CHAPTER 13

UTILITY RELOCATIONS
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13.00.00.00 - UTILITY RELOCATIONS

13.01.00.00 - INTRODUCTION

13.01.01.00 General

This chapter prescribes policies, procedures, standards, and practices for the statewide coordination of utility relocations required for construction of transportation projects. The chapter is organized based on the usual sequence of events from project inception (planning) to project completion (construction). Although it is impractical to include all policy interpretations and instructional material, this chapter does contain the information required to do the job.

In general, Departmental Utility policies apply to public utilities. "Public utilities" are defined as those utilities either publicly, cooperatively or privately owned that provide a product or service, either directly or indirectly, to the public for a fee.

Separate "Utility Reference File" memorandums supplement this chapter and provide background or guidance on subjects that occur less frequently. (See Section 13.01.01.03.)

13.01.01.01 District Utility Coordinator Responsibilities

The District Director is responsible for relocation or removal of utility facilities that are either in physical conflict or in violation of the Department's utility accommodation policy for transportation projects. This responsibility shall be delegated to the District Division Chief-R/W, who will authorize the District Utility Coordinator(s) to implement the Department's policies, including the following specific directions:

- Establish files that document actions taken or recommended during the life of a project. (Section 13.01.01.04)

- Prepare route estimates based on possible relocations. Update and revise the estimates, when necessary. These estimates are used for capital and support budgeting needs for current and future fiscal years. (Sections 13.02.04.00, 13.02.04.01, and 13.02.04.02)

- Act as the Department's primary point of contact with Utility Owners for identifying and verifying all utility facilities lying within existing and proposed rights of way of planned construction projects. (Section 13.03.02.00)

- Coordinate positive location requirements for all High/Low Risk Utility Facilities within the project limits. (Section 13.03.03.00)

- Coordinate with P&M on preparing the FHWA Authorization to Proceed (E-76) for projects that will be federally funded. (Section 13.14.03.00)

- Coordinate "avoidance" of utility facilities and/or transmit identified conflicts to Utility Owners. (Sections 13.03.01.03 and 13.03.04.00 through 13.03.04.04)

- Actively participate on Project Development Teams. (Section 02.02.02.00)

- Obtain and analyze data to allocate cost between Owner and State for all required utility adjustment work and to clearly document, support and, in cases where the State has cost liability, set forth the basis of this finding in a Report of Investigation. (Section 13.05.00.00)

- Assist in preparing and/or reviewing (1) encroachment exception requests and (2) High/Low Risk Policy exceptions. (Section 13.01.04.00)

- Review utility consultant design agreements when required for utility relocation. (Section 13.03.01.06)

- Prepare and approve FHWA Specific Authorization and FHWA Approval of Utility Agreement for federally funded utility work in accordance with delegated authority. (Sections 13.14.02.00, 13.14.04.00, and 13.14.08.00)

- Prepare and issue Notices to Owner, Utility Agreements, and Encroachment Permits in accordance with delegated authority. (Sections 13.06.00.00 and 13.07.00.00)

- Coordinate with P&M on preparing a R/W Certification for proposed construction projects. (Section 13.08.00.00)

- Verify Owner's relocation bills and process for payment when acceptable. (Section 13.10.00.00)

- Coordinate preparation of and review necessary property right conveyances for Owners. (Section 13.11.00.00)

- Provide oversight activities to LPAs and consultants on State highway projects funded by others. (Section 13.12.00.00)

- Provide stewardship role to Local Public Agencies on federally funded Local Streets and Roads projects. (Section 13.12.00.00)

- Coordinate billing and refunding of LPA funds relating to utility costs pursuant to Cooperative Agreement provisions. (Sections 13.12.05.02 and 13.12.05.03)

- Coordinate with the Department's offices, divisions, and branches and external organizations, both public and private, to ensure the above directions are implemented.

- Coordinate with the Department's Encroachment Permits Section regarding review of permits for wireless facilities on conventional highways.

<u>13.01.01.02</u> **<u>Definitions</u>**

The following definitions are for purposes of the Utility Relocations Chapter and the Department's R/W utility relocations only.

- **FACILITY** - Facility is synonymous with utility facility. A facility is any pole, poleline, pipe, pipeline, conduit, cable, aqueduct, or other structure or appurtenance used for public or privately owned utility services, or used by any mutual organization supplying water or telephone service to its members.

- **OWNER** - Owner is synonymous with Utility Owner. An Owner is any private entity or public body (including city, county, public corporation, or public district) that owns and/or operates a utility facility which directly or indirectly serves the public for a fee.

- **LIABILITY** (COST LIABILITY) - A financial obligation or responsibility to pay for relocation of utility facilities affected by the State's project.

- **POSITIVE LOCATION** (POS-LOC) - Positively determining the existence, location and identification of a utility facility to within 0.5 feet through the use of vacuum excavation, potholing, probing, electronic detection, or a combination thereof as deemed acceptable by the Project Engineer. Refer to the Policy on High and Low Risk Underground Facilities within Highway Rights of Way for specific requirements. For a copy of this policy, refer to Appendix LL of the Project Development Procedures Manual.

13.01.01.03 Utility Relocations Reference Materials

The Reference File System has been established by Right of Way as a tool to supplement the R/W Manual in order to provide guidance on infrequently occurring situations, more extensive background information, policy interpretations, and instructional material impractical to include within the basic Manual. The "Utility Reference File" (URF) memorandum has been established as the vehicle to supplement the Utilities Chapter of the R/W Manual.

The District Utility Coordinator is responsible for maintaining a complete set of the "Utility Reference File" memorandums (URFs). To provide a basis for uniform and equitable service to all Utility Owners (Owners), this file is to be made available to all Utility Coordinators. In addition, URFs can be found on the HQ R/W Utility Relocations Intranet Web site at http://pd.dot.ca.gov/row/offices/utility/.

