

# CRMP

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## California Residential Mitigation Program A Joint Powers Authority

**Date of Notice: Friday, April 22, 2022**

### PUBLIC NOTICE

#### A PUBLIC MEETING OF THE GOVERNING BOARD OF THE CALIFORNIA RESIDENTIAL MITIGATION PROGRAM

**NOTICE IS HEREBY GIVEN** that the Governing Board of the **California Residential Mitigation Program (CRMP)** will conduct a public meeting on Tuesday, May 3, 2022, at 1:00 pm PST. The Bagley-Keene Open Meeting Act applies generally to meetings of the Governing Board, and this meeting is open to the public—public participation, comments, and questions will be welcome for each agenda item. All items are appropriate for action if the Governing Board wishes to take action. Agenda items may be taken out of order.

**LOCATION:** Governor's Office of Emergency Services  
(CalOES)  
3650 Schriever Avenue  
Room MPR-2  
Mather, CA 95655

**DATE:** Tuesday, May 3, 2022

**TIME:** 1:00 p.m.

**ZOOM ACCESS: \***

<https://us02web.zoom.us/j/84797784375?pwd=RFIVUzI2a1lhOE9qUEFITWQ1WU1TUT09>

Enter Meeting ID Number: 847 9778 4375

Enter Meeting Passcode: BpV5PHf^

**Dial-in-Number:** [+1 669-900-6833](tel:+16699006833)

Enter Meeting Access code: 847 9778 4375

Enter Meeting Passcode: 93851435

**Public Participation:** The telephone lines of members of the public who dial into the meeting to observe and comment will initially be muted to prevent background noise from disrupting the meeting. Public phone lines will be unmuted during all portions of the meeting that are appropriate for public comment, to allow members of the public to comment. Please see additional instructions below regarding Public Participation Procedures.

\*CRMP is not responsible for unforeseen technical difficulties that may occur with respect to the platform's audio feed of this meeting.

**PUBLIC PARTICIPATION PROCEDURES:** All members of the public shall have the right to observe the meeting and offer comment during this meeting as outlined below. The acting Chair of the Governing Board will indicate when a portion of the meeting is to be opened for public comment. As indicated below, please register in order to provide comment. When it is your turn to comment, unmute your line, introduce yourself and proceed with your comment. The Chair of the meeting reserves the right to limit the time for comment. Members of the public should be prepared to complete their comments within approximately 3 minutes, but more or less time may be allotted by the Chair.

- **If you wish to provide a public comment, please register with Maura White via email at [mwhite@calquake.com](mailto:mwhite@calquake.com) at least one hour prior to the start of the meeting to ensure your participation.**
  - Any submitted email requesting to speak during public comment should include reference in the subject line of the email referencing this meeting, and the body of the email should specify if the comment is or is not regarding a specific agenda item.

**ACCESSIBILITY ACCOMMODATIONS:** Persons who need assistance in order to participate in this meeting should, prior to the meeting, contact Maura White via email at [mwhite@calquake.com](mailto:mwhite@calquake.com). We would appreciate hearing from you at least five (5) days before the meeting date to best allow us to meet your needs.

#### **AGENDA:**

1. Call to order and member roll call:

Laurie Johnson, Chair, CRMP Governing Board  
Lori Nezhura, Vice Chair Appointee, Deputy Director, California Office of Emergency Services  
Alex Pal, Chief Legal Counsel, Cal OES  
Jim Lombard, CEA Appointee, CRMP Governing Board

*Establishment of a quorum*

2. Consideration and approval of the minutes of the February 8, 2022 Governing Board meeting.
3. CRMP Executive Director Janiele Maffei will present her executive report.
4. CRMP Executive Director Janiele Maffei will present overview of AB 1721: Seismic Retrofitting of Soft-story, multi-family residential buildings.
5. CRMP Treasurer Benjamin Kirwan will review the CRMP financial statements as of February 28, 2022.
6. CRMP Managing Director Annde Ewertsen will present the CRMP Mitigation (Earthquake Brace + Bolt) update.
7. CRMP Managing Director Annde Ewertsen will present request to award for contract, RFQ-0815, Public Relations and Marketing Services, for approval.
8. Public comment on items that do not appear on this agenda and public requests that those matters be placed on a future agenda.

9. Adjournment.

**Inquiries/General Information:**

Maura White

[mwhite@calquake.com](mailto:mwhite@calquake.com)

To view this notice on the CRMP website, please visit [www.quakeretrofits.com](http://www.quakeretrofits.com)

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Persons with disabilities may request special accommodations at this or any future CRMP governing board meeting or may request the accommodation necessary to receive agendas or materials prepared for its board meetings.

Please contact Maura White by email at [mwhite@calquake.com](mailto:mwhite@calquake.com). We would appreciate hearing from you at least five days before the meeting date to best allow us to meet your needs.

**NOTE:** You might have received this notice because your name, or that of your organization, appears on a public-notice list maintained by the California Earthquake Authority. If, in the future, you do not wish to receive public notices pertaining to the California Residential Mitigation Program, please send your request by email to [info@californiarresidentialmitigationprogram.com](mailto:info@californiarresidentialmitigationprogram.com).



Draft Meeting Minutes  
are not available.

Please see CRMP Governing  
Board Meeting  
Approved Minutes.

## **CRMP Governing Board Memorandum**

May 3, 2022

Agenda Item 3: Executive Report by Executive Director Janiele Maffei

Recommended Action: No Action Necessary

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### **Background:**

Executive Director Janiele Maffei will provide an update on the CRMP and CEA mitigation interests and projects.

### **Recommendation:**

No action necessary.

## CRMP Governing Board Memorandum

May 3, 2022

Agenda Item 4: Overview of AB 1721

Recommended Action: No Action Necessary

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### **Background:**

Executive Director Janiele Maffei will provide an overview of AB 1721: Seismic Retrofitting of Soft-story, multi-family residential buildings.

### **Recommendation:**

Informational only; no action necessary.

## CRMP Governing Board Memorandum

May 3, 2022

Agenda Item 5:                    Treasurer's Financial Update

Recommended Action:        No Action Necessary

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### **Background:**

CRMP Treasurer, Ben Kirwan, will review the CRMP financial statements as of February 28, 2022.

### **Recommendation:**

No action is necessary.

California Residential Mitigation Program  
(CRMP)

FINANCIAL  
REPORT

BOARD MEETING  
Tuesday, May 3, 2022



# California Residential Mitigation Program

## Balance Sheet

As of February 28, 2022

Unaudited

### Assets

Cash and cash equivalents	\$	3,683,049
Accounts receivable		<u>1,722,036</u>
Total assets		<u><u>5,405,085</u></u>

### Liabilities and Fund Balance

#### Liabilities:

Accounts payable and accrued expenses		<u>5,400</u>
Total liabilities		<u>5,400</u>

#### Fund Balance:

Unassigned		<u>5,399,685</u>
Total fund balance		<u>5,399,685</u>
Total liabilities and fund balance	\$	<u><u>5,405,085</u></u>

**California Residential Mitigation Program**  
**Statement of Revenues, Expenditures and Changes in Fund Balance**  
**For the Two Months Ended February 28, 2022**

**Unaudited**

Revenues:

Contributions from other governments	\$ 603,709
	<hr/>
Total revenues	603,709
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Expenditures:

Administration and office expenses	29
Audit services	3,750
Board services	738
Grants to homeowners	609,709
Inspection services	3,240
IT administrative support	7,851
Legal services	4,830
Marketing services/Program Education	30,450
Program support	766
	<hr/>
Total expenditures	661,363
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Net change in fund balance (57,654)

Fund balance, beginning of year 

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 5,457,339

Fund balance, end of year to date 

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 \$ 5,399,685

**California Residential Mitigation Program**  
**Budgeted Expenditures and Actual Expenditures**  
**2022 Budget Year**  
**as of February 28, 2022**

