

**The New Soft-Story
Program offers
Homeowners
even more support.**



Earthquake Soft-Story Program: Rules for Participation

LIVING SPACE OVER GARAGE HOUSE RETROFIT



**EARTHQUAKE
SOFT-STORY**
Funds To Strengthen Your HomeSM

About ESS

The Earthquake Soft-Story Program (“ESS Program,” “ESS,” or “Program”) was developed to help homeowners lessen the potential for damage to their house from the Living Space Over Garage (LSOG) vulnerability during an earthquake. The LSOG vulnerability creates what is called a soft story at the lowest floor. Houses with this condition may be prone to partial or full collapse of the lowest story during an earthquake.

A seismic retrofit strengthens a house, making it more resistant to earthquake activity such as ground shaking and soil failure. It does not earthquake proof a house. FEMA P-1100 is a prescriptive, pre-engineered set of plans that can be adapted to retrofit crawlspace dwelling cripple walls, living space over garage dwelling, and ground story bracing walls.

A living space over garage (LSOG) house is defined as:

“A dwelling in which a primary occupied living space occurs in an upper story that extends substantially or completely over a ground story constructed primarily as a garage, including utility and storage uses.” (FEMA P-1100) “Substantially” means that the upper story extends over at least 75% of the depth of the garage area.

A typical FEMA P-1100 LSOG retrofit costs between \$15,000 and \$25,000, depending on the location and size of the house, contractor fees, and the materials and work involved. Owner-occupied houses in Program ZIP Codes as listed on the CRMP website that are suitable for a P-1100 retrofit may qualify for an incentive payment to help pay for the retrofit, which must be performed by a Licensed General Building Contractor (License Type A or B) who is listed on the ESS Contractor Directory.

The ESS Program is managed by the California Residential Mitigation Program (CRMP), which is a joint powers authority established under California Government Code Section 6500, et. seq, whose members are the California Earthquake Authority (CEA), a public instrumentality of the State of California, and the California Governor’s Office of Emergency Services (Cal OES), an agency of the State of California.

ESS Program benefits are made possible by funding from the Federal Emergency Management Agency (FEMA) through the Hazard Mitigation Grant Program (HMGP) and is administered by Cal OES.

DISCLAIMER:

An earthquake or other natural disaster can occur at any time. CRMP and others provide monetary grants to assist qualified homeowners in securing structural home improvements in an effort to reduce (but not eliminate) damage or collapse in the event of an earthquake.

Anyone who accesses the information on the CRMP website (CaliforniaResidentialMitigationProgram.com) acknowledges and accepts that neither CRMP nor either of its members—CEA or Cal OES—are offering technical earthquake or seismic engineering advice with regard to any specific home; that the information on the website is intended solely as general educational information regarding the potential benefits of homeowners interested in earthquake safety, and that none of the information may—or should be—construed as a guarantee of the efficacy of any particular seismic retrofit or service provider.

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Introduction

These Program Rules (“Rules”) govern the operations of the Earthquake Soft-Story Program (“Program”) and are binding on all homeowners who participate in FEMA-funded ESS and on all Participating Homeowners, Participating Contractors, and Licensed Design Professionals participating in the ESS program. All Definitions stated in these Rules apply to these Rules, ESS Program documents, and to content on the www.CaliforniaResidentialMitigationProgram.com website.

These Rules may be amended at any time, and amended Rules become effective upon the date posted on the www.CaliforniaResidentialMitigationProgram.com website (CRMP website). By participating in this Program, homeowners must acknowledge and agree to release CRMP, CEA, and Cal OES, of and from any and all manner of suits, liabilities, losses, damages, and claims, related to or arising out of or in any way related to homeowners’ participation in the Program, including but not limited to, homeowners’ receipt of a grant from the Program.

Section 1 – Homeowners and the ESS Program

1.1 Official Source of ESS Program Information

The ESS Program is described on the CRMP website, which is the only official source of information about ESS.

1.2 Locations Where ESS is Offered; ZIP Code Selection Process

The CRMP website lists the ZIP Codes in which ESS currently operates. Houses located in ZIP Codes not listed on the CRMP website are not eligible for ESS participation.

The ZIP Codes are selected from time to time using criteria approved by the CRMP Governing Board. The criteria include seismicity of an area; year the house was built; and counties identified in the FEMA HMGP grant application that funds this program. With the pilot program, the ZIP Codes may not follow these exact criteria.

- (a) Earthquake Hazard: Higher-hazard areas were identified using the United States Geological Survey (USGS) earthquake-hazard map for California.
- (b) Seismic Vulnerability of Houses: The seismic vulnerability of houses is represented by year the house was built and must be pre-2000 construction. These houses were likely built before building codes adequately addressed the living space over garage vulnerability.
- (c) The HMGP grant that funds this program has specific counties identified. The program only will be available in those counties and may be available only in certain ZIP Codes.

1.3 Incentive Payments

ESS offers an incentive payment of:

House Type	Percentage Covered	Maximum Coverage
Type 1 —House Over Garage + Ground Floor Finished Living Space	Up to 75% total retrofit cost	\$ 10K
Type 2 —Room Over Garage + Crawl Space Previously Retrofitted	Up to 75% total retrofit cost	\$ 10K
Type 3 —Room Over Garage + Crawl Space Needing Retrofit	Up to 75% total retrofit cost	\$ 13K
Type 4 —House Over Garage—No Ground Floor Finished Living Space	Up to 75% total retrofit cost	\$ 13K

An ESS Participant will receive a payment for a seismic retrofit done in accordance with FEMA P-1100 after the applicant has been accepted for participation in ESS, provided the Participating Homeowner:

- (a) is an Eligible Applicant (see Section 1.5);
- (b) completes a qualifying seismic retrofit in accordance with the Program Rules;
- (c) sends to the ESS Program all the documentation required by these Rules (see Section 1.8) within the required timeline; and
- (d) abides by all ESS Program Rules.

Any and all costs associated with a qualifying seismic retrofit that are greater than the ESS incentive payment are the sole responsibility of the Participating Homeowner.

An ESS program incentive payment is a grant of funds, not a loan, and does not have to be repaid. All payments must be used for purposes consistent with these Rules. Incentive payments may constitute taxable income to the Participating Homeowner (see Section 1.10).

1.4 Qualifying Seismic Retrofit

Only seismic retrofits performed in accordance with FEMA P-1100 qualify for an ESS Program incentive payment. All retrofits must be designed utilizing the appropriate seismic design category (information can be found here <https://www.atcouncil.org/fema-p-1100>). If a retrofit is engineered, it must meet or exceed FEMA P-1100 plan set specifications/requirements.

ESS requires a FEMA P-1100 seismic retrofit to be done by a California Licensed General Building Contractor (License Type A or B) listed in the ESS Contractor Directory either using FEMA P-1100 or using plans prepared by a “Licensed Design Professional” (defined herein as a structural engineer or architect) with professional registration in California. The ESS Contractor Directory can be found on the CRMP website.

No Partial FEMA P-1100 Retrofits Are Permitted: All ESS retrofits, including engineered retrofits, must be in accordance with FEMA P-1100, which means the retrofit must strengthen all structural weaknesses identified in FEMA P-1100. The qualifying ESS retrofit must meet or exceed the FEMA P-1100 requirements for sill-plate anchorage, full height and cripple-wall bracing (if cripple walls are present), and garage door wall strengthening. For example, a retrofit that includes strengthening the garage door and ground floor walls, if required, but does not include sill-plate anchors and bracing of the crawlspace, if present and required, will not qualify for the ESS grant. If a crawlspace is present, it also must be retrofitted.