All Regions/Districts should also assemble and maintain a library of pertinent, supplemental Utility Relocations reference material to assist the Utility Coordinators in doing their jobs. To help the Districts compile a library, a listing of selected manuals, guidelines, and other references is listed in Exhibit 13-EX-1. It is up to the region/district to obtain the materials.

13.01.01.04 Utility File and Diary

The diversity and complexity involved in the relocation of utility facilities and their potential safety impacts make it mandatory that files be established and thoroughly documented. In addition, FHWA regulations [23 CFR 645.119 (c)(1)(iv), Alternate Procedure approval] require documentation of actions taken in compliance with State and Federal policies.

A separate utility file should be established for each involvement on a project. An "involvement" is defined as the issuance of a Notice to Owner for a specific utility facility on one project (EA). For example, if a project has relocations for PG&E-Gas Transmission, PG&E-Gas Distribution, and PG&E-Electric Distribution, it would equal three (3) involvements.

Each District Utility Coordinator should consider the needs and methods of their district and initiate a district procedure for a utility file diary. Each file shall contain all of the mandatory components and shall be organized in a uniform fashion throughout the district.

The utility file shall contain the following items, as applicable:

- Diary notes.
- Copies of the supporting liability documentation.
- Report of Investigation.
- A copy of the Notice to Owner.
- A fully executed wet-ink original of the Utility Agreement.
- A copy of the relocation plans.

- Copies of the E-76.
- Copies of the FHWA Approval of the Utility Agreement and Specific Authorization.
- Any correspondence with Project Engineers, the Resident Engineer, and with other Departmental divisions.
- Any correspondence with Utility Owner.
- Any discussion, meeting, or review of importance that does not generate a document for the file must be recorded in the diary or in a memorandum to the file.

In every instance, the author shall date and sign (or initial) all diary entries and notations in the file. A sample diary is shown in Exhibit 13-EX-2.

<u>13.01.02.00</u> <u>Applicable Utility Laws and Policies</u>

The following is a selected list of laws, regulations, and policies that shall be uniformly applied.

<u>13.01.02.01</u> <u>Delegation of Authority</u>

Regions/Districts are authorized to approve all Reports of Investigation (Form RW 13-3), including liability determination, Notices to Owner, FHWA Specific Authorization to Relocate Utilities (Form RW 13-15), Utility Agreements and FHWA Approval of Utility Agreement (also on Form RW 13-15) for all utility relocations and positive locations, in accordance with the policies set forth in this Manual, and appropriate memoranda, with the exception of "liability in dispute." (Section 13.04.09.00 et seq.) See the Delegation Matrix on the HQ R/W Intranet Web site for any changes to the delegations.

The Department's agreement with FHWA requires that a Senior Right of Way Agent fully versed in Utility Relocations must make the Region/District approvals. Further delegation to an Associate Right of Way Agent is <u>not authorized</u> under any circumstances.

Region/District approval shall only be granted when all documentation is complete and in the file. Knowledge that documentation is "pending" is not sufficient to place the Region/District in a position to make an approval.

All Region/District approvals will require compliance with current preaward evaluation criteria. (Section 13.05.02.02 and URF 02-2)

As a condition of the delegation to the Region/District, the <u>Report of Investigation Approval Guide</u> (Form RW 13-16) must be completed by the delegated Senior R/W Agent at the time of approval and retained in the utility file. An approved E-76, meeting the criteria specified in Section 13.14.02.00, must be received prior to the approval of any FHWA Specific Authorization.

Additionally, as part of our agreement with FHWA under the Alternate Procedure, the delegated Senior R/W Agent must complete form FHWA Guide for Review of Utility Agreements (Form RW 13-17) for every relocation where Federal aid funding will be sought.

Delegated Senior R/W Agents are to fully review and familiarize themselves with the FHWA publication <u>Program Guide: Utility Adjustments and Accommodation on Federal-Aid Highway Projects</u> and 23 CFR 645.

If it is discovered that Federal procedure or delegation authorization has not been followed, the Region/District will be responsible for ensuring that Federal reimbursement is not sought. Should the error be discovered after Federal vouchering, the Region/District will be responsible for refunding the incorrectly vouchered funding. The delegated Senior Utility Agent or Utility Coordinator should contact Planning and Management to determine the process for correcting the vouchering errors.

13.01.02.02 Incorporation of City Streets or County Roads Into the State Highway System

City streets or county roads that become part of the State highway right of way shall be considered incorporated into the State highway system on the date of the CTC resolution or, if later, the date specified for taking actual physical possession of the road. (See S&H Code Sections 81, 82, and 83.)

13.01.02.03 Encroachments Within Conventional Highways

All utility encroachments within State highway rights of way shall be installed and maintained so as to minimize traffic disruption and other hazards to highway users. Facilities shall be located as close to the edge of the highway right of way line as reasonably practicable. Facilities shall be installed to minimize interference with highway maintenance and operation and to prevent impairment of the stability of the highway or its appurtenances to the maximum extent practicable.

13.01.02.04 Encroachments Within Freeways and Expressways

The Department's policy is to prohibit all at-surface encroachments within the access control lines of freeways. Utility crossings are permitted where supporting structures or manholes are located outside access control lines. Encroachment exceptions are permitted only where space is available, facilities may be safely installed and maintained, and no other reasonable alternative is available. The Division of Design, Encroachment Exceptions Section, must approve all exceptions to the policy.

NOTE: See Section 300, Exceptions to Policy - Encroachment Permit Manual and Chapter 17, Encroachments in Caltrans' Right of Way - Project Development Procedures Manual for exception requirements.

13.01.02.05 Hazardous Waste Impacted by Facility Relocations

State ordered utility relocation work to be done within the highway project limits is a necessary part of the highway project construction. Any hazardous waste (HW) encountered within the project limits as a result of State ordered utility work is handled in the same manner as HW encountered by any other part of the highway project construction. Immediately inform the Project Engineer of all potential utility adjustments that may affect identified HW sites so the remediation work is identified as part of the project remediation requirements.