	<b>2022 Actual</b>		<b>Variance</b>	
	<b>Revenues and</b>	<b>Approved</b>	<b>\$</b>	<b>%</b>
	<b>Expenditures</b>	<b>2022 Budget</b>		
<b>Revenue</b>				
FEMA - 4344 <sup>1</sup>	\$ 603,709	\$ 3,600,000	\$ (2,996,291)	-83.23%
FEMA - 4407 ESS <sup>1</sup>	-	3,500,000	(3,500,000)	-100.00%
FEMA - 4407 EBB <sup>1</sup>	-	3,000,000	(3,000,000)	-100.00%
FEMA - 4308 <sup>2</sup>	-	-	-	0.00%
<b>Total Revenue</b>	<b>\$ 603,709</b>	<b>\$ 10,100,000</b>	<b>\$ (9,496,291)</b>	<b>-94.02%</b>
<b>CRMP Administration Expenses</b>				
EBB Marketing/Program Education	\$ 30,450	\$ 650,000	\$ 619,550	95.32%
Home Inspection Services	3,240	190,000	186,760	98.29%
Financial Audit	3,750	65,500	61,750	94.27%
Software/IT Support	7,851	54,600	46,749	85.62%
Legal Services	4,830	50,000	45,170	90.34%
Insurance	-	28,200	28,200	100.00%
Administration & Office	29	11,800	11,771	99.75%
Call Center	766	10,000	9,234	92.34%
Travel	-	8,000	8,000	100.00%
Board Services	738	1,800	1,062	59.00%
Professional Due and Memberships	-	800	800	100.00%
<b>Total Administration Expenses</b>	<b>51,654</b>	<b>1,070,700</b>	<b>1,019,046</b>	<b>95.18%</b>
<b>Grants to Homeowners</b>				
Grants to Homeowners - FEMA 4344	603,709	3,600,000	2,996,291	83.23%
Grants to Homeowners - FEMA 4407 ESS	-	3,500,000	3,500,000	100.00%
Grants to Homeowners - FEMA 4407 EBB	-	3,000,000	3,000,000	100.00%
Grants to Homeowners - EBB	6,000	2,300,000	2,294,000	99.74%
Grants to Homeowners - FEMA 4308 <sup>2</sup>	-	-	-	0.00%
<b>Total Grants to Homeowners</b>	<b>609,709</b>	<b>12,400,000</b>	<b>11,790,291</b>	<b>95.08%</b>
<b>Total Administrative and Grants to Homeowners</b>	<b>\$ 661,363</b>	<b>\$ 13,470,700</b>	<b>\$ 12,809,337</b>	<b>95.09%</b>

<sup>1</sup> FEMA revenue is direct reimbursement based, so revenue is adjusted monthly to match FEMA incentive payments paid.

<sup>2</sup> CRMP was awarded additional \$80 million for FEMA 4308 in March 2022. Budget will be adjusted for 2022 after staff evaluation of expected current year activity for this program.

## CRMP Governing Board Memorandum

May 3, 2022

Agenda Item 6: California Residential Mitigation Program incentive program  
(CRMP Earthquake Brace + Bolt)

Recommended Action: No action required—information only

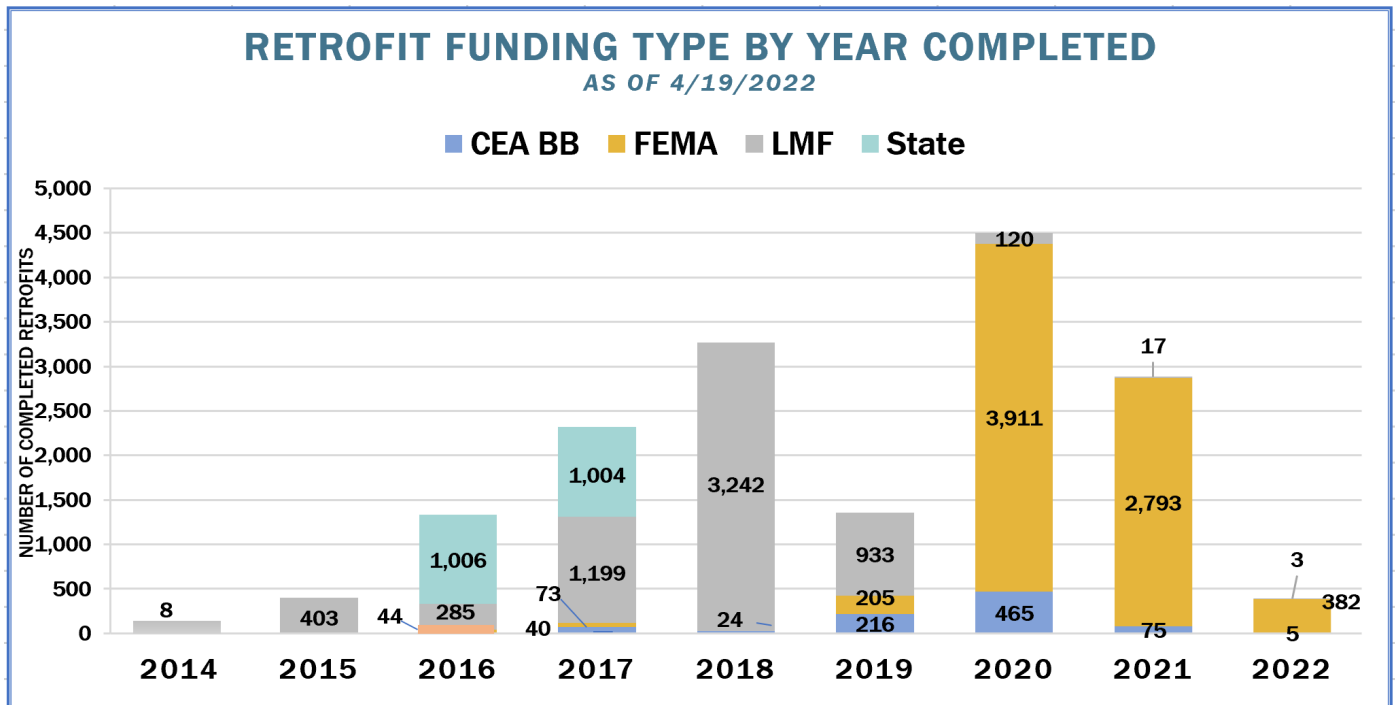
### CRMP Earthquake Brace + Bolt Programs

Although the number of completed retrofits has been slower because EBB is coming close to completing all retrofits in the HMGP 4344 grant, more than 16,464 have been completed. CEA was recently awarded an additional \$80M under the HMGP 4308 grant and has invited 2,047 homeowners to participate and thousands more will be invited to participate in the coming months and homeowners continue to be invited into the HMGP 4407 EBB grant.

The CRMP-funded program, with 1,000 grants available, has 594 retrofits completed, 1 in-progress and no extensions. This program will remain open while there are FEMA-funded programs available to allow applicants who started work prior to approval an opportunity to receive a grant. All permits (1,337) in the HMGP DR-4308 grant have been filled and approved by FEMA: 1,337 retrofits completed in total. The HMGP DR-4344 program (registrations completed in 2019 and 2020), with 6,684 grants available, has 5,966 retrofits completed and 718 in-progress.

<b>Earthquake Brace + Bolt Program 4/21/2022 CRMP and CEA by Program Cycle</b>			
<b>Program</b>	<b>Completed</b>	<b>In Progress</b>	<b>Status</b>
2014-2018 EBB	7,598	N/A	Closed
FEMA Napa EBB	110	N/A	Closed
CRMP 2019 EBB	594	1	Open
FEMA – funded HMGP DR 4308, 4344, & 4407	7,303	3,728	Open
CEA BB	859	4	Open
<b>Total</b>	<b>16,464</b>	<b>3,733</b>	<b>N/A</b>

Funding for retrofits have come from CEA for the CEA Brace + Bolt (CEA BB) Program for policyholders, which is now closed to new registrations; and the Cal OES-administered FEMA Hazard Mitigation Grant Program (HMGP), the Loss Mitigation Fund (LMF) and the State for the retrofits completed in the Earthquake Brace + Bolt Program (EBB).



EBB staff continue to be busy working from home since the last board meeting (Feb 9<sup>th</sup> - April 19<sup>th</sup>):

- 1,935 Incoming Calls (85 calls/day)
- 918 Outbound Calls
- 904 Emails Answered
- 397 Applications sent to FEMA
- 225 Retrofits Completed

In addition to phone calls, emails and applications processed, staff continue to work with CEA IT to roll out the updated backend database system, enhancements for the supplemental grant initiative, bug fixes, and development of the Earthquake Soft-story program.

## Future Funding Opportunities

CRMP continues to look beyond present funding sources—the primary source has been the CEA Earthquake Loss Mitigation Fund—for additional funding sources, including the Cal OES-administered FEMA *Hazard Mitigation Grant Program* (HMGP) and *Building Resilient Infrastructure and Communities* (BRIC) grants.