In addition to the seismic retrofit, the water heater must also be properly strapped. During an earthquake, unsecured water heaters often fall over, rupturing rigid water and gas connections—strapping the water heater will reduce the likelihood of water and fire damage.

Note: Incentives for water-heater strapping are only eligible for Program benefits when other FEMA P-1100 vulnerabilities are being retrofitted. There may be other code requirements (e.g., installation of smoke and carbon monoxide detectors) when a permit is obtained for residential construction; work performed to meet such other code requirements does not qualify for the incentive payment under the ESS Program but is required.

The seismic-retrofit building permit **must be issued only after acceptance** into the Program. Also, to qualify for the ESS grant, ESS retrofit construction work **must not start before the ESS program staff approves** the submitted pre-retrofit documents and photos. Retrofit construction work started (whether or not completed) before that approval, will make the retrofit wholly ineligible for an ESS incentive payment.

1.5 Eligible Applicants

In order to be an “Eligible Applicant” for ESS, the homeowner who registers and answers the ESS-qualification questions must:

- (a) use the house as their primary residence as of the date of ESS application and as of the date the retrofit is completed, as evidenced by a driver’s license, utility bill, or other form of evidence acceptable to ESS;
- (b) be an owner of record on the deed;
 - If the Program participant sells the qualifying home prior to commencement of any physical work, they can transfer participation in the Program to the new owner, with prior approval from ESS and the new homeowner;
- (c) have a valid email address or have access to a valid email address from which they can send and receive email messages;
- (d) register for the ESS Program by completing the ESS Program application with their legal name. If requested by ESS, provide a W-9 that shows the applicant’s name and the applicant’s Social Security number or Individual Taxpayer Identification Number (ITIN); and
- (e) if applicable, complete and record the form described in 1.10 (h) below.

1.5.1 Eligible Applicants—Houses Held in Trust

If the Qualifying House (See Section 1.6) is owned by or otherwise held in a trust, then the named trustee must satisfy the following “Owner-Occupied” requirements to participate in the ESS Program:

- (a) provides evidence they are a trustee of the trust that owns the Qualifying House;
- (b) registers for the ESS application using their legal (trustee) name; and if requested by ESS, provide a W-9 that shows their name as trustee and their Social Security number or Individual Taxpayer Identification Number (ITIN); and
- (c) provides evidence they, the trustee, reside in the Qualifying House.

1.5.2 Eligible Applicants—Houses Held in a Limited Liability Company (“LLC”)

If the Qualifying House (See Section 1.6) is owned by or otherwise held in an LLC, then one of the named Members must satisfy the following “Owner-Occupied” requirements to participate in the ESS Program:

- (a) provides evidence they are a Member of the LLC that owns the Qualifying House;
- (b) registers for the ESS application using their legal (LLC) name; if requested by ESS, provide a W-9 that shows their name as a Member and their Social Security number or Individual Taxpayer Identification Number (ITIN); and
- (c) provides evidence that they, a Member, resides in the Qualifying House.

1.6 Qualifying Houses

There are four types of Qualifying Houses, and each Qualifying House must satisfy all of the following requirements and be either a Type 1 or Type 2, Type 3 or Type 4 Qualifying House (See Section 1.6 (d)). The requirements are:

- (a) located in an ESS-Program-eligible ZIP Code, as listed on the CRMP website;
- (b) built before 2000 and sits on level ground or a low slope;
- (c) has had no incentive payment previously received from (i) ESS, or (ii) any other soft-story earthquake retrofit incentive grant program for the legal parcel. Receipt of previous incentive payments exclusively for the retrofit of the crawlspace (EBB-type retrofit) does not exclude a homeowner from participation in the ESS Program.
- (d) Vulnerabilities of Living Space Over Garage Construction:
 - The earthquake “Soft-Story” vulnerability in a LSOG house is caused by a significant reduction in the number of walls at the garage floor level due to an open space and openings. Elements that may need to be addressed in the retrofit include:
 - inadequate sill plate anchorage
 - large open areas created by garage, utility, storage, and crawl spaces
 - large openings like the garage door
 - walls with many openings that leave very little solid wall, and
 - lack of bracing on the wood stud walls around the ground floor.

The LSOG vulnerability is caused by the large open space and wall openings on the lowest floor. These conditions mean that there are fewer solid walls at the garage level, and walls are the structural elements that resist earthquake forces. An ESS retrofit can improve the expected earthquake performance of the LSOG house.

The LSOG house, also known as an earthquake soft-story (ESS) house, has an attached garage* with a living space above. LSOG/ESS can be divided into four types of houses:

- **Type 1:** House over garage (HOG) with partial living space on the ground floor/ garage level.
- **Type 2:** Room over garage (ROG) with the remainder of the house supported over a raised foundation that has been retrofitted through the EBB program (or has sill plate anchorage and cripple wall bracing that meets the requirements of FEMA P-1100).
- **Type 3:** ROG with the remainder of the house supported over a raised foundation that will be retrofitted with an EBB retrofit; and
- **Type 4:** HOG with no living space on the ground floor/garage level.

*“Garage” is defined as an unconverted, functional garage with a garage door opening.

See Attachment A for examples of these four types of LSOG houses. Note that Type 2 and 3 houses may have the ROG as a wing of the house or embedded into the house as shown in the figures.

Mobile homes and manufactured homes do not qualify for the ESS program.

1.7 The ESS Retrofit

An ESS seismic retrofit strengthens an older house (pre-2000), making it more resistant to earthquake damage caused by ground shaking and soil failure. The seismic retrofitting required for ESS is performed in accordance with FEMA P-1100 and directly addresses the vulnerabilities identified above by:

- Strengthening the walls at the garage door or any other large openings with plywood or other strengthening elements including steel columns or proprietary shear elements;
- Bracing the perimeter walls of the lowest story and, if there is also a crawl space, the cripple walls must also be braced; and
- Bolting the house to its foundation.

The LSOG retrofit may require new reinforced concrete foundations at some or all of the existing perimeter and interior bearing walls. Strengthening at the garage door may involve installation of steel columns or proprietary shear elements.

1.7.1 When a House Needs an ESS Retrofit and an EBB Retrofit

For a ROG-type house with a crawlspace that requires an EBB retrofit, the ESS retrofit will include:

- (a) A retrofit of the full garage area in accordance with the LSOG requirements of FEMA P-1100 (Volume 1, Chapter 5 and plan sets in Volume 2B), AND

- (b) A retrofit of the full crawlspace area in accordance with the crawlspace requirements of FEMA P-1100 (Volume 1, Chapter 4 and plan sets in Volume 2A), which meets or exceeds Chapter A3 of the California Existing Building Code.

Simplified and Detailed Engineered Assessment and Retrofit

FEMA P-1100 allows for a simplified engineered assessment and retrofit if the house meets certain requirements. Ground story bracing walls in LSOG dwellings shall be assessed in accordance with FEMA P-1100 Table 5.3-1. See Chapter 5 of FEMA P-1100 Volume 1 for other detailed engineering assessment requirements.

1.8 Registering for ESS

Homeowners may only register for ESS during an open Program registration period. When registering for ESS during an open registration period (as indicated on the CRMP website) for the ZIP Code in which the house is located, the homeowner must either:

- (a) complete their ESS Program registration on the CRMP website; **or**
- (b) request and submit a completed paper ESS Program application, with the date of submittal to be evidenced by official proof of mailing or other documentary evidence of dispatch by a courier service such as FedEx or UPS.

No incomplete, early, or late registrations will be considered.

By answering the ESS qualification questions on the CRMP website, the homeowner can determine whether the house is a Qualifying House (see Section 1.6) and that the person registering and answering the ESS qualification questions is an Eligible Applicant (see Section 1.5).

