

SECTION 6 - LEGAL RELATIONS AND RESPONSIBILITIES

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SECTION 6 - LEGAL RELATIONS AND RESPONSIBILITIES

6-1 COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor must be familiar and comply with all federal, state, and local laws, ordinances, codes, and regulations that affect the Work, those engaged or employed in the Work, the material or equipment used in or upon the Work, and the conduct of the Work. Any misunderstanding of laws, ordinances, codes, or regulations, or of ignorance of the same on the part of the Contractor does not modify the provisions of the Contract. The Contractor and the Contractor's surety must indemnify and save harmless the Agency, its governing Board, officials, directors, agents, employees, volunteers members, affiliates, and their duly authorized representatives against claims for liability arising from, or based upon, the violation of any law, ordinance, regulation, decree, or order, whether by the Contractor or by the Contractor's employees.

The attention of the Contractor is directed to certain laws that affect the Contract. The listing of these laws in this Section is not to be construed as a listing of all applicable laws. The Contractor is solely responsible for familiarity and compliance with all applicable laws. Particular attention is called to the following:

6-1.01 Hours of Labor

Eight hours of labor is a legal day's work, and the Contractor and any Subcontractor under the Contractor, in the execution of the Contract, cannot require more than 8 hours of labor in a Calendar Day, or 40 hours of labor in a calendar week, from a person employed by the Contractor in the performance of the Work under the Contract, except as permitted under the provisions of Labor Code Sections 1810 through 1815. The Contractor must forfeit, as penalty to the Agency, the amount stipulated in section 1813 of the Labor Code for each worker employed by the Contractor, or a Subcontractor under the Contractor, in the execution of the Contract for each Calendar Day during which a worker is required or permitted to labor more than 8 hours and for each calendar week during which a worker is required or permitted to labor more than 40 hours, in violation of the provisions of the Labor Code.

6-1.02 Prevailing Wage

Pursuant to Labor Code Section 1771, the Contractor and each lower-tier Subcontractor must pay at least the prevailing rate of per diem wages, including, but not limited to, overtime, Saturday, Sunday, and holiday work, travel and subsistence, as determined by the Director of the California Department of Industrial Relations pursuant to Labor Code Section 1773. Copies of the prevailing wage determinations are available upon request at the Labor Compliance Section, 9700 Goethe Road, Suite D, Sacramento, CA 95827, and are also available from the California Department of Industrial Relation's internet website at: <http://www.dir.ca.gov/DLSR/PWD>.

The wage rates determined by the Director of the California Department of Industrial Relations refer to expiration dates. Prevailing wage determinations with a single asterisk (*) after the expiration date that are in effect on the date of Notice to Contractors remain in effect for the duration of the project. Prevailing wage determinations with double asterisks (**) after the expiration date indicate that the basic hourly wage rate, overtime, and holiday wage rates, and employer payments to be paid for work performed after this date have been determined. If work extends past this date, the new rate must be paid and should be incorporated in contracts entered. The Contractor should contact the Department of Industrial Relations as indicated in the prevailing wage determinations to obtain predetermined wage changes. Determinations that do not have double asterisks (**) after the expiration date remain in effect for the duration of the project.

The Contractor and the Contractor's Subcontractors forfeit, as penalty to the Agency, not more than \$200 per Calendar Day or portion thereof, for each worker paid less than the prevailing wage rates for work done under the Contract by the Contractor or by a Subcontractor. The Contractor and all Subcontractors must comply with the provisions of Labor Code Sections 1774 and 1775. In addition to the penalty, the Contractor or Subcontractor must pay each worker the

difference between the prevailing wage and the amount paid for every hour the worker was paid less than the prevailing wage.

The County of Sacramento received final approval from the Director of the California Department of Industrial Relations to operate as a Labor Compliance Program effective March 15, 1994. The Labor Compliance Program is administered by the Labor Compliance Section of the County's Construction Management and Inspection Division. All questions regarding this Labor Compliance Program and prevailing wage requirements should be directed to the Labor Compliance Section at (916) 875-2711.