Current HMGP and BRIC applications (submitted and waitlisted) include requests for an additional \$236M in funding:

<b>Cal OES/FEMA Grant Funding Applications</b>			
<b>Grant Program</b>	<b>Funding Request</b>	<b>Program Type</b>	<b>Status</b>
HMGP DR 4308	\$84M	EBB	Approved—time extension to 4/1/23
HMGP DR 4344	\$20M	EBB	Approved—time extension to 4/30/23
HMGP DR 4407	\$5M	EBB	Approved
HMGP DR 4407	\$5M	ESS	Approved
HMGP DR 4431	\$3M	EBB	Waitlisted
HMGP DR 4434	\$3M	EBB	Waitlisted
HMGP DR 4558	\$20M	EBB	Submitted RFI responses on 10/27/21 and 11/4/21
HMGP DR 4569	\$50M	ESS	Submitted RFI responses on 10/18/21 and 11/1/21
HMGP DR 4558 Round II	\$50M	ESS	Application submitted 6/11/21. Submitted RFI response on 10/26/21
HMGP DR 4569	\$20M	EBB	Application submitted April 29, 2021. Submitted responses on 10/27/21 and 11/2/21
BRIC	\$20M	Multi-family ESS	Application submitted 12/21/21
2022 HMGP	\$20M	EBB	Application submitted 4/8/22
2022 HMGP	\$50M	ESS	Application submitted 4/8/22
2022 HMGP	\$5M	PrepareCA	Application submitted 4/8/22

## Supplemental Grant Development and Implementation

CRMP has invited 87 homeowners that self-verified as income-eligible to begin the income-verification process to receive a supplemental grant (SG) under the HMGP 4308 grant. This soft launch of the SG was implemented to allow the program to work through any issues before a large number of homeowners are accepted. At present, one issue has been identified: the IRS has a backlog of cases and has been slow in returning results. CRMP expected results in 2-3 days, but is still awaiting results after two weeks. The backlog is expected to clear soon.

## EBB Program Contractors

Of the contractors on the EBB Directory (Directory), 408 have completed at least one retrofit – an increase of 2 contractors since the last report. As contractors withdraw from the Directory, licenses are not renewed, or a contractor has not completed the training, a discrepancy between registered contractors and contractors on the Directory may occur. EBB began a new outreach campaign for the 40 new ZIP Codes in the 2021 EBB program in December to encourage new contractors to join the Directory. All current contractors have been contacted and encouraged to update the ZIP Codes in which they are willing to work.

Contractors in EBB Directory- Range of Retrofits Paid (as of 4/08/2022 COB)										
Paid Retrofits	0	1	2-5	6-10	11-20	21-49	50-99	100-399	400+	Total
15,154	775	130	110	50	33	34	20	20	11	1,183

Contractors with 1 or more paid retrofits:	408
Average Retrofits/Contractor:	37

Note: The number of completed retrofits is lower than total completed because it does not include retrofits completed by contractors not on the Directory. The CEA BB program did not require policyholders to use contractors on the Directory.

## EBB Northern and Southern Regional Differences

Retrofit costs in Northern California have increased slightly since the last report from \$6,967 to \$7,011 and remain more expensive than Southern California. In Southern California, there was a slight increase in the average cost from \$4,853 to \$4,876 in the 2020 program. The overall average cost remained about the same since the last report. The Executive Director will provide additional detail in her executive report and future data.

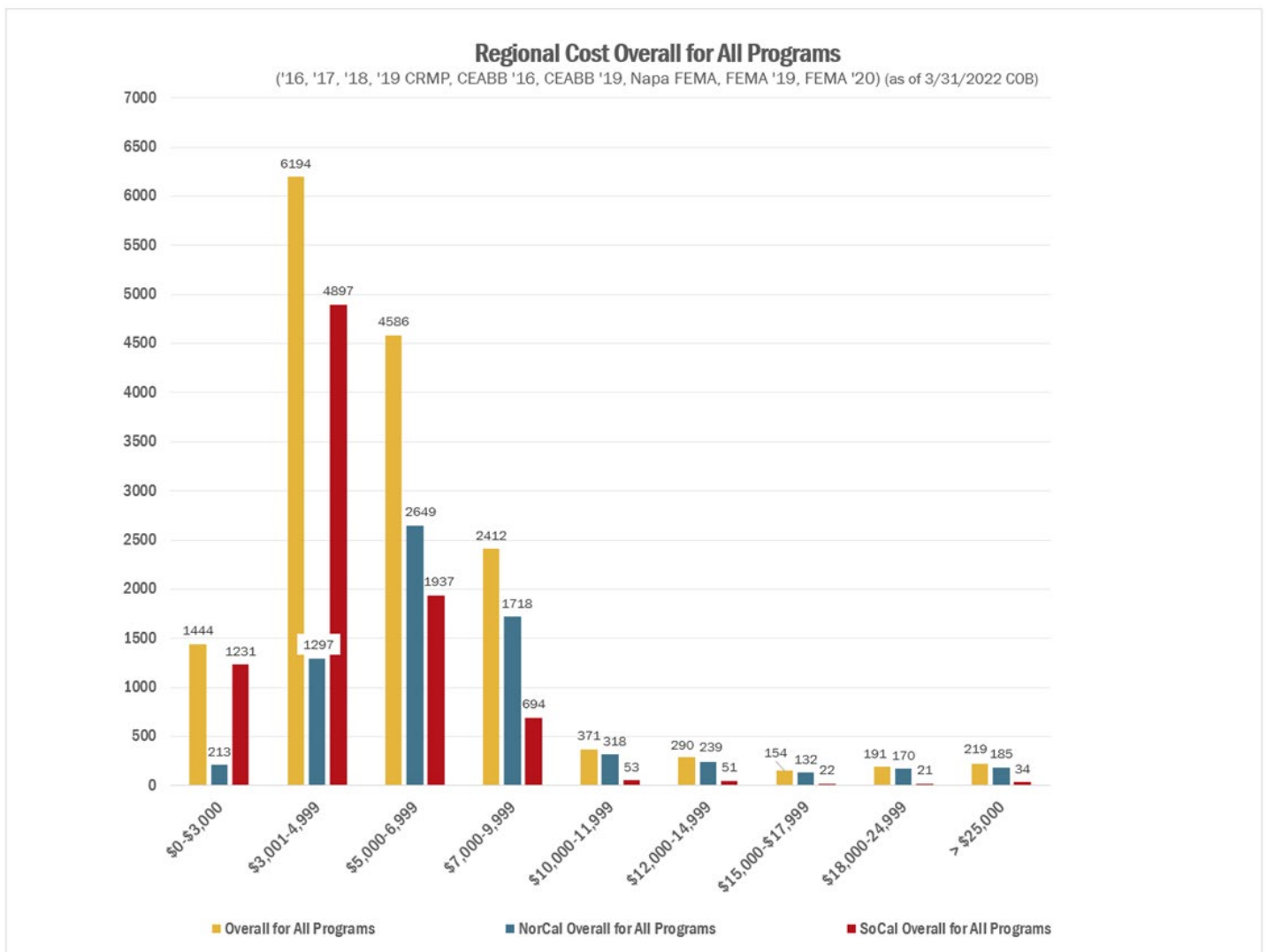
Northern CA Retrofits (as of 3/31/2022 COB)					
Program Year:	2016	2017	2018	2019	2020
Total # of Retrofits:	585	828	1,173	1,767	1,816
Average Cost:	\$9,167	\$8,899	\$8,496	\$7,650	\$7,011
Median Cost:	\$7,500	\$7,361	\$6,670	\$6,284	\$5,924
Min Cost:	\$928	\$1,143	\$955	\$646	\$593
Max Cost:	\$75,465	\$54,362	\$63,430	\$86,198	\$59,699

Southern CA Retrofits (as of 3/31/2022 COB)					
Program Year:	2016	2017	2018	2019	2020
Total # of Retrofits:	970	1,357	2,177	1,871	2,374
Average Cost:	\$4,597	\$4,726	\$4,936	\$4,842	\$4,876
Median Cost:	\$3,950	\$3,934	\$4,160	\$4,250	\$4,310
Min Cost:	\$562	\$1,197	\$877	\$724	\$912
Max Cost:	\$46,664	\$45,390	\$54,096	\$61,684	\$52,400

\*only includes EBB 2016, EBB 2017, EBB 2018, EBB 2019 (CRMP, FEMA 4308 & 4344), FEMA 202 \*only includes EBB 2016, EBB 2017, EBB 2018, EBB 2019 (CRMP, FEMA 4308 & 4344), FEMA 2020

All Programs Overall Retrofits (as of 3/31/2022 COB)	
Program Year:	'16, '17, '18, '19 CRMP, CEABB '16, CEABB '19, Napa FEMA, FEMA '19, FEMA '20
Total # of Retrofits:	15,861
Average Cost:	\$6,171
Median Cost:	\$5,062
Min Cost:	\$562
Max Cost:	\$93,541

The cost of retrofits within specific ranges remained stable during this reporting period. For all retrofits completed, 9% cost less than \$3,001. Of the completed retrofits 3% were under \$3,001 in Northern California and 14% are in Southern California. A total of 48% of the completed retrofits cost less than \$5,000. A further breakdown of this data shows 22% of completed retrofits were in Northern California and 69% in Southern California. More than 77% of all retrofits cost less than \$7,000, 60% in Northern California and 90% in Southern California, and 92% cost less than \$10,000.