If the house is a Qualifying House and the homeowner is an Eligible Applicant, the homeowner will be permitted to complete registration, add contact information, and authorize ESS to send text alerts when important email communications are sent.

Successfully registering for the ESS Program does not guarantee acceptance into the program.

If the house is not a Qualifying House or if the homeowner is not an Eligible Applicant, the homeowner may sign up to receive future ESS Program notices and updates but is not eligible to receive an ESS incentive grant.

ESS is aware that houses may be owned by more than one person. ESS does not undertake, however, and is not responsible for confirming, that a house is owned solely by the person applying to ESS or owned with others, or whether the person applying to ESS is authorized to perform or authorize the performance of seismic-retrofit work on the house. It is the sole responsibility of each Participating

Homeowner to make sure that any and all co-owners have been notified of, and agree to, the performance of the seismic retrofit in connection with the ESS Program.

The ESS Program determines, in its sole discretion, the number of Participating Homeowner incentive payments it will award.

1.9 When Registration Closes

Registering as an ESS Participating Homeowner and qualifying for the Program after answering registration questions does not guarantee acceptance into the ESS program.

Once homeowner registration closes, the ESS team will conduct a random-selection process, and randomly selected Participating Homeowners will be placed on the Accepted List. The remainder of the registrants will be placed on a waitlist.

If the ESS Program receives some of its funding from the Federal Emergency Management Agency (FEMA), the pre-retrofit documents and photos supplied by Participating Homeowners must be sent to FEMA for its review and approval. The FEMA approval process is expected to take up to 10 weeks.

ESS will communicate by email with all homeowners who have applied for the Program as Eligible Applicants with Qualifying Houses, regardless of whether they have been selected as a Participating Homeowner or whether they have been placed on a waitlist for possible ESS Program participation. Being placed on a waitlist, however, does not guarantee acceptance into the Program or eligibility for future ESS incentive payments.

To remain eligible to receive an ESS incentive grant, all activity that relates to an ESS qualifying retrofit, including applying for a building permit, must not start until the homeowner has been notified by ESS that they have been selected as a Participating Homeowner. Participating Homeowners should visit www.CaliforniaResidentialMitigationProgram.com within 30-days following the notification date of being accepted into the ESS program and log in with their user credentials, as set up during registration. Each Participating Homeowner will have an online “Homeowner Dashboard,” which must be used to upload all required documentation and photographs.

All Participating Homeowners will receive a homeowner packet by mail and/or email with detailed Program instructions, including a Step-by-Step Guide and a Homeowner Checklist.

To remain eligible for the grant, retrofit construction work must not begin before the Participating Homeowner receives approval from ESS for retrofit work to proceed.

Required Documentation for Incentive Payment

Using the Homeowner Dashboard, participating Homeowners must submit all documents described in Sections 1.10 and 1.11 to ESS, within the required timeline, to qualify for the incentive payment.

A Participating Homeowner may authorize their licensed contractor to submit retrofit documentation on behalf of the Participating Homeowner by following the instructions on the Homeowner Dashboard.

1.10 Before the Retrofit Begins

Within 90 days (or three [3] months) after receiving the Program acceptance email from ESS, Participating Homeowners must do all of the following, using their online Homeowner Dashboard:

- (a) Hire a licensed contractor to do the retrofit work. The contractor must be a California-licensed general contractor with a Type A or B license and must be an ESS Participating Contractor listed on the ESS Contractor Directory on the CRMP website—retrofit projects performed by any contractor who is not an ESS Participating Contractor from the ESS Contractor Directory will not qualify for the incentive payment.
- (b) When hiring a licensed contractor, the Participating Homeowner must do all of the following:
 - Obtain and submit a bid from an ESS Participating Contractor. If that bid is more than \$10,000, the Participating Homeowner must secure and upload an additional bid from at least one other ESS Participating Contractor.
 - If the Participating Homeowner wishes to select a bid other than the lowest bid, the Participating Homeowner must provide ESS the name of the Participating Contractor selected to do the work and state the reason for selecting the higher bid by uploading all information using the Homeowner Dashboard. Bids must include the entire cost of the retrofit including the cost of the building permit.
 - Using the Homeowner Dashboard, upload a building permit that is issued after the date of acceptance into the ESS Program. Building permits are obtained from the local building inspection department (actual names of these departments vary). The building permit must be solely for the seismic retrofit work and may not include other work on the premises. For example, remodeling or other construction work must be on a separate permit. The building permit must include the following information:
 - If the house is a Qualifying House, the building permit must state that the seismic retrofit is to be performed in accordance with FEMA P-1100.

- If necessary, the building permit must state that the seismic retrofit is to be performed in accordance with FEMA P-1100 using plans prepared by a Licensed Design Professional.
 - The wording on building permits varies, but the criteria immediately above apply to every permit for every Qualifying House.
- (c) Upload Plans/Drawings. When submitting, highlight or circle the section/detail being used.
- (d) Take and upload all required photographs:
- Two (2) photos taken inside of the garage—one taken from the garage door facing the back of the garage showing the entire back wall; one taken from the back of the garage facing the front showing both the right corner of the garage and the left corner of the garage door;
 - One (1) of the crawl space, if one exists;
 - Five (5) photos of the exterior of the house. Photos must be date stamped, taken BEFORE the retrofit work begins and showing the following:
 - view one: front of the house;
 - view two: front of the house and the left side;
 - view three: back of the house and the right side;
 - view four: back of the house and the left side; and
 - view five: front of the house and the right side.
- (e) Upload a copy of homeowner's driver's license or a utility bill to provide proof of residing in the Qualifying House.
- (f) Upload a completed and signed IRS Form W-9, if requested by ESS.
- (g) Review local County Assessor's or State Board of Equalization's website regarding any pre-construction requirements concerning the seismic retrofitting construction exclusion from assessment provided by section 74.5 of the California Revenue and Taxation Code.
- (h) Agree that if they qualify for the ESS Grant, AND the grant is \$5,000 or more, AND the house is in a Special Flood Hazard Area, they will submit a signed and notarized form attesting that they will adhere to the FEMA requirements before any ESS incentive payment will be paid.

The form, which will be provided to the applicant, will state that the applicant will abide by, and understands the following:

- Flood insurance must be maintained for the life of the structure.
- Flood insurance coverage on the property must be maintained during the life of the structure regardless of transfer of ownership of such property.
- All structures on the property will be maintained in accordance with flood plain management criteria.

- I, as the property owner, must legally record, with the county or appropriate jurisdiction's land records, a notice that includes the name of the current property owner and a legal description of the property, and states the following:

“This property has received Federal hazard mitigation assistance. Federal law requires that flood insurance coverage on this property must be maintained during the life of the property regardless of transfer of ownership of such property. Pursuant to 42 U.S.C. §5154a, failure to maintain flood insurance on this property may prohibit the owner from receiving Federal disaster assistance with respect to this property in the event of a flood disaster. The Property Owner is also required to maintain this property in accordance with the flood plain management criteria of Title 44 of the Code of Federal Regulations Part 60.3 and City/County Ordinance.”

Once all the required pre-retrofit documents and photos are uploaded and approved by ESS, they will be forwarded to FEMA for review. After receiving approval from FEMA (up to 10 weeks after submission), ESS will inform the Participating Homeowner that the retrofit work may begin and that they have six (6) months from that day to complete their retrofit.

To remain eligible for the ESS grant, retrofit work must not begin before the Participating Homeowner receives approval from ESS for retrofit work to proceed.