6-1.03 Payroll Records

Contractor must comply with Labor Code Section 1776. Regulations implementing Section 1776 are located in Section 16000 and Sections 16401 through 16403 of Title 8 of the California Code of Regulations. The Contractor is responsible for compliance by the Contractor's Subcontractors, including any lower-tier Subcontractors.

The Contractor and the Contractor's Subcontractors, and any lower-tier Subcontractor, must keep accurate payroll records, showing the name, address, Social Security number, labor classification, straight time and overtime hours worked each day and week, and the actual wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Records must be certified and available for inspection at all reasonable hours at the principal offices of the Contractor and the Contractor's Subcontractors in a manner set forth in Labor Code Section 1776. The Contractor and the Contractor's Subcontractors must file a certified copy of the records enumerated above with the Agency within 10 Calendar Days after receipt of a written request. The Contractor is responsible for all lower-tier Subcontractors' compliance with this requirement.

The non-compliance penalties specified in subdivision (h) of Labor Code Section 1776 may be deducted from progress payments to the Contractor.

6-1.04 Nondiscrimination

Attention is directed to Labor Code Section 1735, which prohibits discrimination in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, and provides for penalties.

6-1.05 Apprentices

The Contractor must comply with Labor Code Section 1777.5, concerning the employment of apprentices. The Contractor is responsible for compliance by all lower-tier Subcontractors.

6-1.06 Workers' Compensation

Pursuant to Labor Code Section 1860,, the Contractor is required to secure the payment of compensation to his employees in accordance with Labor Code Section 3700.

6-1.07 Fair Labor Standards

The Contractor must comply with the Fair Labor Standards Act of 1938 as amended (29 U.S.C. 3201 et seq.).

6-1.08 Contractor's License

The Contractor must comply with Chapter 9 of Division 3 of the Business and Professions Code.

6-1.09 Use of Pesticides

The Contractor must comply with all rules and regulations that govern the use of pesticides required in the performance of the Work, including any certifications that are required for purchase, use, storage or application. Pesticides include, but are not limited to, herbicides,

insecticides, fungicides, rodenticides, germicides, nematocides, bactericides, inhibitors, fumigants, defoliants, desiccants, soil sterilants, and repellants.

A substance or mixture of substances intended for preventing, repelling, mitigating, or destroying weeds, insects, diseases, rodents, or nematodes, and a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant is considered a pesticide.

6-1.10 Reporting Requirements and Sanctions

Failure to provide specific information, records, reports, certifications, or other documents required for compliance with the Contract will be considered noncompliance. At a minimum, documents required include:

1. Form SCLC-0001 - List Of Subcontractors

Form SCLC-0001 is required from the Contractor and each Subcontractor with a lower-tier Subcontractor. This form is due within 10 Calendar Days after the date of the preconstruction conference or within 10 Calendar Days after the date of award of the subcontract. The later of the two dates will apply.

2. Form SCLC-347 - Certified Payroll Reports

Form SCLC-347 is required from the Contractor and each lower-tier Subcontractor, regardless of the subcontract amount or the type of procurement, for every payroll period in which work is performed. These reports are due within 10 Working Days of the ending date of the payroll period. The payroll must be accompanied by a "Statement of Compliance" signed by the employer or the employer's agent indicating that all of the information in the payroll is true, correct and complete, and the wage rates contained therein are not less than those required by the Contract. The "Statement of Compliance" must be on forms furnished by the Agency or on a form with identical wording. The Contractor is responsible for the submission of copies of payrolls of all subcontractors.

3. Form SCLC-0002 - Fringe Benefit Statement

Form SCLC-0002 is required from the Contractor and each lower-tier Subcontractor if fringe benefits are paid to an approved plan, fund, or program. The statement is due with the first certified payroll report and any time the fringe benefit amounts change. The statement is not required if the fringe benefits are paid in cash to the employees.

4. Other Documentation

Upon request, The Contractor must provide the inspector an accurate record of all activities and personnel performing work onsite. This report should provide as much detailed information as possible, including but not limited to the:

- a. Date the work was performed.
- b. Name of contractor and employees on site.
- c. Name of subcontractor and employees on site.

