastline as well as provide a potential source of revenue to the Town as a waterfront venue for meetings, and the like. Shortly after construction, Storm Irene (August 2011), caused damage to the foundation and building. After necessary repairs, Storm Sandy arrived (October 2012) and severely damaged the building. A project worksheet for reimbursement was awarded by FEMA on December 17, 2015 for the replacement of Penfield Pavilion at an estimated cost of approximately \$4.3 Million. As described in the NOV, FEMA’s June 20, 2019 and March 31, 2021 decisions in connection with the Town’s two appeals (the “FEMA Decisions”), and associated materials, the scope of work for the Penfield Pavilion project was adjusted by the Town without prior FEMA approval and the final configuration of the Penfield Pavilion was determined by FEMA to be noncompliant with the minimum floodplain management criteria at 44 C.F.R. § 60.3. As a result, and as more particularly described in the FEMA Decisions, FEMA denied project funding in its entirety, leaving the Town entirely responsible for the project costs.

The current administration has been and remains committed to resolving the FEMA NOV in a reasonable manner. The Town’s efforts to close out the NOV with FEMA must be consistent with the Town’s concurrent obligation to remove contaminated fill from underneath the Penfield Pavilion in a manner which complies with the terms and conditions of a Consent Order entered into with the United States Environmental Protection Agency (the “EPA”) and the Connecticut Department of Energy and

Environmental Protection (“DEEP”). In particular, it has been determined by the Town that all of the fill used under the Penfield Pavilion will be removed and sent to an approved landfill. The Town is awaiting certain approvals from the EPA and DEEP prior to commencing the removal of contaminated fill and currently anticipates receiving those approvals in time for the Town to begin that remediation in the fall of 2022.

Current Efforts

While, as FEMA has already acknowledged in the NOV itself, movement of the horizontal grade beams is not feasible at this stage, the Town is committed to working with FEMA to identify a feasible means of reasonably addressing FEMA’s concerns in order to allow the Town and FEMA to close out the NOV. The Town has engaged a robust team (the “Technical Team”) of contractors and consultants (none of whom were involved with the prior Penfield Pavilion projects) and that team is standing by to assist the Town with the development and implementation of a feasible solution.

Upon a physical examination of the site, it is readily apparent (as is shown by the architectural drawings (the “Drawings”) previously sent to FEMA by way of an e-mail of October 6, 2021 (from Drawing T100 to Drawing S100) that the Penfield Pavilion is comprised of two separate buildings joined by a single roof. There is the main building and a so-called “Locker Room” facility. The latter was completely rebuilt after Storm Sandy and placed in proximity to the main building.

As shown in Drawing A100, there do not appear to be any horizontal grade beams under the building which houses the Locker Room facility and, as a result, that building is not subject to the outstanding NOV.¹ Accordingly, the Town believes that the remaining review and solution development will focus on the main building comprising Penfield Pavilion.

The Town wishes to reach agreement with FEMA on the scope of any corrective measures with regard to closing out the NOV in advance of implementation.

We look forward to further discussions to hopefully identify and agree upon feasible means of reasonably addressing FEMA’s remaining Penfield Pavilion concerns.

Sincerely,



Thomas R. Bremer

Chief Administrative Officer

¹ Unfortunately, the Town does not believe there are any “as-built” drawings of the completed structures. That said, every drawing and photograph the Town has reviewed indicates a lack of horizontal grade beams under the Locker Room facility building. Upon removal of the soil underneath the Penfield Pavilion, the Town will take photographs to demonstrate that there are no horizontal grade beams under the Locker Room facility building and we are happy to provide the same to FEMA for its files.