1.11 After the Retrofit is Complete

The seismic retrofit must be completed within 180 days (or six [6] months) after the date of receiving approval from ESS to start the retrofit job. Within 30 days after completion of the retrofit, the following items must be submitted to ESS using the online Homeowner Dashboard:

- (a) Signed Building Permit
 - A copy of the building permit signed by the building inspector after final inspection.
- (b) Take and upload all required photographs:
 - Two (2) showing the completed retrofit work taken in the space from the same locations as the “before” photos and showing the completed retrofit work. Photos must clearly depict the completed retrofit work.
 - Two (2) of the strapped water heater: One (1) taken from the front and one from the side, at an angle, showing the water heater has been strapped with two (2) straps that wrap completely around it and are screwed into the studs or masonry of the wall. If the Participating Homeowner has a tankless hot water heater, it must be secured according to the building code and two (2) photos provided.
 - If your house requires a crawl space retrofit, a photo of the completed work is required.

- Five (5) photos of the exterior of the house. Photos must be date stamped, taken AFTER the retrofit work is done and taken from the same views as the pre-retrofit photos:
 - view one: front of the house;
 - view two: front of the house and the left side;
 - view three: back of the house and the right side;
 - view four: back of the house and the left side; and
 - view five: front of the house and the right side.
- (c) An electronically completed and approved Payment Authorization Form (PAF) stating to whom the ESS payment will be sent.
- (d) A final invoice(s) and receipt(s) (not the contractor's initial bid or proposal) for retrofit-related expenses must be provided by a Participating Contractor and include:
 - date submitted to Participating Homeowner;
 - participating Contractor contact information, including Participating Contractor's California license number;
 - date(s) retrofit work performed;
 - a brief description of the work completed (e.g., seismic retrofit of home for ESS Program or seismic bracing and bolting of residence in accordance with FEMA P-1100);
 - cost of labor per hour and number of hours worked;
 - cost and types of materials used;
 - amount of overhead and profit;
 - if services of a Licensed Design Professional were required, the cost of those services must be included;
 - statement of whether the invoice has been partially or fully paid and indicate whether the ESS grant payment will be sent to the homeowner or contractor; and
 - invoice may include only ESS charges related to specific retrofit work. The invoice must clearly separate ESS-specific retrofit work from any other construction completed at or about the same time. Removal or disposal of previous retrofit work is not an expense that is reimbursable by ESS. Check the website, www.CaliforniaResidentialMitigationProgram.com, for more details about allowable expenses.

Incentive payments will not be provided if a Participating Contractor is not in good standing with the Contractor's State License Board or appears on the state or federal debarment list or is not listed on the ESS Contractor Directory found on the CRMP website.

1.12 Additional Conditions Regarding Documentation

- (a) The Participating Homeowner must confirm that they have reviewed, and are fully responsible for, the accuracy of all documentation submitted to ESS, including documentation submitted by a licensed Participating Contractor on behalf of the Participating Homeowner.
- (b) ESS will reject incomplete documentation and will make reasonable efforts to promptly advise the Participating Homeowner to complete and re-submit the required documentation.
- (c) Failure to submit any completed required documentation to ESS may render the Participating Homeowner ineligible for an ESS incentive payment.
- (d) The Executive Director or Managing Director of CRMP, in their sole discretion, may waive any requirements or extend any time limits stated in Sections 1.8, 1.10, and 1.11 and their Subsections.

1.13 Retrofit Inspections

As a condition of payment approval, or for quality-assurance purposes, ESS reserves the right to inspect, upon reasonable notice to the Participating Homeowner, the seismic retrofit work performed on any Qualifying House.

1.14 Payment and Tax Reporting

Incentive payments typically will be mailed within four (4) weeks following final approval by ESS.

Incentive payments in the FEMA-funded ESS program are not subject to federal or state taxation.

Each Participating Homeowner is encouraged to seek appropriate professional advice on the federal and state tax implications of their receiving the ESS incentive payment and whether the incentive payment will affect eligibility, income thresholds or limitations, or other issues relating to any healthcare or other programs of interest to the Participating Homeowner.

1.15 Program Communications

ESS communications will be delivered to Participating Homeowners by email, except the Participating Homeowner Packet, which may be sent through regular mail delivery by the U.S. Postal Service or by email. Participating Homeowners may also opt in to receive SMS text alerts to alert them to important email communications.

Neither CRMP nor ESS is (a) responsible or liable for any email communications that are missed, scrubbed, or filtered by anyone's computer system or email functions, or (b) responsible or liable for any communications that are missed, lost, damaged, misdirected, or otherwise not delivered or received through use of U.S. Postal Service mail. ESS has no obligation to provide other forms of communication.

Section 2 – Participating Contractors and Licensed Design Professionals

Participating Contractors and Licensed Design Professionals hired by Participating Homeowners are not selected by, approved by, governed by, or in any way the responsibility of CRMP or ESS.

The appearance of any Participating Contractor or Licensed Design Professional on the Contractor Directory or Design Professional Directory on the CRMP website is not an endorsement or approval.

ESS hereby disclaims any and all obligation to maintain, keep current, or monitor the Contractor Directory or Design Professional Directory, or to monitor the licensing, financial condition, contracts, or competence of any Participating Contractor listed on the Contractor Directory or Design Professional Directory or any Licensed Design Professional hired by a Participating Homeowner.

DISCLAIMER:

Neither CRMP nor ESS is liable or in any way responsible for the use of this information, nor do they endorse, warrant, guarantee, attest to, or insure, any of the following:

- **acts, errors, or omissions of homeowners, public officials, contractors, or design professionals;**
- **the content of any communications between homeowners, public officials, contractors, and design professionals;**
- **the ability or experience of contractors or design professionals to provide services;**
- **the results of work performed, or not performed, by homeowners, public officials, contractors, or design professionals;**
- **that a homeowner, public official, contractor, or design professional will complete services, conduct any transaction, or perform with any specific standard of care; and**
- **any public official's involvement approving plans, close out of permits, completing inspections, or other actions.**

All parties are advised to educate oneself on the background, experience and reputation of contractors or design professionals before starting any project.

For homeowners to remain eligible for the ESS grant, Participating Contractors and Design Professionals must not begin retrofit construction work before the Participating Homeowner receives approval from ESS for retrofit work to proceed.

2.1 Contractor Directory

The Contractor Directory on the CRMP website is a list of California Licensed General Building Contractors (License Type A or B) in good standing that:

- (a) have one or more employees, workers, or other associated personnel who have successfully completed the FEMA ESS training videos and quizzes offered on the CRMP website;
- (b) register on the CRMP website as an ESS “Participating Contractor” and maintain an online ESS account via the ESS “Contractor Dashboard;”
- (c) affirm on the Contractor Dashboard that the contractor is a California-licensed general contractor with a License Type A or B that is in good standing in a field reasonably related to residential retrofit work on dwellings in California, and have that standing accurately reflected on the State of California Contractors State License Board website;
- (d) confirm, acknowledge, and agree that neither CRMP nor ESS will have any liability or responsibility for any work bid on or performed by the contractor; and
- (e) affirm by signifying on the Contractor Dashboard, that the contractor is not currently barred by the State of California or the federal government from bidding on, accepting, or performing any State of California or federal government-funded public works contracts, either as a contractor or subcontractor.

ESS provides the Contractor Directory on the CRMP website as a resource for Participating Homeowners—the listing in that Directory of a contractor who has become a Participating Contractor does not constitute CRMP’s or ESS’s endorsement, approval, or recommendation of that Participating Contractor.