Detailed description of work performed by each employee, including hours worked and equipment used.

Other reporting documentation might be required depending on the source of funding for the project.

If the Contractor fails to comply with the provisions of this Section, the Contractor will be advised of the specific deficiencies and requested to make immediate corrections. The Contractor will also be advised that monetary deductions will be made for failure to effect corrections or delinquencies.

If the Contractor fails to correct a deficiency in the reporting requirements within 15 Calendar Days after notification, a deduction may be made. The deduction will be 10 percent of the estimated value of the work done during the month, except that the deduction will not exceed \$10,000, nor be less than \$1,000, and will be deducted from the next progress payment.

Deductions for non-compliance will be in addition to other deductions provided for in the

Contract and will apply irrespective of the number of instances of noncompliance. Deductions will be made separately and will cumulate for each estimate period in which a new deficiency appears. When all deficiencies for a period have been corrected, the deduction covering that period will be released on the next progress payment. Otherwise, the deduction will be retained.

6-1.11 Subcontracting

The Contractor must comply with Public Contract Code Sections 4101 to Section 4113, inclusive.

6-1.12 Occupational Safety and Health

The Agency is committed to providing a safe and healthy workplace for employees and the public and to eliminating conditions or hazards that could result in personal injury or ill health. The Contractor and all Subcontractors must comply with all directives given by the Agency to abate a hazard and/or stop a work activity. Failure to comply with a directive could result in the dismissal of the related Contractor/Subcontractor employee(s) as indicated in Section 5 of these Specifications or other sanctions as indicated in the Special Provisions. Repeat safety violations of a similar nature and/or a single serious, willful safety violation by a Contractor could warrant review and termination of the contract.

The Contractor must comply with all applicable provisions of the California Occupational Safety and Health Act (Labor Code Section 6300 et seq.). The foregoing includes, but is not limited to, all applicable Safety Orders issued by the State of California Occupational Safety and Health Administration (Cal/OSHA) pursuant to Title 8 of the California Code of Regulations. Failure of the Agency to suspend the work or notify the Contractor of the inadequacy of the Contractor's safety precautions or non-compliance with existing laws and regulations does not relieve the Contractor or a Subcontractor of this responsibility.

6-1.13 Sacramento County Residents

Pursuant to Section 15 (i) of the Charter of the County of Sacramento, preference must be given in the employment of labor to citizens who have resided in Sacramento County for at least 6 months.

6-2 INDEMNIFICATION

6-2.01 Contractor's Performance

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless Agency, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents (collectively "Indemnified Parties"), from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims"), including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property, or loss of use or reduction in value thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the alleged or actual acts or omissions of Contractor, its officers, employees, or agents, or the acts or omissions of anyone else directly or indirectly acting on behalf of the Contractor, or for which Contractor is legally liable under law. Contractor understands and agrees that this indemnity obligation shall apply regardless of whether any loss, damage or cost arises from, whether in whole or in part, any alleged or actual acts or omissions, or any other negligence, concurrent or otherwise, on the part of Agency, or any other party indemnified hereunder, excepting only those Claims to the extent caused by the active negligence or willful misconduct of an Indemnified Party where such indemnification would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

The right to defense and indemnity under this Section arises upon occurrence of an event giving rise to a Claim and upon tender in writing to Contractor. Contractor shall defend Indemnified Parties with counsel reasonably acceptable to Agency. Notwithstanding the foregoing, Agency

shall be entitled, on its own behalf, and at the expense of Contractor, to assume control of its defense or the defense of any Indemnified Party in any legal action, with counsel reasonably selected by it. Should Agency elect to initially assume control of its defense, or the defense of any Indemnified Party, it does so without prejudice to its right to subsequently request that Contractor thereafter assume control of the defense and pay all attorneys' fees and costs incurred thereby.

6-2.02 No Limitation of Liability for Indemnification

This indemnity obligation must not be limited by the types and amounts of insurance or self-insurance maintained by Contractor or Contractor's subcontractors at any tier.