HW encountered outside the project limits, such as on the grantor's remaining property, other private property, or on local streets and roads beyond the limits of the State highway project, is not the Department's remediation responsibility. Any extraordinary costs associated with remediation or unusual work requirements due to HW encountered outside the highway right of way are considered part of the Owner's necessary relocation effort. The Department may pay its proportionate share of these costs as part of normal relocation reimbursement in accordance with the usual liability determination process.

See the Freeway Master Contract for details of handling hazardous materials and their associated costs on freeway projects for those Owners who have signed a new Freeway Master Contract.

All exceptions to this policy shall be processed through Headquarters R/W for approval.

See Section 13.02.05.03 for Hazardous Waste Exceptions.

13.01.02.06 Work Before Environmental Approval

Pursuant to California Public Resources Code Sections 21102 and 21150, environmental approval shall be received prior to any expenditure of capital funds for detailed design or relocation of utility facilities. This does not preclude an expenditure of funds for the Owner's preliminary engineering or State's positive location work in support of the environmental document.

The Department has established a process to order an Owner to commence design activities prior to the approval of the environmental document but after the selection of the preferred alternative.

If, at any time during the project, an environmental reevaluation is required, no work other than studies or positive location work should proceed outside of the "area of potential effect" (APE) evaluated and approved in the original environmental document until the reevaluation is completed.

13.01.02.07 Verification of Utility Facilities

Pursuant to Government Code Section 4215, governmental agencies shall make every reasonable effort to locate all existing utility facilities within the right of way of a proposed construction project and to identify the facilities on construction contract plans. Failure to identify utility facilities on plans may make the State liable for damages to the facilities resulting from planned construction.

13.01.02.08 Policy on High and Low Risk Underground Facilities Within Highway Rights of Way

The Department is responsible to provide a safe environment for employees of the Department and its contractors, as well as the traveling public. An important element of the safe environment is providing a clear and safe right of way through the proper placement, protection, relocation, or removal of utility facilities that may pose a safety risk to the highway worker or user when the utility is excavated, cut, or penetrated. Toward this end, the Department shall establish and enforce mandatory standards and procedures for the placement and protection of underground utility facilities within highway rights of way and for the safety of highway workers involved in maintenance or construction operations in proximity to underground utility facilities. These mandatory standards and procedures are known as the Policy on High and Low Risk Underground Facilities Within Highway Rights of Way. For a copy of this policy, refer to Appendix LL of the Project Development Procedures Manual.

13.01.02.09 Advancing Cost of Relocation to Owner

Streets and Highways (S&H) Code Section 706 provides criteria for the advancement of funds for utility relocations.

Subject to S&H Code Section 706, the Owner's pro rata share of the relocation costs can only be advanced after it has been conclusively shown that the owner is financially unable to bear the cost of relocation and is unable to secure other financing for the work. To meet this test, the Owner shall provide a signed statement to that effect and provide documentation that they have attempted to secure other financing and have been denied.

When an advancement of the Owner's pro rata share of the relocation costs is made in accordance with Section 706, interest shall be charged at the rate of earnings of the Surplus Money Investment Fund (SMIF) and must be repaid within ten (10) years. See Region/District P&M or the State's Web site at http://www.sco.ca.gov for current SMIF rates.

Funds shall not be advanced to cover any Owner requested betterments to the facility.

13.01.02.10 Advance Deposit for State Contract Performed Work

State administrative rules require that an advance deposit must be made to the State for the estimated cost of work to be done by the State on behalf of another entity (Owner). An exception is authorized for any Owner possessing a Master Agreement or Freeway Master Contract with the State.

13.01.02.11 Inspection of Relocation Work

The Department's Construction Manual, Chapter 3, General Provisions, Section 3-809 Utility and Non-Highway Facilities, provides that whenever work is underway on any relocation being done to clear the right of way for construction, an engineer must be assigned to inspect and accept the work. Depending on the state of development of the project, the engineer may be a Project Engineer (PE) or a Resident Engineer (RE). If no engineer has been assigned, the Utility Coordinator shall contact the Project Manager or Construction Senior to ensure an engineer is assigned. Without an assigned engineer to inspect the work, the utility relocation should not proceed.

The PE or RE, or his/her delegate, shall inspect all utility relocation work. The inspection must be documented in Inspector's diary notes. Copies of these notes should be sent to the Utility Coordinator on a regular basis and placed in the Utility File.

As soon as an RE is formally assigned to a project, the RE assumes primary responsibility for coordinating all construction activities. However, all communications with the Owners, including modification of the scope of work or the need to have utility work performed on premium or overtime shall be the responsibility of the Utility Coordinator and shall be done in writing. All decisions relating to utility relocation work, including additional or supplemental liability determinations, shall be made by the Region/District Utility Coordinator or HQ R/W, as applicable. Under no circumstances is Construction allowed to make liability determinations. Significant changes shall be covered by an amended Notice to Owner and Utility Agreement issued by the Utility Coordinator.

13.01.02.12 Application of Master Agreements/Freeway Master Contracts to Special Funded Projects

The Department has entered into Master Agreements or Freeway Master Contracts with several Owners for the apportionment of relocation costs on freeway projects. (Section 13.04.03.00) These agreements, authorized by S&H Code 707.5, shall be applied in lieu of otherwise applicable S&H Code sections and shall be applicable to all freeway projects on State highways that are part of the California Freeway and Expressway System no matter what the source of project funds or agency responsibility for project design. The only exception is when the freeway or expressway improvement project is the result of a private development mitigation requirement, in which case the private developer is responsible for all utility relocation costs in accordance with applicable law. (Section 13.12.04.00)

13.01.02.13 Utility Facilities Within State Highways

State law allows the use of State highway rights of way for public utility facilities owned by public agencies or by private companies recognized by the California Public Utilities Commission as a provider of a public utility service, when such use does not interfere with the primary purpose of the State highway. (S&H Code 117)

All utility facilities and other encroachments located within State highway rights of way must be covered by an Encroachment Permit and placed in accordance with the Department's standards. All exceptions to applicable requirements as set forth in the Department's "Encroachment Permits Manual" must have Division of Design, Encroachment Exceptions Section, prior approval.