### Engineered and Non-Engineered Retrofits

Engineered retrofits continue to be substantially more costly than non-engineered retrofits. With 248 engineered retrofits completed in the 2020 program, the average cost increased since the previous quarterly report from \$12,520 to \$12,982. Non-engineered retrofits also increased slightly from \$5,346 to \$5,350.

Retrofits by Type (as of 3/31/2022 COB)								
	2017 Program		2018 Program		2019 Programs		2020 Program	
Type of Retrofit	Engineered	Non-Engineered	Engineered	Non-Engineered	Engineered	Non-Engineered	Engineered	Non-Engineered
<b>Total # of Retrofits:</b>	227	1,958	313	3,037	288	3,350	248	3,942
<b>Average Cost:</b>	\$15,335	\$5,263	\$15,243	\$5,249	\$14,815	\$5,466	\$12,982	\$5,350
<b>Median Cost:</b>	\$13,541	\$4,500	\$12,083	\$4,510	\$10,389	\$5,142	\$9,394	\$5,021
<b>Min Cost:</b>	\$2,661	\$1,143	\$1,673	\$877	\$1,540	\$646	\$1,747	\$593
<b>Max Cost:</b>	\$54,362	\$40,200	\$63,430	\$60,844	\$86,198	\$18,853	\$59,699	\$52,400

(Table Source: (3-31-2022) Engineered Vs. Plan Set Retrofits)

### Withdrawn Applications and Completion Rates

During each program cycle, a significant number of applicants withdraw from the programs. The percentage of withdrawn homeowners for the 2020 program is almost evenly distributed between the two regions, which is different from the 2019 program, but continues to be lower in Southern California. The completion rate for the 2018 EBB program was 48%. The rate for the 2019 and 2020 program will not be calculated until the programs close. Given the delay in accepting homeowners into the 2019 program and the current economic impact of COVID-19, EBB is unsure what to expect for the 2019 and 2020 FEMA-funded completion, but as additional retrofits are completed it appears the completion rate may be substantially impacted.

Withdrawn Homeowners (as of 3/31/2022 COB)																		
Program	2020 FEMA 4344		2019 FEMA (4308 & 4344)		2019 CRMP		Bay and LA 2018		Bay and LA 2017		Bay and LA & Napa '16		Bay and LA, 1st Qtr & Napa '15		Pilot 2013		Total	
<b>Southern California</b>	3,389	49%	1,860	38%	128	34%	2,191	52%	1,435	40%	1,110	39%	552	38%	52	38%	10,717	44%
<b>Northern California</b>	3,590	51%	3,018	62%	252	66%	1,989	48%	2,153	60%	1,772	61%	886	62%	86	62%	13,746	56%
<b>Total</b>	6,979	100%	4,878	100%	380	100%	4,180	100%	3,588	100%	2,882	100%	1,438	100%	138	100%	24,463	100%

### **Other Items of Interest**

- HMGP DR 4308 – Cal OES requested EBB to submit documents to request \$80M in additional HMGP funds. The paperwork was submitted on December 31, 2021. Cal OES has approved the request and the additional funding was awarded on April 1, 2022. This will allow the program to provide approximately 3,000 low-income grants and 18,000 additional \$3,000 grants.
- HMGP DR 4344 – EBB requested and was granted a time extension until April 30, 2023, for this will allow the recently invited participants an opportunity to complete their retrofits and allow the program to provide at least 6,667 grants.
- HMGP DR 4407 –The Earthquake Soft Story Program funded by HMGP 4407 is under development and is expected to open for registration in late fall or early winter 2022. Staff are working with CEA IT to complete the necessary programming and are awaiting the FEMA training module to be completed before outreach to contractors begin.
- CRMP let an RFQ in mid-January for marketing and public relations services. Proposals were received and scored, interviews conducted, and a consultant was selected. Additional information is provided in Agenda Item 7.

## **CRMP Governing Board Memorandum**

May 3, 2022

Agenda Item 7: Award of contract for public relations and marketing services

Recommended Action: Approve staff-recommended award

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### **Background:**

At the February 8, 2022, CRMP Governing Board Meeting, Ms. Ewertsen presented a request for approval to extend a short-term contract with the current marketing services contractor, Actum, until June 30, 2022. The short-term contract was proposed due to dissolution of the agency, and a request to proceed on advertisement of a Request for Public Relations and Marketing Services was proposed and approved. The Request for Qualifications and Proposals (RFP-Q) was advertised, proposals received and scored, interviews conducted, and a determination made.

### **Procurement Process:**

On January 21, 2022, CRMP issued an RFP-Q for marketing and public relations services (CRMP RFP-Q #08-015) with a final proposal submission date of March 15, 2022.

Advertisement for RFP-Q was as follows:

- Posted on the California Residential Mitigation (“CRMP”) website.
- Advertised (1/24-2/7/22) in the Los Angeles Business Journal, the Capitol Morning Report and the Sacramento Business Journal.
- Emailed to forty-eight (48) public relations and marketing agencies.
- Posted to CEA Social Media-Facebook, Twitter, and LinkedIn.
- Posted to RFP/RFQ community forum in the California Association of Public Information Officials (CAPIO).

Eight (8) email inquiries and five (5) proposals were received by the final proposal submission date. The proposers were TRAFFIK, Runyon Saltzman, Inc., Mozaic Media & Communications, KP Public Affairs, and Imprinta Communications Group.

### **Evaluation Process:**

Proposals were reviewed for compliance with the requirements of the RFP-Q for format, required submission components, and minimum qualifications and was evaluated by a panel of five staff members. Interviews with the three finalists were conducted on Monday, April 11, 2022. CRMP legal counsel assisted staff throughout the process.

Based on the scores received during the interview process and discussion between panel members, Traffik was selected as the firm to begin negotiating a contract.

Contract payments will be made under CRMP-issued work orders and will be paid at the rate(s) specified in the RFP-Q (unless CRMP agrees to a fixed fee for a project).

**Recommendation:**

Approve staff's recommendation to award the contract and authorize executive director Janiele Maffei to enter into a contract with TRAFFIK utilizing the terms and conditions specified in the RFP-Q subject to minor confirming and clarifying changes acceptable to the Executive Director and Counsel for CRMP.

## TERMS AND CONDITIONS (RFP-Q CRMP #08-15)

### Agreement Terms

#### **1. Services to be Performed**

The complete description of services is provided in Attachment A: Scope of Work. CRMP's executive director will manage and direct Contractor's activities.

#### **2. Ambiguities Not Held Against Drafter**

Because this Agreement has been freely and voluntarily negotiated by the parties, Contractor and CRMP agree that ambiguous contractual provisions will not be construed against the drafter.

#### **3. Amendments**

This Agreement can be amended only by mutual consent of the parties. No change in any term will be valid unless the change is in writing and signed by both Contractor and CRMP. No verbal agreement or understanding will bind either party.

#### **4. Assignment: Delegation**

Contractor must not assign any of its rights or delegate any of its duties under this Agreement without first obtaining CRMP's written consent. Any purported assignment or delegation by Contractor, in whole or in part, in violation of this section, is voidable at the sole option of CRMP.

#### **5. Attorney Fees and Costs**

In the event of litigation between the parties to enforce or interpret this agreement, the non-prevailing party must pay the prevailing party's reasonable attorney's fees, costs for in-house counsel services, and actual and taxable costs of the prevailing party. These expenses must be paid in addition to any other relief to which the prevailing party may be entitled.

#### **6. Audits**

Contractor is and will be subject to examination and audit by the Bureau of State Audits (State of California) and, separately, by the CRMP, and CRMP's representatives during the term of this Agreement and for three years after the final payment under this Agreement. Any examination or audit would be confined to matters connected with the performance of the required services, including, but not limited to, the costs of administering this Agreement. Contractor must cooperate fully with the Bureau of State Audits, CRMP, and CRMP's authorized representatives in any examination or audit. All adjustments, payments, and reimbursements determined necessary through any examination or audit must be made promptly by the appropriate party to this Agreement.