Nothing in this indemnity obligation shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this indemnity obligation must survive the expiration or termination of the Agreement.

6-3 CONTRACTOR'S LEGAL ADDRESS

Both the address given in the Bid and the Contractor's office in the vicinity of the Work are designated as places that samples, notices, letters, or other articles or communications to the Contractor can be mailed or delivered. The delivery to either of these places is sufficient service to the Contractor and the date of service is the date of delivery. The address named in the Bid can be changed by written notice from the Contractor to the Agency. Nothing herein is deemed to preclude or render inoperative the service of any drawing, sample, notice, letter, or other article or communication to the Contractor.

6-4 CONTRACTOR NOT AN AGENT OF AGENCY

The Contractor is an independent contractor and not an employee, agent, or other representative of the Agency. Nothing in the Contract creates a relationship of joint venture, partnership or association of any nature whatsoever between the Agency and the Contractor other than that of owner and independent contractor. The Agency has the right to direct the Contractor as provided in the Contract. This right does not reduce or abrogate the Contractor's liability for damage or injury to persons, public property, or private property that arises directly or indirectly from the Contractor's execution of the Work.

6-5 SUBSTITUTION OF SUBCONTRACTORS

The Contractor must not, without the written consent of the Agency: (a) substitute any party as Subcontractor in place of the Subcontractor designated in the Bid; (b) permit any such subcontract to be assigned or transferred; or (c) allow the subcontracted work to be performed by anyone other than the original Subcontractor listed on the Bid. Consent for substitution or subletting will only be given when:

1. The Subcontractor listed in the bid, after having reasonable opportunity to do so, fails or refuses to execute a written contract based upon the Plans, these Specifications, and the Special Provisions for the Project for the scope of work specified in the Subcontractor's written bid to the Contractor; or
2. The listed Subcontractor becomes bankrupt or insolvent; or
3. The listed Subcontractor fails or refuses to perform the subcontract; or
4. The listed Subcontractor fails or refuses to meet the bond requirements of the Contractor as set forth in California Public Contract Code Section 4108; or
5. The Contractor demonstrates to the Agency, subject to the further provisions set forth in Public Contract Code Section 4107.5, that the name of the Subcontractor was listed as a result of an inadvertent clerical error; or
6. The listed Subcontractor is not licensed pursuant to Chapter 9 of Division 3 of the Business and Professions Code; or
7. The Agency determines that the work performed by the listed Subcontractor is substantially unsatisfactory and not in substantial accordance with the Contract, or that the Subcontractor is substantially delaying or disrupting the progress of the

work; or

8. The listed Subcontractor is ineligible to work on a public works project pursuant to Labor Code Sections 1777.1 and 1777.7; or
9. The Agency determines the listed Subcontractor is not a responsible contractor.

Prior to approving the Contractor's request for substitution, the Agency shall give written notice to the listed Subcontractor of the Contractor's request to substitute and the reasons for the request. The listed Subcontractor shall have 5 Working Days within which to submit written objections to the Agency regarding the substitution. Failure to file such written objections constitutes the listed Subcontractor's consent to the substitution.

If written objections are filed, the Agency shall conduct a noticed hearing consistent with the requirements of Public Contract Code Section 4107.

6-6 ASSIGNMENT OF CONTRACT

The Contract or the performance of a portion thereof can be assigned by the Contractor, but only upon written consent of the Agency and the Contractor's surety, unless the surety has waived its right of notice of assignment. No assignment or subcontracting is permitted that would relieve the Contractor or the Contractor's surety of their responsibilities under the Contract.

6-7 ASSIGNMENT OF MONIES

The Contractor can assign monies due the Contractor under the Contract, and the assignment will be recognized by the Agency, if given proper notice, to the extent permitted by law. Assignment of monies is subject to deductions provided for in the Contract. All monies withheld can be used by the Agency for the completion of the Work if the Contractor defaults.