NOTE: See Section 300, Exceptions to Policy - Encroachment Permit Manual and Chapter 17, Encroachments in Caltrans' Right of Way - Project Development Procedures Manual for exception requirements.

13.01.03.00 Private Utility Facility Relocations

Relocation of all private utility facilities shall be by the usual appraisal/acquisition process rather than by the public utility relocation process.

A private utility facility is one that provides a utility service for the exclusive use of a privately owned business, farm operation, etc., or provides an exclusive service to improvements and occupants of an individually owned property. Examples of this type of utility facility are:

- Facilities located on a military base, school grounds, manufacturing complex, etc., owned and maintained by the property owner for their exclusive use.

- A facility interconnecting individually owned but dispersed operating sites providing an exclusive and private service to the site owners.

Separation of the private utility facility from the public utility facility occurs at the point where the privately owned and maintained facility connects to the public facility.

13.01.03.01 Private Facilities in State Highways

Private transverse crossings shall not be unreasonably denied as long as they meet the Department's standards.

However, the longitudinal placement of private utility facilities within the State highway right of way is generally prohibited by law, as the free use of public property by private entities is tantamount to a "gift of public funds." Any exception request must have Division of Design, Encroachment Exceptions Section, prior approval.

Private longitudinal installations within State highways may be allowed only under the following circumstances:

A. The private use is based on a retained property right.

B. Oil company facilities that were placed within the right of way of a city or county road under a local agency issued franchise agreement before the road became a State highway may remain within the State highway for the duration of its useful life or until physically impacted by a highway improvement project, at which time it shall be relocated outside the highway right of way. If the oil company facility is claimed and proven to be a "common carrier," it should be handled in the same manner as a public utility facility.

C. Cogeneration plants' transporting lines that transport electricity to a public utility may be treated as public utilities and their transporting lines allowed as encroachments within the State highway subject to the usual utility accommodation requirements. The electrical generator portion of the operation, if impacted by the highway project, should be treated as any other business operation subject to the acquisition process.

13.01.04.00 Encroachment Exceptions

The Division of Design, Encroachment Exceptions Section, is responsible for review and approval of specific requests for exceptions to established standards and policies governing encroachments within State highway rights of way. Requests for encroachment exceptions must be prepared by the Project Engineer, in writing, and sent to the Division of Design, Encroachment Exceptions Section. A copy of all utility relocation exception requests should be forwarded to Headquarters R/W for concurrent review.

NOTE: See Section 300, Exceptions to Policy - Encroachment Permit Manual and Chapter 17, Encroachments in Caltrans' Right of Way - Project Development Procedures Manual for exception requirements.

13.01.05.00 Right of Way Utility Management System (RUMS)

The RUMS computer system is used to track the progress of projects that involve utilities. This system identifies a project by district and EA. Within a project, utility information is further broken down for each Owner involvement. Each Owner's involvement is identified by a unique file number.

RUMS is an on-line, mainframe (legacy) system, which means you interact directly with the system through your PC using ERICOM software to input and update the data. Owner data for a project and/or utility file number is displayed along with some project data pulled from PMCS.

Relocation milestones for each Owner on the project are viewed and updated directly in the system. Reports can also be produced from RUMS. Always be sure to check for computer messages at the bottom of the screen if problems are encountered.

The District Utility Coordinator is responsible for ensuring the information in the RUMS system is up to date and accurate. Headquarters R/W can provide training and assistance if needed.

13.01.05.01 RUMS Lite

RUMS Lite is a new database run with FileMaker Pro software. The information in RUMS Lite is downloaded from RUMS weekly by HQ R/W. The RUMS Lite database is user friendly and provides for finding and sorting the data to the user's needs. In addition, reports (queries) can be customized by the user, unlike the standard reports provided by RUMS. Queries can then be exported and opened in Excel.

13.01.06.00 Charging Practices

The Department maintains a comprehensive cost accounting system, major segments of which involve accounting for employee time (support) and expenditure of funds (capital) and reporting production. Ensuring support and capital are correctly charged enables the Department to report expenditures and maintain financial control on active budgets and serves as the foundation for justifying and developing future budgets. Accurate time reporting also provides cost data for effective project management, preparation of annual financial statements and legislatively mandated reports, and billing of reimbursable work.

Before any work is performed on any project, the Utility Coordinator will verify with P&M that a valid EA has been established. Actual work performed or costs incurred must always be charged to the correct EA and Work Breakdown Structure (WBS) code. See also the R/W Time Charging Manual, a copy of which must be maintained in the Utility Relocations library.

13.01.06.01 EA Phases

PHASE 0 (PA&ED)

- Charge very early preliminary engineering to Phase 0 (e.g., PID review).

PHASE 1 (Design - PS&E)

- Charge preliminary engineering to Phase 1 (e.g., route adoption studies, data sheet, field review).

PHASE 2 (Right of Way Operations)

- Charge Capital Outlay Support charges to Phase 2 (i.e., staff/time charges for completing all R/W utility work after PA&ED is complete).

- In some cases, where no other R/W work is required and no Notices to Owner will be written, Phase 2 may not be established.

PHASE 4 (Major Construction Contract)

- Charge capital outlay for utility relocation work performed by the State's highway contractor to Phase 4. Only Construction can encumber and charge Phase 4.

- No Right of Way capital support/outlay charges should be made to Phase 4.