## **7. Changes in Control, Organization or Key Personnel**

- a. Contractor must notify CRMP in writing within five calendar days:
  - 1) if any of Contractor's representations or warranties ceases to be true;
  - 2) of any change in Contractor's staff who exercise a significant administrative, policy, or consulting role in providing services under this agreement, including the Key Personnel;
  - 3) of any change in the majority ownership, control, or business structure of Contractor;
  - 4) of any other material change in Contractor's business organization.
- b. All Contractor's written notices under this provision must contain adequate information to permit CRMP to evaluate the changes within Contractor's personnel or organization under the same criteria used by CRMP in its original selection of Contractor. Contractor must provide any additional information CRMP might request in connection with such written notices.

## **8. Choice of Law; Jurisdiction; Venue**

This Agreement will be construed and enforced according to California law (without regard to conflict-of-law provisions). A party may bring suit on any matter related to or arising out of this Agreement only in the Superior court of California, County of Sacramento. "Bring Suit" includes bringing any action to compel arbitration or enforce an arbitration award. Each party waives any claim that the Superior Court of California, County of Sacramento is an inconvenient or improper forum or venue. Each party agrees that the courts named above will have in personam jurisdiction over it.

## **9. Compensation and Expense Reimbursement**

- a. CRMP will compensate the Contractor for its services in accordance with Attachment. Payment for expenses Contractor incurs in its performance of services are subject to CRMP procedures and processes.
- b. Contractor guarantees its rates and fees, as well as the rate and fees of any permitted subcontractors, will not increase during the term of this Agreement, unless otherwise agreed to by the parties in writing.
- c. Contractor may bill for actual, out-of-pocket expenses incurred to third-parties and for actual travel expenses necessary to perform services under this Agreement (subject to CRMP's Contractor Travel Reimbursement Policy). Expenses must be charged at no more than Contractor's actual out-of-pocket cost, without markup.
- d. Contractor must not charge CRMP for office expenses, clerical work, overhead, or work related to the preparation of bills or invoices to the CRMP.
- e. Correspondence from Contractor to CRMP regarding payments or any related compensation matters must be sent to:

*California Residential Mitigation Program  
Attn: Managing Director  
801 K Street, Suite 1000  
Sacramento, California 95814*

- f. Contractor must submit itemized monthly invoices in arrears for services already performed; the CRMP will make no payments in advance of services rendered. Each invoice must include:
- 1) Contractor's name, address, telephone number, and tax ID number;
  - 2) an itemized description of services rendered and costs and expenses incurred during the billing period, including a detailed cost and expense breakdown accompanied by full back-up documentation;
  - 3) the total amount of the invoice; and
  - 4) project: "XXX"

Invoices must be addressed to:

*California Residential Mitigation Program  
Attn: Accounts Payable  
801 K Street, Suite 1000  
Sacramento, CA 95814*

Invoices must be cc'd to:

*ap@calquake.com*

- g. Payment will not be due until the invoiced work is performed, correctly identified on the invoice, and accepted by CRMP. CRMP will pay Contractor's invoices as promptly as fiscal procedures permit.
- h. At its sole option, CRMP, may withhold payment of up to 15% of the total fees and costs associated with work performed under the Agreement until Contractor has completed all contracted work to CRMP's satisfaction.

## **10. Compliance with Laws**

- a. The Contractor must comply with all applicable laws, including those laws (i) specifically applicable to it, (ii) applicable to any aspect of the work it performs or secures under this Agreement, or (iii) applicable to it because of its relationship to CRMP. Any references to sections of federal or state statutes or regulations are also references to any amendments or successor provisions to those sections.
- b. **Permits and Licenses.** At its sole expense, Contractor must procure and fully maintain any permits and licenses necessary to accomplish the required services.

- c. **Additional Documents.** Contractor must execute any additional documents, and perform any additional acts, as might be reasonable and necessary to carry out the provisions of this Agreement.

## **11. Confidentiality**

- a. In the course of its duties, the Contractor will receive information, including but not limited to, research, investment, financial, personal, personally-identifiable, technical, accounting, and statistical information pertaining to CRMP, its Governing Board and their members, CRMP employees and staff; contractors, consultants; and vendors, and agents (collectively, the "Restricted Information"). All Restricted Information is strictly confidential unless CRMP expressly designates particular Restricted Information as non-confidential. Contractor must not directly or indirectly disclose any Restricted Information, or use it publicly in any way that requires its disclosure, either during or following the term of this Agreement, without CRMP's advance written, specific permission.
- b. Contractor must not produce, reproduce, publish, or disseminate Restricted Information for its or any other person's personal gain. For purposes of this Section 11, "person" means any person, association, organization, partnership, business trust, limited liability company, or corporation.
- c. Contractor will only release Restricted Information to its employees, representatives, contractors, or subcontractors, or to any other persons, whom Contractor has first officially notified in writing—and who have agreed—that they expressly bind themselves to maintain confidentiality of the Restricted Information in the manner required by this Section 11 and its subsections. To the best of its ability, Contractor must affirmatively protect all Restricted Information from unauthorized use or disclosure, whether by itself or by others with whom or with which it has shared Restricted Information.
- d. The Contractor's disclosure of Restricted Information that is done in violation of any portion of this Section 11 is a material breach of this Agreement.
- e. Contractor understands that CRMP is a joint powers authority of the State of California and that CRMP's and Contractor's records might be subject to public disclosure and production pursuant to various laws, including but not limited to the California Public Records Act (Chapter 3.5, commencing with Section 6250) of Division 7 of Title 1 of the California Government Code) and the Bagley-Keene Open Meeting Act (Article 9, commencing with Section 11120, of Chapter 1 of Part 1 of Division 3 of Title 2 of the California Government Code). CRMP will notify Contractor promptly after receiving a request for disclosure of any documents or materials that Contractor has designated as proprietary and confidential and which the CRMP believes to be in its possession. CRMP will reasonably cooperate with Contractor, within the statutory framework and limitations on CRMP's duties under the applicable law(s), and at Contractor's sole cost



and expense, in Contractor's efforts to protect its trade secrets and confidential information.

## 12. Conflicts of Interest

- a. **Contractor's Warranty.** By its execution of this Agreement, Contractor warrants to CRMP that no claimed, apparent, or actual conflict of interest exists on its part, or on the part of any principal, employee, Key Personnel, contractor, or subcontractor, that would influence its or their advice and recommendations to the CRMP, statements made about the CRMP to any person or entity:
  - 1) advice and recommendations to CRMP;
  - 2) statements made about CRMP;
  - 3) activities performed on behalf of CRMP; or
  - 4) decisions taken or enacted on behalf of CRMP
  
- b. **Contractor's Affirmative Duties to Disclose and Address Conflicts of Interest.** The parties mutually intend and agree that the duty to disclose a potential, claimed, apparent, or actual conflict of interest pertaining to any person or party described in Subsection 12(a) is Contractor's sole, affirmative duty and that Contractor's failure to identify and disclose any of those types of conflicts of interest is a material breach of this Agreement and a default justifying Agreement termination, as the term "default" is used in Subsection 28(b) (Termination for Contractor's Default). CRMP has sole authority and discretion to determine at any time the import and significance of Contractor's failure to identify and disclose any conflict of interest. Contractor must abide in good faith by any protocols developed by CRMP before or during the term of this Agreement to identify, disclose, and address potential, claimed, apparent, and actual conflicts of interest. Contractor promises to provide CRMP with any requested information, documentation, and assurances, in writing if so requested, concerning any potential, claimed, apparent, or actual conflict of interest.
  
- c. **Fair Political Practices Laws.** Contractor must not directly or indirectly receive any personal benefit from information obtained from CRMP or received or provided on behalf of CRMP. Contractor must disclose to CRMP any personal investment or economic interest of any principal, employee, Key Personnel, contractor, or subcontractor that may be enhanced or made more valuable by any recommendation made to or activity undertaken on behalf of CRMP. Contractor acknowledges that CRMP is subject to the provisions of the Fair Political Practices laws of California (California Government Code Section 81000, et seq., and the regulations adopted under that law), and Contractor must comply with the applicable requirements of that law and those regulations. If requested by CRMP, designated Contractor personnel (principals, employees, Key Personnel, contractors, or subcontractors) must file with the

CRMP's designated filing officer a Form 700 "Statement of Economic Interests" in compliance with CRMP's Conflict of Interest Code (see: California Code of Regulations, Title 5, Part III, Chapter 1, Section 22000, et seq.).