6-8 PROTECTION OF AGENCY AGAINST PATENT CLAIMS

The Contractor assumes all costs arising from the use of patented materials, equipment, devices, and processes on or incorporated in the Work, and indemnifies and holds harmless the Agency and the Agency's officers, officials, agents, employees, volunteers, members, affiliates and their duly authorized representatives from actions for, or on account of, the use of patented materials, equipment, devices, or processes in the construction of, or subsequent operation of, the Work. Before final payment, if requested by the Agency, the Contractor must furnish acceptable proof of a proper release from costs or claims arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the Work.

6-9 RESPONSIBILITY OF THE CONTRACTOR

The Contractor is solely responsible for, and has exclusive control over, construction means, methods, techniques, sequences, procedures, and coordination of all portions of the Work under the Contract, unless otherwise provided in the Contract or in an emergency situation where specific direction regarding means, methods, techniques, sequences, procedures, and coordination is necessary to mitigate an imminent and serious health and safety hazard.

Contractors, in coordination with the Agency and its duly authorized representatives as appropriate, must implement measures that create safety awareness and promote safe work practices at the jobsites and must pursue the Contract in the safest manner possible.

The Contractor will take appropriate action, up to and including termination, against a Contractor employee who willfully or repeatedly violates workplace safety rules.

The Work is under the Contractor's responsible care, and the Contractor bears the entire risk of injury, loss, or damage to any part by any cause until field acceptance of the project or portions thereof. The Contractor must rebuild, repair, restore, and make good all injuries,

losses or damage to any portion of the Work or the materials occasioned by any cause, and bear the entire expense.

In no case does the Contractor's use of Subcontractors alter the position of the Contractor or the Contractor's sureties with relation to the Contract. When a Subcontractor is used, the responsibility for every portion of the Work remains with the Contractor. A Subcontractor will not be recognized as having a direct contractual relationship with the Agency. Persons engaged in

the Work under the Contract are considered employees of the Contractor and their work is subject to the provisions of the Contract. The Agency will deal only with the Contractor who is responsible for the proper execution of the Work. The Contractor must pay when due all valid claims of Subcontractors, suppliers, and workmen with respect to the Work.

The mention herein of a specific duty or responsibility imposed upon the Contractor is not to be construed as a limitation or restriction of any other responsibility or duty imposed upon the Contractor by the Contract.

6-10 PERMITS, AND LICENSES, AND CERTIFICATIONS

The Contractor, at the Contractor's sole expense, must obtain all necessary permits, registrations, certifications, notifications, and licenses for the normal conduct of the Contractor's business and construction of the Work, and comply with all laws, ordinances, rules, and regulations relating to the Work, and to the preservation of the public health and safety.

Unless otherwise noted in the Special Provisions, building, plumbing, heating, electrical, and similar permits that the Contractor is required to obtain from the County's Building Inspection and Permits Division for County-owned projects are fee exempt and will be obtained by the Agency.

The California Environmental Quality Act of 1970 (CEQA) may be applicable to permits, licenses, and other authorizations that the Contractor must obtain from local agencies in connection with performing the Work. The Contractor must comply with the provisions of CEQA in obtaining the permits, licenses, and other authorizations which will be obtained in time to prevent delays to the Work. The Contractor must also comply with permits, licenses, or other authorizations applicable to the Work obtained by the Agency in conformance with the requirements in CEQA.

The Contractor must obtain and comply with all required permits, registrations, certifications, and notifications applicable to the Work in conformance with the requirements of Cal/OSHA regulations.

The Contractor shall be fully informed of all rules, regulations and permit conditions that may govern the Contractor's operations during construction and shall conduct the Work accordingly. Any fines or penalties incurred by the Agency or the Contractor as a result of the Contractor's actions or negligence in following the requirements of any rules, regulations, or permit conditions will be the responsibility of the Contractor in accordance with Section 8-8, "Withholdings/Denial of Progress Payment Request," of these Specifications.

Any modifications to agreements between the County and permitting agencies which are proposed by the Contractor shall be submitted in writing to the Engineer for the County's consideration.