PHASE 9 (Right of Way Capital Outlay)

- Charge the actual cost of the relocation work to Phase 9 (i.e., utility company billing for State's share of the relocation costs).

- Charge payment of all positive location billings to Phase 9.

- No Utilities Capital Support charges should be made to Phase 9.

13.01.06.02 EA Splits, Combines and Revisions

Through the duration/life of a project, the EA may change for a variety of reasons. The Project Engineer/Manager may need to split or combine projects for delivery or programming reasons. These changes may occur at any time. If the EA changes during the utility relocation stage, it is a good practice to include the original EA on all documents, along with the current EA. For example, EA 443329 (original EA 443309). That way, the document contains current information for accounting and charging, but still retains the history of the project for tracking purposes.

13.02.00.00 - PLANNING PHASE

13.02.01.00 General

Duties relating to this phase of the project are normally performed prior to Environmental Clearance and Project Report approval. Activities generally consist of:

- Corridor/Route Preservation.
- Route Estimating.
- R/W Data Sheet preparation.
- Draft Project Report review.
- Draft Environmental Document review.

13.02.01.01 Preliminary Engineering in Support of the Environmental Document

Public Resources Code Sections 21102 and 21150 state that environmental clearance must be received prior to any expenditure of capital funds for a project (Phase 9 funds). This does not preclude expenditure of (Phase 9) funds covering Owner performed work critical for inclusion in the environmental document. This work is sometimes referred to as “preliminary engineering” and includes such items as:

- Facility verification effort, including necessary positive location work.
- Owner effort required to determine and identify new utility facility rights of way and resultant environmental impacts.
- Preparation of Plans in Support of the Environmental Document (ED).

FHWA must approve an E-76 prior to authorization of preliminary engineering so that Owner’s preliminary engineering costs may be federally reimbursed. The approved E-76 does not provide FHWA Specific Authorization. FHWA Specific Authorization must be obtained separately before the actual relocation work is started. See Section 13.14.00.00 for more discussion on federal-aid procedures.

13.02.01.02 Future Project Coordination

Utility Owners, like the State, require lead time to develop budgets and plan work required for ordered relocations. Additional lead time may be required to order long lead time materials, to schedule work during non-peak demand periods when utility facilities may be removed from service, and to comply with PUC General Orders. Streets and Highways Code (S&H Code) Section 680 requires “the department shall specify in the demand a reasonable time within which the work of relocation shall commence . . .” The district must, therefore, provide timely planning information to ensure that our relocation notices withstand challenge.

It is critical that the District Utility Relocation staff establish early and continuing coordination with all Owners being affected by proposed projects. Many local agencies hold periodic coordination meetings with Owners within their jurisdictions to discuss planned public works projects in general. District Utility Coordinators are encouraged to discuss State projects at these meetings or to conduct their own liaison meetings.

13.02.02.00 Work Before Environmental Approval

California Public Resources Code Sections 21102 and 21150 do not preclude an expenditure of funds for the Owner's preliminary engineering or State's positive location work in support of the environmental document.

If, at any time during the project, an environmental reevaluation is required, no work other than studies, preliminary engineering or positive location work should proceed outside of the "area of potential effect" (APE) evaluated and approved in the original environmental document until the reevaluation is completed.

13.02.02.01 Corridor/Route Preservation

At times and in an area of development, Owners may plan extensions or additions to their utility facilities within State highway right of way under the terms of their franchise agreements. (See Section 13.04.04.08 for additional information on franchises.) Planned or proposed highway construction may affect these new utility facility installations. The District Utility Coordinator, where feasible, may notify the Owner of all planned highway improvement projects within the district to enable the Owner to make an informed decision about placement of utility facilities within the highway right of way.

If an Owner decides to go ahead with new facility construction and the installation is in a local street or road underlying the State's proposed highway project, the additional cost incurred to install their facilities clear of the State's future construction shall be paid by the Owner.

Although there is no requirement for the Owner to install their facilities to clear State's future construction, it will eliminate the possible relocation, at Owner's expense, of these new facilities in the near future, providing less disruption to their services, less cost to their ratepayers and more efficient project delivery for the Department.

If the Owner decides to go ahead with the new facility construction and the installation is in a location where the Owner has a right that is superior to the State's, the additional cost incurred to install their facilities clear of the State's future construction shall be paid by the State. A special Utility Agreement may be entered into with the Owner to cover the extra cost of the installation. (See Section 13.07.00.00 for additional information on Utility Agreement preparation.)

13.02.02.02 Preliminary Engineering Prior to Environmental Approval

In certain circumstances and to ensure R/W's timely project delivery, it may be necessary to begin design activities prior to Environmental Approval. R/W has established this process that allows for Preliminary Engineering Design Work before Environmental Document to proceed in a timely manner. The decision to use this process will be made on a project-by-project basis by the District Utility Coordinator. This process may work well on some projects and not others. In making the decision on whether to use this process, the District Utility Coordinator should consider the following:

- At what point after Project Initiation Document (PID) to initiate this process.
- When to obtain facility mapping and verify existing utilities.
- Determine the route alignment/easement needs for utilities.
- Define the Footprint, that is the "Area of Potential Effect" (APE) for the Environmental Document, as it affects utilities.
- The possibility of wasted work.
- The feasibility of the project actually going forward.
- Federal funding will be lost for any physical relocation work prior to Environmental Document.

The following factors should be considered before initiating Preliminary Engineering prior to the Environmental Document:

- Owner's Preliminary Engineering cannot commence until the preferred alternate route has been selected.
- Evaluate the Environmental Document as follows:

    - If Environmental issues arise, such as an Environmental Sensitive Area (ESA), biological, archeological, or water quality sites, what areas are then available for route alignment and future relocation activities?

    - Obtain a time estimate from the Environmental section as to how long it will take to complete the Environmental Document and mitigate any issues.