- d. Neither Contractor, nor any of its affiliates, subsidiaries, officers, directors, principals, employees, or Key Personnel, may submit a bid or be awarded a contract to provide services to CRMP, procure goods or supplies for CRMP, or perform any related action that is an outgrowth of the services or advice Contractor provides CRMP under this Agreement.

### **13. Cumulative Remedies**

The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies any party might otherwise have at law or in equity.

### **14. Drug-Free Workplace Certification**

Contractor has executed and provided to CRMP a Drug-Free Workplace Certification as Attachment B to this Agreement. CRMP may terminate the Agreement if the Contractor fails to comply with these drug-free workplace requirements.

### **15. Force Majeure**

Neither party is liable for damages that result from delayed or defective performance when the delays arise from an event that is beyond the control and without the fault or negligence of the offending party. Force majeure events include, but are not restricted to, acts of a public enemy, acts of the State in its sovereign capacity, disabling strikes, epidemics, and quarantine restrictions.

### **16. Indemnification**

- a. Contractor must indemnify, defend, and save harmless CRMP, the CRMP Governing Board, and all CRMP officers, agents, and employees, and staff from and against any and all losses, costs, liabilities, damages, and deficiencies, including interest, penalties, and attorney fees, arising from any claims of:
  - 1) Contractor's breach of its promises, warranties, or other obligations; or
  - 2) Contractor's acts or omissions constituting bad faith, willful misfeasance, negligence, or reckless disregard of its duties under this Agreement.
- b. For purposes of this section 16, and in reference to the provisions of Section 4 (Assignment; Delegation), a subcontractor's or Contractor's consultant's act or omission to act, whether under Contractor's permitted or unpermitted delegation under this Agreement or unrelated to any delegation, is considered for all purposes the act or omission of Contractor.

## **17. Insurance**

Contractor warrants that it will maintain, throughout the term of this Agreement, the following types of insurance and minimum limits, including such workers' compensation insurance as is statutory in the state, province, country where services are being performed. In that connection, Contractor agrees to:

- a. maintain a commercial general liability insurance policy with limits of no less than \$1,000,000 each occurrence and \$3,000,000 general aggregate;
- b. include CRMP as an additional insured in that commercial general liability policy, which may be satisfied through the use of a blanket additional insured endorsement. Contractor shall give notice prior to policy cancellation or material change in coverage;
- c. maintain commercial automobile liability insurance in the amount of \$1,000,000 combined single limit each accident;
- d. maintain Professional Liability/Errors and Omissions insurance, with limits of no less than \$1,000,000 per claim and annual aggregate; and
- e. provide CRMP with a certificate of insurance evidencing the above insurance coverage along with a copy of the blanket additional-insured endorsement, to CRMP on request.

By its signature on this Agreement, Contractor acknowledges that CRMP has no obligation to provide workers' compensation insurance or employee benefits of any nature for Contractor or its employees, or for Contractor's subcontractors or their employees.

## **18. Key Personnel**

- a. Attachment D ("Key Personnel") provides each person who is intended to exercise on behalf of Contractor a significant administrative, policy, or consulting role under this Agreement. Those personnel are referred to in this Agreement as "Key Personnel."
- b. Contractor may not substitute, replace, or reassign any person considered Key Personnel without CRMP's advance written approval. With CRMP approval, the parties may jointly document a change in Key Personnel, and that writing will be deemed a part of this Agreement. All Key Personnel are expressly subject to the provisions of Sections 7 (Changes in Control, Organization, or Key Personnel) and 20 (Notices).
- c. In its sole discretion, CRMP is entitled to terminate this Agreement immediately, upon written notice from CRMP to Contractor, if Contractor changes any of its Key Personnel without the CRMP's express, written advance approval or if any one or more of the Key Personnel depart Contractor's staff and no substitute agreed by the Parties has been provided.

## **19. Notice of Proceeding**

Contractor must promptly notify CRMP in writing of its knowledge of any investigation, examination, or other proceeding commenced by any regulatory or other government

agency, involving Contractor, any of its Key Personnel individually, or any of its subcontractors, that is not conducted in the ordinary course of Contractor's business.

**20. Notices**

Any notice required or permitted by this Agreement is deemed given:

- a. on the date of personal delivery;
- b. three days after the mailing date if the notice is deposited with the U. S. Postal Service with first-class postage affixed; or
- c. on the date of receipt as shown by written (or, if the record is contained only on a computer storage device, stored) evidence of delivery when delivered by U.S. Postal Service Express Mail or by a commercial courier service.

No notice is effective if given only by facsimile machine (fax). Notices are to be directed to all the following representatives:

For CRMP:

*California Residential Mitigation Program  
801 K Street, Suite 1000  
Sacramento, California 95814*

*California Residential Mitigation Program  
801 K Street, Suite 1000  
Sacramento, California 95814*

*Attn: Executive Director Attn: Managing Director*

For Contractor:


[TRAFFIK, LLC](#)  
[874 Spectrum](#)  
[Irvine, CA 92618](#)

[Center Drive](#)

[Attn: Executive Director Attn: Group Account Director](#)

**21. Publicity**

Contractor must not release, publish, or post any information, publicity, or announcement concerning the CRMP, this Agreement, or Contractor's services under this Agreement, without the advance, express written approval of the CRMP. Notwithstanding the foregoing, Contractor may publicly disclose the fact that the Contractor is performing this project for CRMP.

**22. Recordkeeping; Record Retention**

Contractor will keep accurate and appropriate records to accomplish and document the

services it performs under this Agreement.

- a. Contractor will use reasonable efforts to ensure that similar records of any permitted subcontractors are accurately maintained.
- b. All records described in Sections 22 must be made available for inspection and copying by CRMP or its representatives upon reasonable advance notice and during normal business hours. Contractor must maintain its CRMP-related records separate and distinct from the records that pertain to its other clients or customers.
- c. All information, data, reports, and records associated with CRMP are the property of CRMP and must be returned or provided to the CRMP if requested at any time, and as well, upon termination or expiration of this Agreement. Notwithstanding that requirement, Contractor is permitted to keep copies of the CRMP-related information, data, reports, and records for three years after final payment under this Agreement.

### **23. Relationship of the Parties**

- a. This Agreement creates a relationship of independent contractor. CRMP is interested in the results to be achieved under this Agreement, and the conduct of the work will lie with the Contractor. The work Contractor performs under this Agreement, however, must meet the general approval of CRMP and will be subject to CRMP's general right of inspection and supervision to secure its satisfactory completion.
- b. Contractor's principals, employees, and contractors are not and will not be considered employees of CRMP and are not entitled to any benefits provided by CRMP, or by the State of California, to its employees.

### **24. Reports**

In addition to project deliverables, Contractor must prepare and provide other documentary material that CRMP reasonably requests. Contractor will provide oral or written progress reports, as requested, in order to:

- a. determine if Contractor is performing satisfactorily and timely;
- b. communicate interim findings or findings; and
- c. facilitate discussion and resolution of issues.

### **25. Rights in Work**

- a. Neither Contractor, nor any subcontractor or other consulting staff employed by Contractor, has or will have any rights in any reports, data, documents, systems, or concepts (collectively, "Products") produced by Contractor for CRMP. Only CRMP has ownership of the Products that result from services provided under this Agreement, whether by the Contractor or any subcontractor. CRMP reserves the right to give or otherwise release the Products.
- b. Contractor reserves all rights to its intellectual property ("IP") that predates the work performed for CRMP, and to coincidental improvements to its IP made during the

performance of the work under this Agreement, to the extent that such IP and coincidental improvements are exclusive of the Products.

- c. With CRMP's prior written approval for each publication or presentation proposed by Contractor, CRMP may grant Contractor the rights to publish results of its work in professional journals or as presentations at professional conferences, as approved with CRMP's in writing. CRMP will not unreasonably withhold or delay approval or non-approval.
- d. All Products are, and will be considered for all purposes, works-for-hire, including for purposes of interpretation under U.S. Copyright Law, 17 U.S.C. §101, et seq. To the extent that the Products are not construed as works-for-hire, Contractor will assign, and hereby does assign to CRMP, perpetually and without further consideration, all right, title, and interest to the Products. All right, title, and interest in the Products, and any copyright, patent, trade secret, or other proprietary right in the Products, are and will be the sole property of CRMP.