2.1.1 To remain listed in the Contractor Directory, a Participating Contractor must:

- (a) comply with all applicable ESS rules and requirements;
- (b) perform all ESS retrofits in accordance with FEMA P-1100 and ensure that an employee, worker, or other associated person who has taken and successfully completed the FEMA ESS training videos and quizzes offered on the CRMP website, oversees and approves all ESS retrofit work performed by the Participating Contractor;
- (c) provide Participating Homeowners with invoices that clearly and separately show charges for materials, taxes, labor, overhead, profit, or margin, and lists the date the retrofit work was done (see Section 1.11 [d] for additional requirements);
- (d) ensure that each and every building permit for an ESS retrofit is solely for the seismic retrofit work and does not include other work on the premises, and includes the required references to FEMA P-1100 or the required references to plans prepared by a Licensed Design Professional.

- (e) provide on the Contractor Dashboard, upon ESS's request, evidence of:
 - a current California contractor's license; and
 - a current Contractor Bond or Bond of Qualifying Individual, or both, that meets the statutory requirement, and retain evidence of current workers' compensation insurance for all employees;
- (f) not be barred by the State of California or the federal government from bidding on, accepting, or performing any State of California or federal government-funded public works contracts, either as a contractor or subcontractor;
- (g) demonstrate a commitment to work within the local jurisdiction's building construction permitting and inspection processes;
- (h) provide good workmanship, reasonable pricing, and in good faith follow all Rules of the ESS program; and
- (i) maintain accurate website and marketing materials consistent with CRMP and ESS written standards, policies, and the CRMP website.

Incentive payments will not be provided if a Participating Contractor is not in good standing with the Contractor's State License Board and/or is on the state or federal debarment list.

2.2 Licensed Design Professionals (e.g., engineers, architects) must:

- (a) ensure all submissions (e.g., plans, design, letters) completed for an ESS retrofit are in accordance with FEMA P-1100;
- (b) ensure a stamped and signed letter is provided to the homeowner or Participating Contractor affirming the retrofit plans are in accordance with FEMA P-1100, Volume 2B and, if the house has a crawlspace, 2A, and addresses all seismic vulnerabilities identified therein; and
- (c) maintain an active license.

2.2.1 To remain listed in the Directory, a Licensed Design Professional must:

- (a) comply with all applicable ESS rules and requirements;
- (b) not be barred by the State of California or the federal government from bidding on, accepting, or performing any State of California or federal government-funded public works contracts, either as a contractor or subcontractor;
- (c) maintain an active license;
- (d) provide good workmanship, reasonable pricing, and in good faith follow all Rules of the ESS program, as applicable; and
- (e) maintain accurate website and marketing materials consistent with CRMP and ESS written standards, policies and the CRMP website.

ESS has no obligation to maintain, keep current, or monitor licensing, financial condition, contracts, or competence of any Licensed Design Professional listed in the Directory or any other Licensed Design Professional hired by a Participating Homeowner.

2.3 Removal of Participating Contractor from “Contractor Directory” or Licensed Design Professional from “Design Professional Directory”

- (a) In its sole discretion, ESS may remove a Participating Contractor or Licensed Design Professional from their respective directory in the event ESS determines that the Participating Contractor or Licensed Design Professional has failed to meet any or all requirements of Section 2.
- (b) In its sole discretion, ESS may remove a Participating Contractor or Licensed Design Professional who is using ESS’s trademark or ESS’s phrase “Earthquake Soft-Story”—or any mark or phrase that is, in ESS’s sole opinion and discretion, reasonably similar to ESS’s registered marks—in any manner that implies that the Participating Contractor or Licensed Design Professional is affiliated with ESS in any manner beyond its status as a Participating Contractor or Licensed Design Professional.
- (c) ESS has no obligation to maintain, keep current, or monitor the licensing, financial condition, contracts, or competence of any Participating Contractor or Design Professional listed on their respective directory.
- (d) A Participating Contractor or Licensed Design Professional may be removed from their respective directory in the event ESS determines that the Participating Contractor or Licensed Design Professional has failed to meet the Program requirements. This includes an engineered retrofit submittal that does not address all vulnerabilities identified in FEMA P-1100, Volume 2B.
- (e) Any Participating Contractor or Licensed Design Professional that completes work not in accordance with FEMA P-1100 may be removed from the ESS Directory.

2.4 Advertising

Participating Contractors are permitted to use wording in their marketing and sales materials that describes their successful completion of the FEMA P-1100 training videos and testing offered on the CRMP website. In no instance and under no circumstances may a Participating Contractor use language indicating “approval,” “endorsement,” “qualified,” or “referred” by ESS in marketing or sales materials.

Section 3 – Dispute Resolution

By applying to participate, or participating, in the ESS Program, homeowners, Participating Homeowners, Participating Contractors, contractors, and Licensed Design Professionals agree to resolve any dispute or controversy with, or claim against, CRMP or ESS according to the Terms of Use posted on the CRMP website.

3.1 Informal Procedure

In the event a controversy or claim arises out of the use of the CRMP website or participation in the ESS program, a homeowner, Participating Homeowner, Participating Contractor, contractor, or Licensed Design Professional may contact ESS and discuss the matter informally with the Managing Director or a designee. If the controversy or claim is not resolved in that manner, any party who still feels aggrieved may send a letter to the Managing Director.

The Managing Director or a designee will meet, in person or by telephone, or both, with the parties within 10 business days of receipt of the letter or such longer period as may be mutually acceptable.

The Managing Director will provide a written statement within 20 days of the conclusion of the meeting.

Homeowners, Participating Homeowners, Participating Contractors, contractors, and Licensed Design Professionals are not required to follow this informal dispute-resolution procedure; and following this informal dispute resolution procedure does not prevent them from initiating the arbitration procedure described in Section 3.2.

3.2 Mandatory Arbitration

By using the CRMP website or by participating in any way in any ESS program, homeowners, Participating Homeowners, Participating Contractors, contractors, and Licensed Design Professionals agree that any claim or controversy arising out of their use of the CRMP website or participating in the ESS program—that is not settled or resolved by use of the Informal Procedure in Subsection 3.1—must be settled solely by arbitration administered by the American Arbitration Association in accordance with its Home Construction Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

In doing so, homeowners, Participating Homeowners, Participating Contractors, contractors, and Licensed Design Professionals, each acknowledge that:

- (a) each is giving up the right to sue in court, including the right to trial by jury, except as provided by the rules of the American Arbitration Association;
- (b) arbitration awards are generally final and binding, and the ability to have a court reverse or modify an arbitration award is limited;
- (c) the ability to obtain documents, witness statements, and other discovery is generally more limited in arbitration than in court proceedings;
- (d) the arbitrators do not have to explain the reasons for their award; and

- (e) the rules of the American Arbitration Association may impose time limits for bringing a claim in arbitration. The costs of the arbitration, including any American Arbitration Association administration fee, the arbitrator's fee, and costs for the use of facilities during the hearings, shall be borne by the least prevailing party to the arbitration as determined by the arbitrator.

Section 4– Personal Information, Privacy Policy, and Terms of Use for Participants, Participating Contractors, and Licensed Design Professionals

Information that ESS and CRMP collect, maintain, and use include, but is not limited to:

- personal information about homeowners, Participating Homeowners, Participating Contractors, contractors (and their employees and subcontractors), and Licensed Design Professionals;
 - applications for building permits and building permits;
 - documentation of costs and materials associated with the seismic retrofit;
 - information about houses belonging to homeowners and Participating Homeowners; and
 - photographs of houses and of the seismic retrofit work.
- (a) Any Participating Homeowner, Participating Contractor, or Licensed Design Professional who does not agree that the information described in this section may be collected, maintained, and used for the purposes described in the Privacy Policy and Terms of Use may not become or remain an ESS Participating Homeowner, Participating Contractor, or Licensed Design Professional.
 - (b) The Privacy Policy and Terms of Use posted on CRMP's website www.CaliforniaResidentialMitigationProgram.com pertain to information described in this Section 4 (a); that Policy and Terms of Use are part of, and are incorporated into these Rules by this reference.
 - (c) The Privacy Policy and Terms of Use may be amended at any time, and any amendments become effective when posted on the CRMP website.