- Evaluate schedule milestone dates to determine a reasonable starting time for Engineering to begin.
- Determine when to request facility mapping and start the conflict determination stage.
- Determine when to send conflict mapping to the Utility Owner.
- Positive Location (Potholing) is allowed during Preliminary Engineering.

Process for Implementing Owner's Preliminary Engineering prior to approval of the Environmental Document:

- Prepare the Data Sheet to reflect funding for Utility Owner's Preliminary Engineering so the Project Manager can properly fund at this early phase.
- Prepare the liability package once the final alternative has been selected following all liability determinations shown in 13.04.00.00 of this manual.
- Prepare a Report of Investigation, Notice to Owner, and Utility Agreement for encumbrance of funds. (NOTE: New standard clauses have been developed and approved by Legal for this process - Refer to Section 13.07.00.00.)
- Use Phase 9 Capital funding.

13.02.03.00 Utilities on Donated or Dedicated Future Right of Way

Donated right of way is property for which the owner was entitled to receive just compensation, but for personal reasons waived that right and deeded to a public agency without compensation. If the donated right of way location is satisfactory to the State's needs, the property may be acceptable even though encumbered with utility facilities. This is based on the premise that even if the State had purchased the right of way, the State may have been liable for any necessary adjustment or relocation of the utility facilities occupying private property.

Dedicated right of way is property that the owner is obligated to convey to public ownership as a condition prior to the granting of a permit, license, or zoning variance for a planned property development. The State must not accept dedicated right of way if it is encumbered with existing or planned utility facilities that are in conflict with the State's accommodation policy. Since the property owner is obligated to provide the right of way without compensation, this obligation extends to conveying it free and clear of all conflicting encumbrances that would otherwise have to be removed through payment of public funds. All conflicting utility encumbrances must be cleared by the property owner prior to conveyance to the public agency or prior to acceptance by the State.

13.02.04.00 Utility Estimates

R/W Estimating usually requests the project utility relocation estimate. These estimates are used for the Project Study Report (PSR). The PSR is an engineering report used to document agreement on scope, schedule, and estimated cost of the project so it can be included in a future STIP or other programming document.

Since accurate estimates are crucial to both scheduling and ultimate delivery of any given project, utility estimates must be as accurate as possible. Accuracy of any estimate, however, is subject to the quality of plans received and the lead time given. If the plans or lead time are inadequate, the Utility Coordinator shall inform R/W Estimating and/or P&M of such when submitting the estimate. Significant cost contingencies should be specifically identified in the estimate. For example, a potential conflict with a major facility where the project's impact cannot yet be fully determined.

Estimates should always be based on the most probable "worst case" and "highest cost" assumptions. A frequently overlooked cost is that of relocating a facility currently located within an existing freeway as an exception to the Department's utility accommodation policy. Policy requires all utility facilities located within project limits in violation of current utility accommodation requirements be adjusted to meet current requirements. If the facility is located in the project limits subject to a previous encroachment exception and the Utility Coordinator feels the facility may safely remain, it must be reevaluated and resubmitted to the Division of Design, Encroachment Exceptions Section, for approval. (See Section 13.01.04.00.) Therefore, for estimating purposes, the Utility Coordinator should assume an exception will not be granted and include estimated costs for a relocation.

NOTE: See Section 300, Exceptions to Policy - Encroachment Permit Manual and Chapter 17, Encroachments in Caltrans' Right of Way - Project Development Procedures Manual for exception requirements.

The Utility Coordinator should take the following steps in preparing the utility estimate:

- Field review all proposed project route alternatives.

- Identify each Owner and type of utility and prepare a relocation cost estimate for each. The relocation cost estimate may be based on past experiences with relocation costs, unit costs, broad gauge estimates, consultation with utility owners or other method suitable to the facility to be relocated.

- Prepare a total relocation cost estimate for the project, including updating escalation rates when appropriate. Escalation rates can be measured by identifying industry-wide rates in increases in labor, products, and materials. These increases can be estimated by comparing current labor rates, accessing industry Web sites for information, reviewing current utility owner invoices and consulting with the Utility Owners.

- Identify the Owner's requirement to complete an environmental study for the proposed utility work or to order long lead time materials for the project and estimate additional lead time necessary for completion.

- Consult with the Project Engineer to identify possible modification of right of way lines or early design changes to avoid potential conflicts, when appropriate.

- Provide workload estimates for all utility related WBS codes. The Utility Coordinator can use past experiences, previous support charges for production of utility documents or workload estimating norms created at the district level.

- Prepare data for the R/W Data Sheet(s) for the project discussing the items above and submit to R/W Estimating.

Use of Exhibit 13-EX-6 is recommended for preparing estimates for all route reviews.

13.02.04.01 Right of Way Data Sheet

The R/W Data Sheet is used to provide cost data to be included in the PSR. It is critical that the Utility Coordinator review all proposed projects to ensure any and all possible utility relocation costs are included. This data becomes the basis for R/W project programming in the STIP and SHOPP, which establishes the project's capital and support budgets. Accurate and up-to-date data on project costs and work units are critical.

Workload data from the R/W Data Sheet is entered into PMCS in the EVNT RW screen and cost data from the R/W Data Sheet is entered into the COST RW1-5 screens. PMCS (Project Management Control System) is the Department's Project Database. PYPSCAN (Person Year, Project Scheduling and Cost ANalysis System) is a computerized project estimating and scheduling system within PMCS. This computerized system shows, among other things, project workload (support), monies needed for project expenditures (capital) and lead times needed for project delivery. PYPSCAN is used as a starting place for the development of the project workplans and as a check of resources that are generated by XPM. XPM is a computerized scheduling tool that uses Project Workplan information to determine the required hours by WBS code to complete a particular project. (See Section 3.03.00.00 for more information about PMCS and XPM calculations.)