## 26. Subcontractors

- a. Contractor must perform the work contemplated under this Agreement with resources available within its own organization. Contractor must not subcontract any part of its work under this Agreement without the advance written permission of CRMP. The parties must agree in advance on any subcontractor.
- b. Contractor must require in writing of any subcontractor that it be bound by all provisions of this Agreement.

## 27. Taxes

CRMP is exempt from federal excise taxes and will make no payment for or in connection with personal property taxes levied on Contractor or taxes levied on or in connection with Contractor's compensation.

## 28. Termination

This Agreement can be terminated as follows:

- a. **Termination at the Option of CRMP.** This Agreement may be terminated in whole or in part, for any reason including the convenience of CRMP, and at any time with 60 days written notice by CRMP. Despite any termination, and at its sole option, CRMP can maintain this Agreement in effect for those transactions pending on the effective date of termination until those transactions are completed. Upon its receipt of a termination notice from CRMP, Contractor must promptly discontinue all services affected unless the notice specifies otherwise. If CRMP terminates all or any part of this Agreement, CRMP will pay Contractor for satisfactory services rendered before the termination, but not more than the maximum amount payable under applicable compensation provisions of this Agreement.
- b. **Termination for Contractor's Default.** In addition to any other termination right,

CRMP is entitled, with two days' written notice to Contractor and without any prejudice to its other remedies, to terminate this Agreement because of Contractor's failure to fulfill any of its Agreement obligations— any such failure is termed Contractor's Default. Upon its receipt of any notice from CRMP terminating this Agreement for Contractor's Default, Contractor must immediately discontinue all services affected, unless the notice directs otherwise. Following a two-day notice of termination, CRMP will pay Contractor only the reasonable value of its services rendered. In CRMP's sole discretion and on any terms it chooses, CRMP may offer Contractor an opportunity to address any default or cure any breach.

- c. **Termination for Insolvency.** Contractor must notify CRMP in writing immediately if Contractor or any principal or subcontractor of Contractor:
- 1) files or is placed under federal bankruptcy laws;
  - 2) files or becomes the subject of a state receivership action;
  - 3) is adjudged bankrupt;
  - 4) has a receiver appointed who qualifies;
  - 5) makes an assignment for the benefit of creditors; or
  - 6) is the subject of criminal investigation, indictment, or conviction

If any of the events enumerated in Section 28(c) occurs, or if CRMP receives notice of any of those events, or if CRMP in its sole discretion reasonably determines there is a substantial probability that Contractor will be unable (financially or otherwise) to continue its performance, CRMP is entitled to terminate this Agreement, and all further rights and obligations, immediately upon two days written notice.

- d. **Convenience.** If CRMP gives Contractor a notice of termination for failure to fulfill Agreement obligations and it is later determined that Contractor had not so failed, the termination will be considered to have been for the convenience of CRMP.
- e. **Completion.** If CRMP terminates this Agreement for Contractor's Default, CRMP reserves the right to take over and complete Contractor's work by any means. Contractor will pay CRMP for any additional costs CRMP incurs to complete the work, to the extent that those additional costs were incurred due to Contractor's Default.

## **29. Termination, Effect of**

- a. All duties and obligations of CRMP and Contractor will cease on termination of this Agreement, except:
- 1) Each party will remain liable for any rights, obligations, or liabilities that arose or may arise from its activities under this Agreement before it effectively terminated; and
  - 2) Those clauses named in Subsection 33. (Survival).
- b. Within 15 days after the effective termination date, Contractor will deliver to CRMP all CRMP records, deliverables, and Products, whether prepared by Contractor or

received by Contractor from a third party, including (but not limited to):

- 1) due diligence reports, reports and data prepared by Contractor, subcontractor or consultants;
- 2) (if applicable) products, modified software, manuals, custom scripts, code, and processes.

Together, Contractor and CRMP will determine an effective method and form to transfer the records and Products, and Contractor must deliver all records and Products in CRMP-usable form. Contractor will cooperate to ensure an orderly termination process and orderly transfer of services.

- c. Upon expiration or termination of this Agreement, Contractor must provide all reasonable assistance to move CRMP's records, accounts, funds, and required services to CRMP's subsequent special inspection services provider, without additional costs to CRMP.

### **30. Time Is of the Essence**

Time is of the essence for delivery of services under this Agreement.

### **31. Waivers**

A party's delay in exercising any right or privilege is not a waiver of any Agreement provision. Neither party's waiver, nor single or partial exercise of any right or privilege, will preclude any other or further exercise of any other right or privilege under this Agreement.

### **32. Warranties**

The CRMP is committed to, and expects contractor's commitment to, diversity and nondiscrimination in the workplace. Consistent with the foregoing, Contractor warrants its compliance with the following requirements:

#### **a. Employees:**

- 1) **Americans with Disabilities Act.** Contractor warrants that it complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.: the "ADA") and all regulations and guidelines issued under the ADA.
- 2) **Fair Employment and Housing Act.** Contractor and subcontractors will comply with the provisions of the Fair Employment and Housing Act (California Government Code section 12900 et seq.) and the related regulations (California Code of Regulations, Title 2, Section 7285.0 et seq.). The regulations of the Fair Employment and Housing Commission that implement Government Code section 12990, subdivisions (a) through (f) (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations), are by this reference made a part of this



Agreement.

- 3) **Nondiscrimination.** During the performance of this Agreement, Contractor and its subcontractors, and their agents and employees, must not unlawfully discriminate against, harass, or retaliate against any employee or applicant for employment because of race, religion or religious creed, color, age, sex, sexual orientation, gender identity, genetic information, national origin, marital status, medical condition, disability, military service, pregnancy, childbirth, breastfeeding and related medical conditions, physical disability (including HIV and AIDS), mental disability, medical condition (including health impairments related to a diagnosis of cancer for which a person has been rehabilitated or cured), age (40 or over), marital status, denial of family and medical care leave, or denial of pregnancy disability leave or any other classification protected by federal, state, or local laws or regulations. Contractors and subcontractors, and their agents and employees, are expected to take all appropriate steps to prevent such discrimination, harassment, and retaliation, remedy any such conduct that may occur, and implement appropriate measures to prevent such conduct from occurring in the future.

Contractor must include the nondiscrimination and compliance provisions of this Section 32 in all permitted subcontracts to perform work under this Agreement.

b. **Labor**

- 1) **Collective Bargaining.** Contractor and its subcontractors must give written notice of their obligations under this clause to all labor organizations with which they have a collective bargaining or other agreement, if any.
- 2) **National Labor Relations Board Certification.** Contractor affirms, under penalty of perjury, that no more than one final, finding of contempt of a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with a federal court's order to comply with a National Labor Relations Board order.

- c. **Standard of Care.** The personnel or subcontractors responsible for discharging Contractor's duties under this Agreement are experienced in the performance of the duties contemplated and will meet the appropriate standard of care;

d. **Signature Authorization**

The execution and performance of this Agreement will not:

- 1) violate any provision of any charter document of the Contractor;
- 2) violate any statute or any judgment, decree, order, regulation, or rule of any court or governmental authority applicable to Contractor; or
- 3) violate, conflict with, constitute a default under, permit the termination of, or require the consent of any person under, any agreement to which Contractor may be bound, the occurrence of which would have a material adverse effect on the properties, business, prospects, earnings, assets, liabilities, or financial or other

condition of Contractor.

- e. Contractor, and the person signing the Agreement, warrant that the signer is an agent or authorized representative of the Contractor and is duly authorized by Contractor to enter into this Agreement.
- f. Contractor represents and warrants that it has the power and authority to enter this Agreement and carry out its obligations under this Agreement, that it has duly authorized the execution of this Agreement, and that no additional act by Contractor is necessary to authorize the execution of this Agreement. Contractor has completed, obtained, and performed all registrations, filings, approvals, authorizations, consents, and examinations that any government or governmental authority may require for its acts and activities contemplated by this Agreement.
- g. Contractor warrants that it will promptly notify CRMP of any changes in Contractor's compliance with the warranties stated here, and agrees to restore the warranties, as CRMP in its discretion may require, if a lapse occurs. If the Contractor does not provide notice to CRMP to the contrary, CRMP has the absolute right to rely on the ongoing effectiveness of each warranty stated here.
- h. **Term of Agreement**  
This Agreement is effective on May 3, 2022 and its term expires on May 2, 2024 unless terminated sooner in accordance with the provisions of Section 28 (Termination). This Agreement may be extended for two more terms of one year through mutual agreement of the Parties. Should the Parties agree to additional terms of one year, the Fees and Expense Attachment A may by mutual agreement of the parties, but in no event more than 10%.
- i. Despite the completion or termination of services, other contractual obligations, including audit, confidentiality, indemnification, record-retention, rights in work, and warranties will continue.