When the Contractor is notified by the Engineer that a modification to the agreement is under consideration, no work will be allowed which is inconsistent with the proposed modification until the County takes action on the proposed modifications. Compensation for delay will be determined in accordance with Section 7-12, "Delays," of these Specifications.

The provisions of this Section shall be made a part of every subcontract executed pursuant to the Contract.

Any modifications to any agreement between the County and permitting agency will be fully binding on the Contractor, and the provisions of this Section shall be made a part of every subcontract executed pursuant to the Contract.

Full compensation for work involved in complying with obtaining the necessary permits and the permit conditions shall be considered included in the contract prices paid for the various items of work involved in the Project and no additional time or compensation will be allowed therefor.

The Contractor shall comply with all permitting and certification requirements of the CA Air Resources Board. This includes compliance with all regulations associated with Off-Road Diesel use and Advance Clean Fleets.

6-11 EXISTING UTILITIES

6-11.01 General

The Contractor must fully cooperate with the Agency and utility operators for the location, relocation, and protection of utilities. The Contractor must become familiar with the existence of utilities, underground and overhead, necessary for buildings in the Work area, must identify facilities serving these buildings in advance of the actual construction, and arrange for and schedule the relocation of the facilities through the Agency, if necessary, by the utility operator or the Contractor.

The Contractor shall collaboratively communicate with the Agency and all utilities with facilities potentially in conflict with the Work and working cooperatively with those utilities to schedule any required relocation work by the utilities or their contractors. The Contractor must provide schedule updates to all utilities every two weeks as required whenever a previously provided schedule changes. Copies of all communications between the Contractor or Subcontractors and the utilities must be provided to the Agency. Government Code Section 4216.4 requires that the excavator expose marked subsurface facilities by hand before using power equipment, unless documented notice is provided to the facility operator and the facility operator agrees to allow power-operated or power-driven equipment. Within 14 Calendar Days of the Notice to Proceed, the Contractor must perform the following work:

- Mark the entire area to be excavated, as defined in Section 6-11.04, “Underground Service Alert (USA North),” of these Specifications.
- Contact USA North to mark existing utilities within the area marked to be excavated.
- Hand excavate (power-operated or power-driven excavating or boring equipment can be used for the removal of existing pavement if there are no subsurface installations contained in the pavement), expose, and protect all existing facilities, including existing utility services, laterals, or appurtenances whenever their presence can be inferred from other visible facilities like buildings, meters, junction boxes, valves, service facilities, identification markings, and other indicators on or adjacent to the Work. If the exact location of the subsurface installation cannot be determined by hand, the excavator must request the operator to provide additional information to the excavator, to the extent that information is available to the operator, to enable the excavator to determine the exact location of the installation.
- Subsurface facilities that are aligned with the proposed location of underground Contract installations and that lie within 24 inches from the outside edge of the installation for a longitudinal distance of 50 feet or more must be potholed at 25-foot intervals, at each change of direction, and at every service line or lateral unless otherwise directed by the Agency.
- Upon determination of the existence of a conflicting utility, the Contractor must promptly notify the Agency and assist with utility relocation work, if needed. Within 21 Calendar Days of the Notice to Proceed, the Contractor must provide a written statement to the Agency about the existence of conflicting facilities, utility coordination, and schedules for utility relocations both above and below the surface of the ground. All costs and delays for the following are the Contractor’s responsibility: (a) Failure to pothole or locate marked or plan drawn utilities within 14 Calendar Days of the Notice to Proceed; (b) Failure to notify the Agency of potential conflicts within 3 weeks of the Notice to Proceed; and (c) the Work is delayed or impacted by existing facilities and the delay or impact could have been avoided had the Contractor complied with these requirements.

6-11.02 Maintenance and Protection

Unless otherwise shown in the Plans or specified in the Contract, the Contractor must maintain in service drainage, water, gas, sewer lines, power, lighting, telephone conduits, signal, interconnect, and any other surface or subsurface utility structure that could be affected by the

Work. However, the Contractor, for convenience, may arrange with individual owners to temporarily disconnect service lines or other facilities along the line of the Work. The cost of disconnecting and restoring utilities will be borne by the Contractor.