Section 5– Contact Information

Please contact ESS if you have questions.

California Residential Mitigation Program
801 K Street, Suite 1000, Sacramento, CA 95814
Toll free: (877) 232-4300

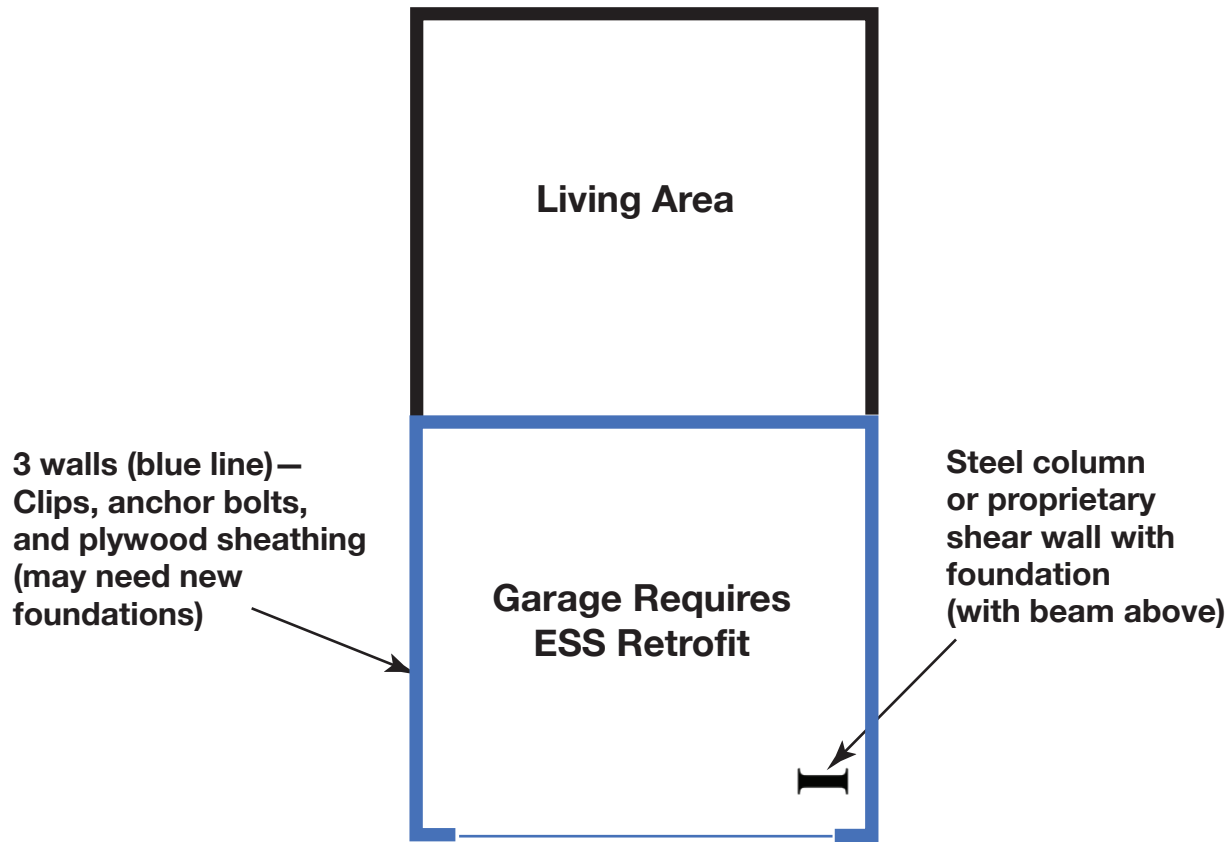
For general questions about ESS, email:

info@EarthquakeSoftStory.com

or visit the CRMP website at: www.CaliforniaResidentialMitigationProgram.com

Attachment A — Four Types of ESS Houses

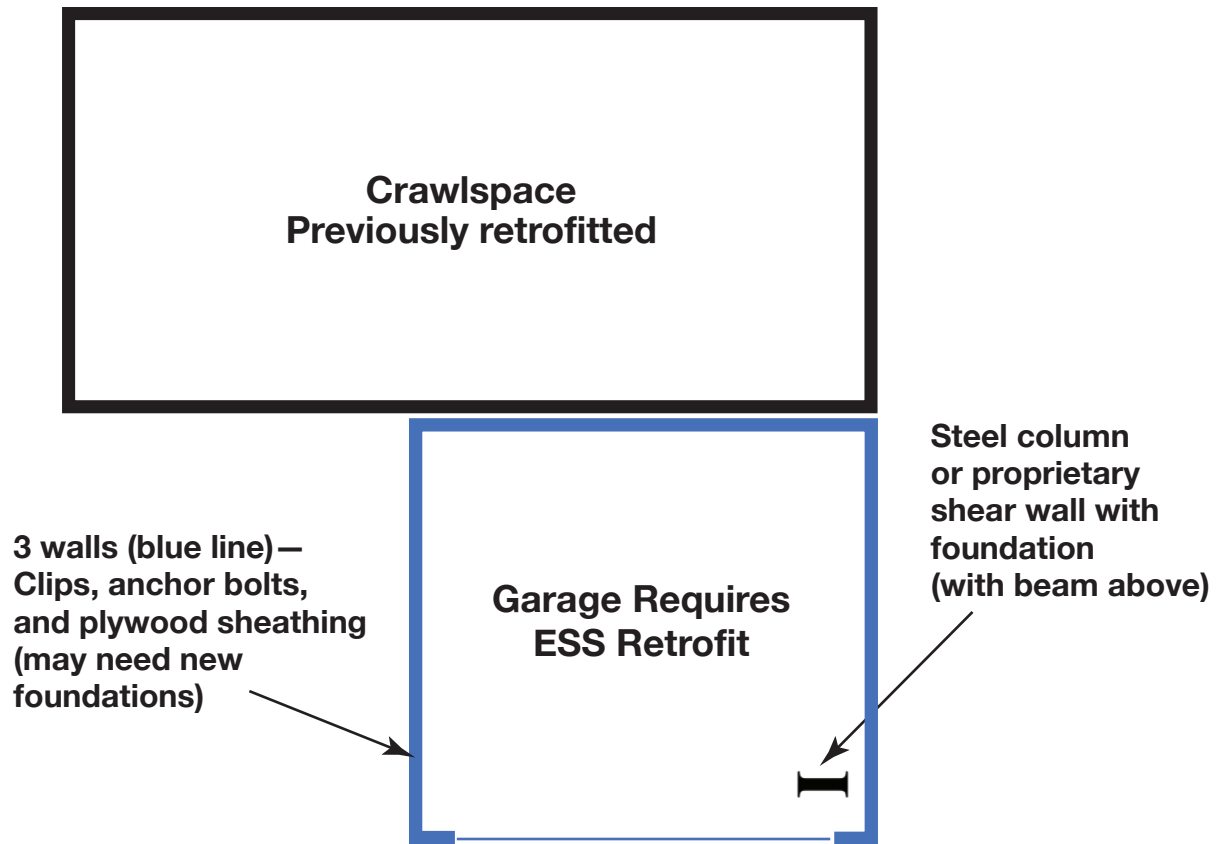
**Type 1 House Over Garage—
Has Ground Floor Living Area**