### 33. Entire Agreement

- a. **This Agreement:** (A) states all representations of and the entire understanding between the parties with respect to the subject of this Agreement; and (B) replaces any prior correspondence, memoranda, or agreements.
- b. **Binding Effect.** This Agreement, and any instrument, amendment, or further agreement executed pursuant to this Agreement, will bind the parties, their successors, assignees, and legal representatives.
- c. **Counterparts.** This Agreement may be executed in counterparts. Each counterpart is an original; all counterparts together are one instrument.
- d. **Incorporated Documents.** This Agreement consists of the terms of this Agreement and all attached documents that are expressly incorporated. The following schedules and attachments are attached and incorporated into this Agreement:

- 1) [Attachment A: Statement of Work](#)
- 2) Attachment B: Fees and expense structure
- 3) Attachment C: Drug-Free Workplace Certification
- 4) Attachment D: Key Personnel
- 5) Attachment E: Subcontractor Agreement
- 6) Attachment F: Business Continuity Plan

- e. **Order of Precedence.** For any inconsistencies or ambiguities in the terms of this Agreement and its incorporated documents and attachments, the following order of precedence will be used:
  - 1) applicable laws;
  - 2) the terms and conditions of this Agreement, including attachments; and then
  - 3) any other provisions, terms, or materials incorporated into this Agreement.
  
- f. **Severability.** Should any court hold any provision of this Agreement to be void or unenforceable, the remaining provisions will remain in effect if they are still capable of performance.
  
- g. **Survival.** Certain contractual obligations will survive completion of the work or termination of services. These include, but are not limited to: prevailing party's attorney's fees and costs, audit compliance, confidentiality requirements, fiduciary obligations, indemnification, publicity limitation, record retention, rights in work, and warranties.
  
- h. **Titles / Section Headings.**  
Titles and section headings are provided for convenience and are not part of this Agreement.

California Residential Mitigation Program:

Contractor:

\_\_\_\_\_  
Janiele Maffei, Executive Director

\_\_\_\_\_  
Brent Shoji, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Federal Identification Number: [32-0045529](#)

- Attachment A:** [Statement of Work](#)
- Attachment B:** Fees and expense structure
- Attachment C:** Drug-Free Workplace Certification
- Attachment D:** Key Personnel
- Attachment E:** Subcontractor agreement
- Attachment F:** Business Continuity Plan

## **Attachment A:**

### **Statement of Work**

The services to be provided will be determined by CRMP and the Contractor and are likely to include the following services.

- A. Provide expertise and advice to CRMP regarding EBB's public relations, crisis communications, marketing campaign planning, implementation, and evaluation.
- B. Provide expertise in marketing campaigns to promote the EBB program, including online and social media campaigns.
- C. Provide printing and direct mail services for marketing.
- D. Write and distribute news releases, fact sheets, opinion pieces, editorials, issue-briefs, and other media materials.
- E. Provide written translation services for languages other than English, including but not limited to Spanish and Asian-languages for program publications, forms and web pages.
- F. Provide graphic design work, photography and videography to promote EBB.
- G. Provide research services, including consumer surveys and focus groups.
- H. Assist with media planning, buying, and posting.
- I. The Contractor must have the ability to purchase foreign-language media, including but not limited to Spanish and Asian media.

## Attachment B:

### **Fees and expense structure**

1. Budget. For all services to be provided under this Agreement and all Project Assignments entered into in connection with this Agreement, the aggregate amount of Contractor's total fees, expenses, project-related hard-costs, and the actual cost for marketing and public relations services may not exceed \$2,000,000 per calendar year, which includes:
  - 1.1. Contractor's fees for services, based on (i) a fixed fee negotiated by the Parties, (ii) Contractor's actual time expended in performance of the services at Contractor's applicable per-hour (at a blended rate of \$125), per-resource rate, or (iii) a combination of (i) and (ii); and
  - 1.2. reimbursement of Contractor's reasonable expenses incurred in performance of the services.
2. Specific compensation amounts, and the basis thereof, as to each Project Assignment must be stated in that Project Assignment, but the aggregate amount of all compensation and all costs to purchase media for all Project Assignments must not exceed \$2,000,000 per calendar year.
3. Requirements.
  - 3.1. Contractor will bill in quarter-hour increments and provide detailed descriptions of all services billed and adequate back-up documentation of necessary expenses incurred.
  - 3.2. Subcontractor and Vendor Fees.
    - 3.2.1. Subcontractor and outside vendor fees will be billed to the CRMP at net cost with no mark-up. Contractor must not add any surcharge or commission to subcontractor or vendor billings.
    - 3.2.2. Contractor may, however, bill for vendor-management services, in quarter-hour increments, with detailed descriptions of that vendor-management, subject to CRMP's prior approval.
    - 3.2.3. "Outside vendor fees" means fees for any work with outside vendors or suppliers that have been brokered, coordinated, or managed through Contractor (e.g., television and radio suppliers, including audio studios; talent and production companies; digital and animation developers; trafficking services; direct-mail and fulfillment services; and printers, photographers, and illustrators).
  - 3.3. Contractor will not bill for: (i) any administrative costs related to preparing invoices

**Attachment C**  
**Drug-Free Workplace Certification**

The Contractor hereby certifies its compliance with California Government Code Section 8355 to provide a drug-free workplace, and that the Contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, by Government Code Section 8355, subdivision (a)
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355, subdivision (b).
  - 1) The dangers of drug abuse in the workplace;
  - 2) The organization's policy of maintaining a drug-free workplace;
  - 3) Any available counseling, rehabilitation, and employee assistance programs; and
  - 4) The Penalties that can be imposed on employees for drug abuse violations.
3. Provide as required by Government Code Section 8355, subdivision (c), that every employee who has duties or responsibilities relating to this Agreement:
  - 1) Will receive a copy of the company's drug-free statement, and
  - 2) Will agree to abide by the company's statement as a condition of employment on the contract.

**CERTIFICATION**

I, the official named below, hereby swear that I am duly authorized legally to bind the Contractor to the above described certification. I am fully aware that this certification, executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

**Contractor's Authorized Signature** <sup>(Add)</sup> 

**Title:** Executive Director

**Date Executed:** 3/1/22

**In the County of:** Orange

**Federal Identification Number:** 32-0045529

**Attachment D:**

**Key Personnel**

<u>Name</u>	<u>Title</u>
<u>Caro D'Antuono</u>	<u>Head of Account Services</u>
<u>Brent Shoji</u>	<u>Executive Director</u>
<u>Natalie Vaughn</u>	<u>Group Account Director</u>



## **Attachment E:**

### **Subcontractor agreement**

TRAFFIK does not anticipate a need to use any subcontractors at this time. If the need does arise, we will notify the CRMP in advance.

**Attachment F:**  
**Business Continuity Plan**

Our business continuity plan as stated in our standard operating of procedures is as follows:

1. TRAFFIK has a process in place to ensure the continuation of work in the event of a disaster or an interruption of its normal business operations, including any major malfunctions or system outages regardless of cause or damage to TRAFFIK's headquarters. All key staff are trained in the disaster communication and recovery plan.
  - a. Remote working resources:
    - i. Remote access to the company data files via desktop/laptop and smartphone; and
    - ii. Virtual working options, including chat, call, and video conferencing applications.
  - b. Data backup and storage
    - i. TRAFFIK stores all communication, client files, proofs, meeting agendas and recaps in its project management system so that, if normal business operations are interrupted, any team member can access this information remotely.
    - ii. TRAFFIK runs a 24-hour off-site backup of all main server content, including multiple redundancy and uptime performance points in the event of a power outage or an unexpected occurrence.
    - iii. TRAFFIK has the ability to ascertain files via a secured cloud-based platform and remote servers in the event there is an emergency need to acquire a piece of data that is stored securely.
    - iv. For any sites that TRAFFIK hosts, all sites are backed up to a secured cloud system.
    - v. Email is stored in the cloud and is always accessible from any device in any location as long as there is Internet access.
2. Office Loss/Closure. In the event TRAFFIK's headquarters becomes a total loss, the disaster recovery team will meet at an agreed safe location to restart business activities and continue moving projects forward. This generally will be a hotel or "WeWork" type of facility outside the affected area, but as close as possible to the current TRAFFIK office.
3. Covid-19 Outbreak. Contractor remains open and fully operational. TRAFFIK's staff continues to carry out all work assignments in the face of any adjustments required by federal, state, and local response to the Covid-19 outbreak.