Unless otherwise specified in the Special Provisions, the Contractor must protect existing utilities on projects being constructed, whether inside or outside of rights-of-way. The utility owner in these cases may elect to provide the necessary protective measures and bill the Contractor for the cost. "Existing utilities" includes traffic control devices, conduits, streetlights, and related appurtenances.

Existing utility facilities that are to be relocated, including joint utility poles, traffic signals, and light poles, must be relocated prior to paving. Paving must not be performed around existing utility facilities that are to be relocated.

6-11.03 Exact Locations Unknown

The locations of existing utility facilities shown on the Plans are approximate and represent the best information obtainable from utility maps and other information furnished by the various

utility owners involved. The Agency warrants neither the accuracy nor the extent of actual installations as shown on the Plans. There might be additional utilities on the property unknown to either party to the Contract. If, during the course of the Work, additional subsurface utilities are discovered, the Agency can make adjustments to the Work. Compensation for adjustments will be in accordance with Section 9, "Changes and Claims," of these Specifications.

In accordance with Government Code Section 4215, the Agency will compensate the Contractor for the costs of locating and repairing damage not due to the failure of the Contractor to exercise reasonable care, removing, relocating or protecting existing main or trunk line utility facilities not indicated in the Plans or Special Provisions with reasonable accuracy, and for equipment on the Work necessarily idled during the work. In no event will the Agency be liable for any further or additional costs resulting directly or indirectly from the occurrence. Compensation will be in accordance with Section 9, "Changes and Claims," of these Specifications.

If the Contractor discovers utilities not identified in the Plans or Special Provisions, the Contractor must immediately notify the Agency and the utility owner by the most expeditious means available and later confirm in writing. If the completion of the Work is delayed by failure of the Agency or the utility owner to remove, repair, or relocate the utility, the delay might be an unavoidable delay as defined and provided for in Section 7-12.02, "Unavoidable Delays," of these Specifications. The Contractor will not be assessed liquidated damages for delay in completion of the Work for that portion of the delay as is caused by failure of the Agency or the owner of a utility to provide for the removal or relocation of existing utilities.

6-11.04 Underground Service Alert (USA North)

The Agency is a member of the Underground Service Alert (USA North) One-Call program. The provisions of Government Code Sections 4216 through 4216.9, inclusive, must be followed. Except in an emergency, the excavator (as defined by Government Code Section 4216) must notify USA North at least 2 Working Days, but not more than 14 Calendar Days, in advance of performing "Excavation" work as defined by Government Code Section 4216(b).

USA North can be reached by calling 811 or (toll free) 1-800-227-2600.

Each phase of a Project must be called into USA North, and continuing excavation must be reported every 28 Calendar Days. The excavator must not call in to USA North the entire Project boundaries or, on road construction projects, the entire length of the Project. The excavator must only request the marking of facilities within the area to be excavated within 28 Calendar Days of the call. USA North will provide an inquiry identification ("ticket") number to the person contacting the center. The USA North ticket number must be available to the Inspector at the job site along with the date USA North was called. If the USA North notifications are not kept up-to-date, the excavation will be stopped, and a new 2 Working Day notice will be required before continuing the excavation. If the field markings are no longer reasonably visible during an excavation for which there is a valid ticket number, the excavator must contact USA North to have the area re-

marked. The excavator must allow 2 Working Days for re-marking of facilities.

Prior to calling USA North, the excavator must clearly mark the excavation site with white, water-soluble, or spray chalk paint in paved areas, or place flags, stakes, whiskers, or some other approved method in unpaved areas. The excavator must determine the approximate location (24 inches from outside edge on either side of the facility) of utilities in conflict with the proposed excavation by exposing the subsurface installation with hand tools before using power-operated or power-driven equipment. The excavator is responsible for preserving operators' markings or markers until they are removed.