PLAN OF HOUSE


**Blue line
indicates area
to be retrofitted**

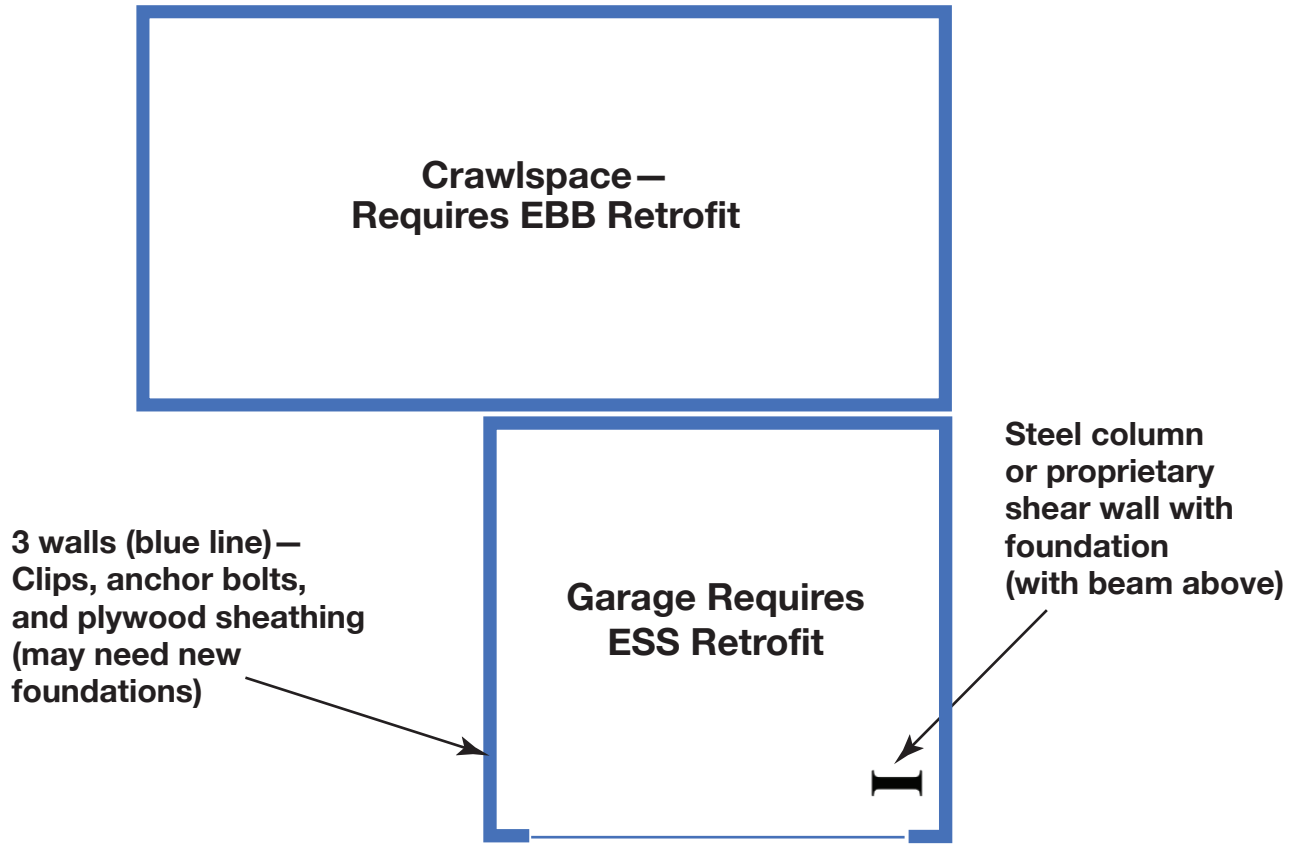
Type 2 Room Over Garage—
Crawlspace area under a portion of the house



PLAN OF HOUSE

 Blue line indicates area to be retrofitted

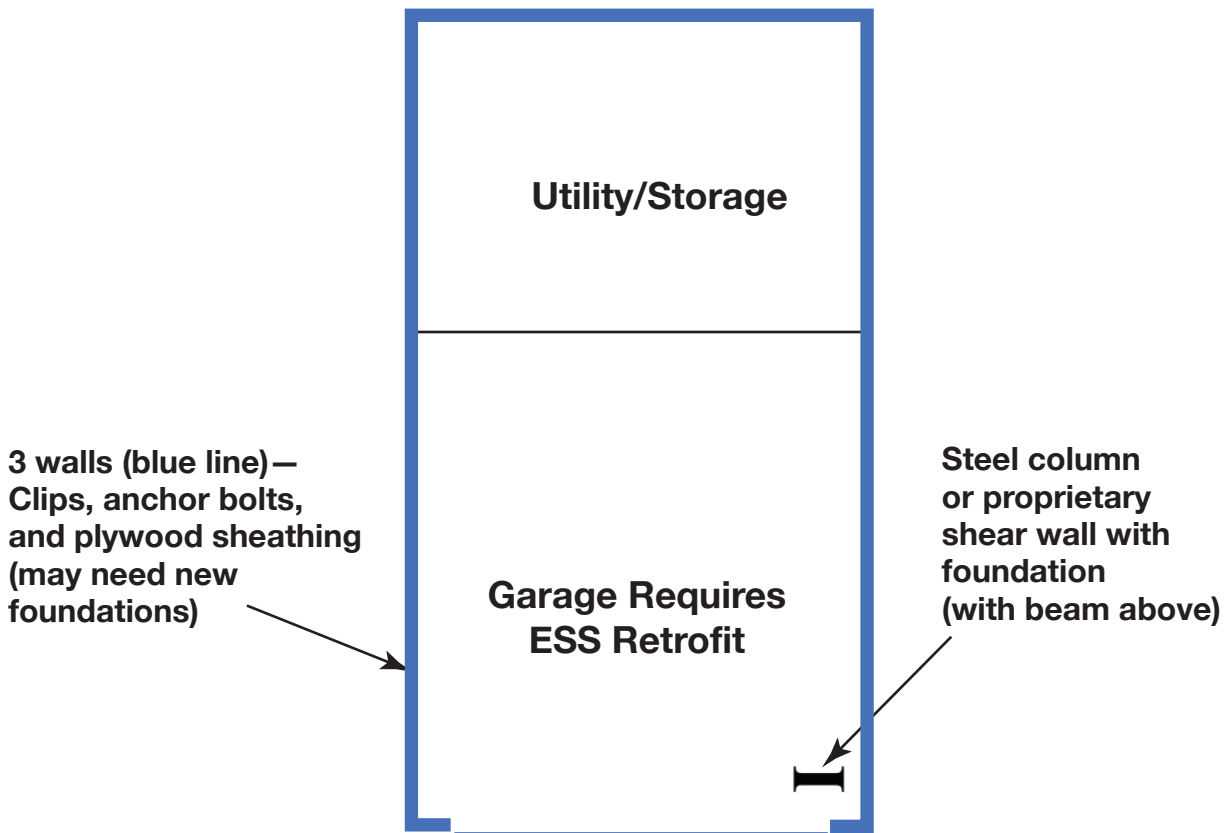
Type 3 Room Over Garage—
Crawlspace area under a portion of the house