The District Utility Coordinator is responsible for ensuring that all utility relocations' capital and support needs are up to date at all times and are input into PMCS (or other resource estimating database) via the R/W Data Sheet. The Estimating Chapter (Chapter 4.00.00.00) requires the R/W Data Sheet be updated whenever there is significant change or at least annually. The Utility Coordinator must be sure the Utility Estimate conforms to this same requirement. If the information is not up to date, the Utility Coordinator shall inform P&M by memorandum or revised by R/W Data Sheet.

For instructions and explanations on filling out the utilities portion of the R/W Data Sheet, see Exhibit 13-EX-6.

On federal-aid projects, the E-76 can be prepared and transmitted to P&M for processing after all known conflicts have been identified. See Section 13.14.00.00 for more discussion on federal-aid procedures.

13.02.04.02 Project Study Report (PSR) Review

The draft PSR incorporates the R/W Data Sheet or includes information from it. The draft is circulated through District R/W for review and concurrence. It is imperative that a thorough review of all aspects of the project-impacted facilities takes place prior to approval of the PSR. The review should ensure that all facilities to remain within the project area either meet the Department's accommodation policy or that estimated relocation costs are included.

If discrepancies are found in the draft PSR, a revised R/W Data Sheet shall be prepared. The revised R/W Data Sheet, along with a thorough explanation of the discrepancies and/or changes, must be sent to P&M for submittal to the preparer of the draft PSR.

The approved PSR should be circulated through District R/W, with a copy included in R/W's project files.

NOTE: Occasionally, if there are no required R/W acquisitions, utilities may be overlooked. The District Utility Coordinator must proactively identify planned projects to ensure that all draft PSRs are reviewed and R/W Data Sheets are prepared for all projects.

13.02.05.00 Environmental Document Review

The District Utility Coordinator must review the draft environmental document to ensure that utility relocation impacts are addressed. These typically occur, for instance, where an underground facility will be relocated across an environmentally sensitive area, such as a wetland, or where new utility rights of way are to be acquired. The Utility Coordinator must ensure the "area of potential effect" identified in the environmental document covers any parcels identified as potential replacement easements for utility relocations.

Potential Hazardous Waste (HW) impacts resulting from the highway project are usually addressed in the environmental document. If HW is a potential problem on the project, the Utility Coordinator must ensure that the requirements of Section 13.01.02.05 are addressed in the document.

It is also critical to ensure the environmental document does not propose utility-related mitigation commitments that may be in conflict with existing laws or current Departmental policies. Conflicting commitments must have Headquarters R/W prior approval. For example, it is incorrect to propose undergrounding for aesthetic purposes or to require underground utility crossings to be placed as part of the highway construction to mitigate future needs since these commitments may constitute "a gift of public funds."

If utility facility relocations are addressed in the document, then the following suggested wording should be used, but not placed in the "Mitigation Section:"

> "All public utility facilities impacted by the proposed transportation project will be relocated and/or accommodated in accordance with State law and regulations and the Department's policies concerning utility encroachments within State highway rights of way."

13.02.05.01 Special Environmental Reviews for 50KV Electric Facilities

Major electric facilities involving substations and/or power lines operating in excess of 50KV may require special permits and environmental review per PUC General Order 131-D. Potential relocations of this type require early coordination with PUC regulated electric Utility Owners to determine General Order applicability. If an environmental review is necessary, including the potential utility relocation in the State's environmental document may substantially reduce lead time requirements for the utility relocation. Questions concerning applicability of this Order to a particular relocation must be resolved between the Owner and the PUC.

13.02.05.02 Draft Environmental Document to Owners

The Utility Coordinator must alert all Owners impacted by a proposed highway project when the draft environmental document is circulated for review. This allows Owners to recommend inclusion of utility relocation needs and thus minimize risk for later project delay resulting from unanticipated relocation environmental problems.

13.02.05.03 Hazardous Waste Exceptions

The Department's hazardous waste policy specifies that remediation of project-related contamination should be completed prior to construction activities. In cases where cleanup prior to construction is not feasible and remediation is proposed during project construction, an exception to this policy must be requested. This policy applies to State ordered utility relocation work within highway project limits (see Section 13.01.02.05).

The Project Manager, working in coordination with the District Project Development functional manager and the Utility Coordinator, shall prepare an exception request for the Regional or District Director's approval. The exception request must be reviewed by the Hazardous Waste Management Office, Headquarters Environmental Program, prior to submission for the Regional or District Director's signature.

Exception requests shall, as a minimum, address the following:

1. A summary of the project and how the project will impact the contamination area;

2. The type and extent of hazardous waste (summary of the hazardous waste investigation), including source and responsible party, if known;

3. The estimated cost to the Department for remediation, including an assessment of future liability if the Department assumes responsibility for remediation;

4. Why it is not practical to defer the project or to modify the project to avoid the contaminated property(ies);

5. The type of remediation proposed, including whether the Department has approval from the appropriate regulatory agencies;

6. Why the property owner or other responsible parties have not assumed responsibility for cleanup;

7. The steps that have been or will be taken to recover cleanup costs and an evaluation from the Legal Division regarding the chance of success; and,

8. The draft special provisions for the remediation items of work.

NOTES:

13.03.00.00 - DESIGN PHASE

13.03.01.00 General

Activities allowed in the preliminary engineering portion of a project include:

- Update data sheet, as necessary, after review of the Project Report.
- Coordinate identification and verification of existing utilities.
- Assist in identification of utility facilities in physical conflict or in violation of the Department's utility accommodation policy.
- Assist in identification of all high and low risk utility facilities and coordinate the positive location of these facilities as required.
- Request preparation of an E-76 covering all utility facilities when identified. See Section 13.14.00.00 for additional information regarding Federal-aid procedures.
- Prepare the Notice to Owner, Utility Agreement, and Report of Investigation for Owner-conducted positive location.
- Prepare the Task Order and Notice to Owner for State Contractor-conducted positive location.
- Request and review Owner's relocation plans, claim of liability, and estimate of cost.
- Prepare the Report of Investigation, Notice to Owner, and Utility Agreement for preliminary engineering.