Prior to Field Acceptance, all USA North markings must be removed by the Contractor to the satisfaction of the Agency. During the progress of the Work, markings or markers must be removed within 2 months of the date the markings or markers are no longer needed or upon completion of the work, whichever is sooner. The Agency will accept natural weathering of markings if the markings disappear within the two-month period or prior to Field Acceptance. If the markings are in brick pavers or concrete areas, and if, by natural weathering or other approved removal methods, the markings still remain, the Contractor must replace the concrete or the brick pavers in-kind, unless the utility operator has failed to use chalk-based paint or other non-permanent marking materials. Excavators and utility operators are encouraged to avoid marking in these areas by using offset markings. Removal methods must be non-destructive, and residual shadowing must not remain.

Removal of markings must comply with requirements of the National Pollutant Discharge Elimination System (NPDES), the Regional Water Quality Control Board (RWQCB), and other applicable federal, state, and local laws, rules, or regulations.

USA North markings not removed by the required timelines can be removed and the sidewalk or street repaired/replaced by the Agency at its discretion. The Agency will charge the excavator a service fee equal to the actual costs of removal for removing the markings and making repairs and/or replacements. This fee will include the cost to comply with NPDES, the RWQCB, and other applicable federal, state, and local laws, rules, or regulations.

6-11.05 Damage to Existing Utilities

The excavator must notify the affected utility of any contact, scrape, dent, nick, or damage to their facility. An operator or excavator who violates Government Code Sections 4216 through 4216.9, inclusive, is subject to civil penalties.

Table 6-2 designates color codes and abbreviations that must be used by the Contractor and the utility owners to identify utilities.

TABLE 6-2
FIELD MARKINGS - COLOR CODES AND SYMBOLS

Color	Typical Abbreviation	Typical Utility
White	USA	Proposed Excavation
Pink	TSM	Temporary Survey
Red	SL	Street Lighting
	E	Electric
	TS	Traffic Signals
Yellow	G	Gas
	PP	Oil
	STM	Steam
	CH	Chemical
	Company Name	
Blue	W	Water
Purple	RW	Reclaimed Water
	IRR	Irrigation
Green		Slurry
	SS	Sewer
	SD	Storm Drain

COMMON ABBREVIATIONS			
Facility Identifiers			
CH	Chemical	SL	Street Lighting
E	Electric	STM	Steam
FO	Fiber Optic	SP	Slurry System
G	Gas	TEL	Telephone
LPG	Liquefied Petroleum Gas	TS	Traffic Signal
PP	Petroleum Products	TV	Television
RR	Railroad Signal	W	Water
S	Sewer	RW	Reclaimed, Recycled, Non-Potable Water
SD	Storm Drain		
Underground Construction Descriptions			
C	Conduit	HH	Hand Hole
CDR	Corridor	MH	Manhole
D	Distribution Facility	PB	Pull Box
DB	Direct Buried	R	Radius
DE	Dead End	STR	Structure
JT	Joint Trench	T	Transmission Facility
HP	High Pressure		

6-12 APPROVAL OF CONTRACTOR'S PLANS NO RELEASE FROM LIABILITY

The review or approval by the Agency of working drawings or methods of work proposed by the Contractor does not relieve the Contractor of the Contractor's responsibility for errors and is not to be regarded as assumption of risk or liability by the Agency or an officer, official, agent, employee, member, volunteer, affiliate, or their duly authorized representatives. The Contractor has no claim under the Contract because of the failure or partial failure or inefficiency of a reviewed or approved plan or method. Agency review or approval means that the Agency has no objection to the Contractor using the proposed plan or method at the Contractor's responsibility and risk.

6-13 CONTRACTOR MUST NOT MORTGAGE EQUIPMENT

The Contractor must not mortgage or otherwise convey the title of the plant, machinery, tools, appliances, supplies, or materials that are in use, or further required or useful, in the prosecution of the Work, without prior written consent of the Agency.

6-14 PROPERTY RIGHTS IN MATERIALS

Nothing in the Contract is to be construed as vesting in the Contractor right of property in materials after they have been installed, attached or affixed to the Work, and on which partial payments have been made by the Agency. All materials are the property of the Contractor and the Agency jointly as their interests may appear and must not be removed from the Work by the Contractor without the Agency's consent.