PLAN OF HOUSE

 Blue line indicates area to be retrofitted

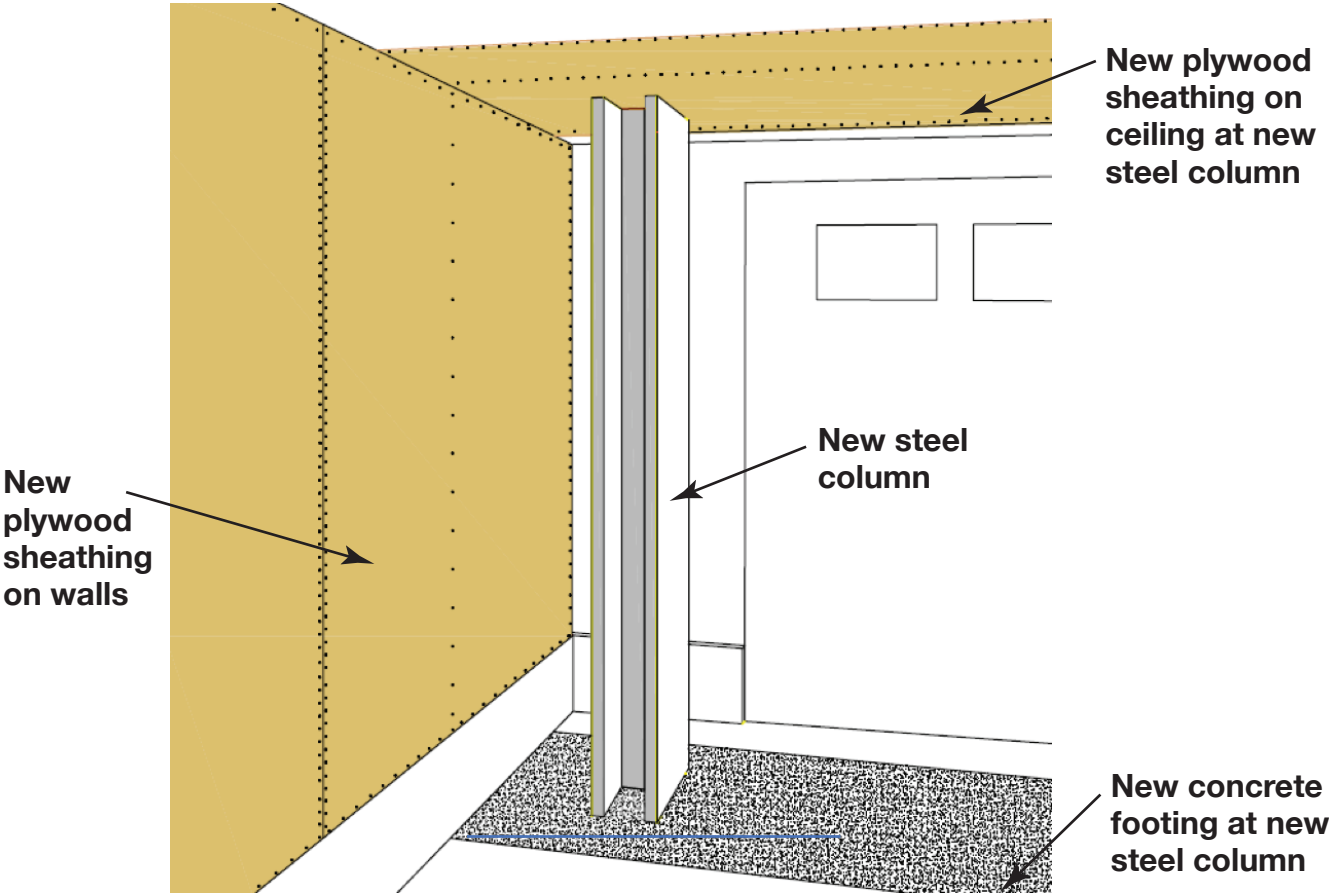
**Type 4 House Over Garage—
No Ground Floor Living Area**



PLAN OF HOUSE


**Blue line
indicates area
to be retrofitted**

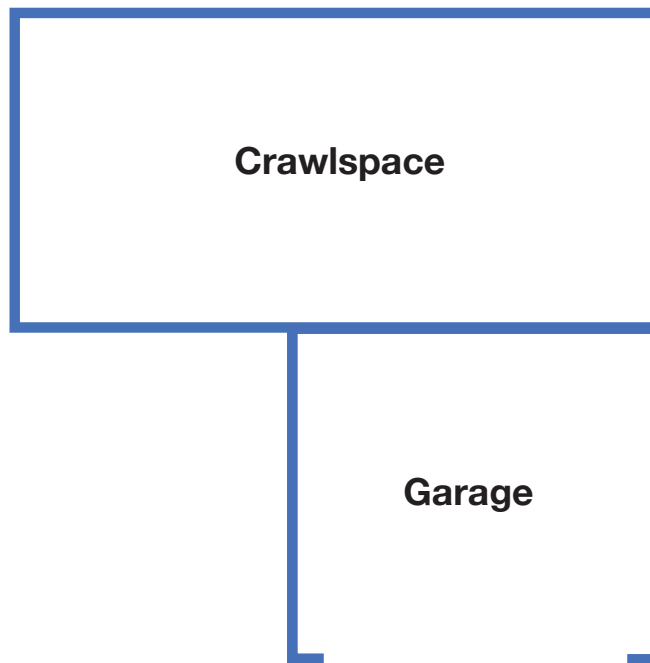
ESS Steel Column Retrofit at Garage Door Wall



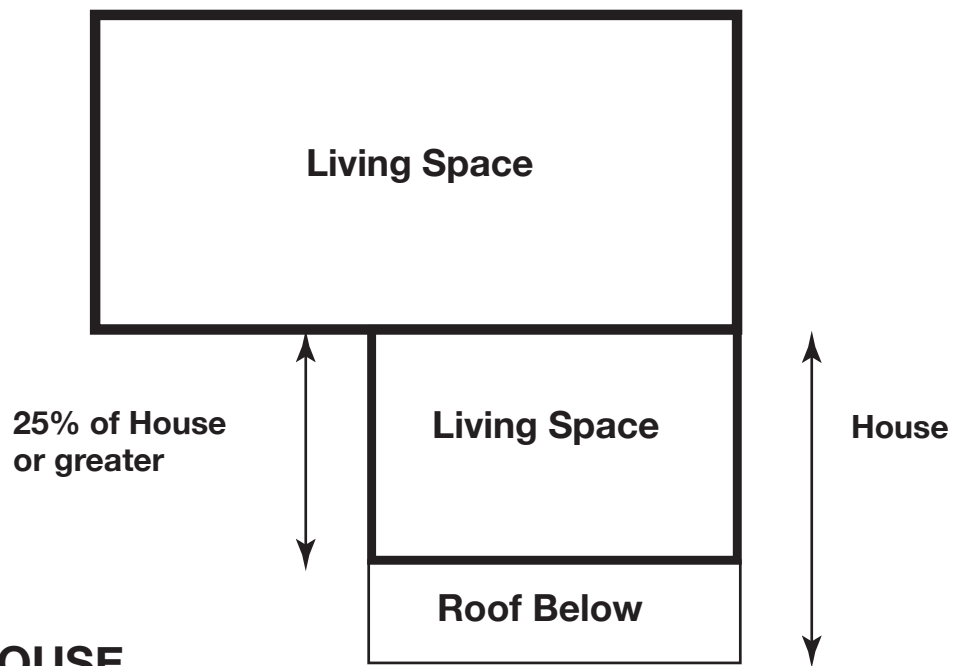
Room Over Garage—

If your house has a room on the second story that extends out over the garage, covering 25 percent or more of the garage length, then it is considered to be a “Room Over Garage.” (If the room extends over less than 25 percent of the garage length, it does not qualify for this program.)

**GROUND
FLOOR**



**UPPER
FLOOR**



PLAN OF HOUSE

A Project of the

CALIFORNIA RESIDENTIAL MITIGATION PROGRAM

A Joint Powers Authority of the
California Earthquake Authority and the
California Governor's Office of Emergency Services

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