Activities generally performed in the design phase of a project include:

- Coordinate planned placement of utility facilities on structures.
- Identify and submit utility-related "Special Provisions" to Design Engineer.
- Bill the local agency pursuant to a Cooperative Agreement when there is one.
- Coordinate with the Project Engineer to review encroachment exception requests for accommodation policy conflicts.
- Prepare the Report of Investigation, Notice to Owner, and Utility Agreement for relocations.

13.03.01.01 Commencement of Design If Preliminary Engineering Is Used

As a first step, the Utility Coordinator shall arrange a meeting with all impacted Owners, the Project Engineer, and a Structures Representative if a structure (bridge) is involved. The meeting purpose is to:

- Discuss the general project.
- Identify utility impacts.
- Discuss alternative solutions to highway/utility conflicts.
- Identify need for Owner required utility consultants.
- Identify potentially required new utility right of way.
- Determine a schedule for future coordination meetings.

A prime responsibility of the District Utility Coordinator is to take a proactive role to ensure that all projects are proceeding in a timely manner and that verifications are requested for all projects.

NOTE: If at any point during the design stage an Environmental Reevaluation is necessary, no work other than studies, preliminary engineering or positive location work should proceed outside the original environmental "footprint" and/or "area of potential effect" or in the area under reevaluation. Contact HQ RW for additional guidance.

13.03.01.02 Identification and Protection of Utility Facilities

Government Code Section 4215 states that the public agency shall assume responsibility for protecting utility facilities not identified in the plans and specifications for the project. Every reasonable effort, therefore, should be made to locate all existing facilities and delineate their locations on project plans. The law is not restricted to hidden or underground facilities. All aerial facilities located within the project must also be included if the facility will remain within the project.

Government Code Section 4216 states that the State's Highway contractor is required to take reasonable and prudent steps to ascertain the exact location of underground facilities. If the contractor has done so but still damages a facility not shown on the plans, the State may be responsible for damages to the facility and all resulting protection requirements and/or project delays.

13.03.01.03 Utility Facility Avoidance

The Project Engineer should design highway facilities to miss utility facilities whenever possible and be cost effective. A design-to-miss approach will assist in faster project delivery, particularly where impacted utility facilities require complex relocations or special ordered material. As Project Engineers strive to simplify their projects, one of the most effective ways to prevent project failure is to design around existing utilities at every possible opportunity. Just as Design Engineers avoid environmentally sensitive areas, e.g., biological, archeological or water quality sites, so should utilities be avoided whenever possible.

13.03.01.04 Design of Utility Facility Relocations

The facility owner shall be responsible for design of their own utility facility relocations. The only exception occurs when the Owner has requested the State to perform the design of the relocation and physical relocation will be included as a bid item in the highway construction contract. The design and construction of the relocation require execution of a Utility Agreement, and the Utility Coordinator shall remain the primary point of contact for liability and coordination of work activities between Owner and State. Liability is determined using the same methodology as if the Owner were conducting the relocation. (See Section 13.04.00.00.)

13.03.01.05 Replacement Right of Way for Utility Facilities

Acquisition of a replacement right of way for relocated utility facilities may become a major obstacle to timely relocation. Utilities, like highways, are an essential service for users and cannot be severed for lack of an alternate replacement location. Either the State or the Owner can acquire the replacement right of way. If acquired by the State, needs must be identified early for inclusion in the State's R/W acquisition program.

When the District Utility Coordinator determines that State acquired replacement right of way is needed, the Owner's plans are forwarded to the Project Engineer for inclusion in the State's highway design. The Project Engineer will prepare plans and forward them to District R/W for acquisition. The Utility Coordinator must work closely with the Project Engineer to ensure the proposed replacement right of way has been included in the Environmental document.

For more discussion on right of way acquisition for Owners, see Section 13.03.06.00.

13.03.01.06 Utility Consultant Design Requirements

Normally, the Owner designs their own utility relocations. If the Owner is unable to perform their own design or elects to have design work done by a consultant, and the design costs are to be reimbursed by the State, the Utility Coordinator must discuss with the Owner the State's need to review the Owner's consultant selection process to ensure reasonable consultant costs. This requirement must be discussed with the Owner early in the process to ensure no action is taken prior to our review. In addition, any Third Party Consultant Agreement over $250,000 must be submitted to Audits for preaward evaluation. For a detailed discussion on consultant agreements, see Section 13.14.09.00.

13.03.02.00 Utility Verifications

The Project Engineer is responsible for determining the identification and location of all utility facilities that lie within the right of way boundaries of the planned construction project. This is accomplished by: 1) a joint field review of the project area by the Project Engineer and the Utility Coordinator, 2) reviewing Departmental as-builts, permit records and geographic information systems, 3) asking the Utility Coordinator to verify facilities from each Owner that may have facilities within the project area, and 4) requesting field surveys to verify utility facilities. The need for this identification and verification is twofold:

- To identify all potential utility/project conflicts so they may be cleared before project construction commences, either through avoidance or relocation.

- To meet the requirements of California Government Code Section 4215, which states in part that all utility facilities shall be identified on the State's project plans and if not so identified, the State may be liable for all resulting damages to the facilities. The cost of such damages to the facilities is not Federal-aid reimbursable.

13.03.02.01 Preparation of Verification Maps

The Project Engineer is responsible for ordering preparation of mapping to be used for the delineation and verification of utility facilities within the project limits. Identification is necessary even if proposed construction is entirely within existing rights of way. The Project Engineer obtains this utility information from the following sources:

- State's as-built construction drawings for prior projects.
- Ground and aerial surveys.
- Encroachment Permit files.
- Field review of the project.

These maps will also show existing and proposed right of way lines, as well as existing and proposed access control lines, where applicable. A sufficient number of verification maps, as needed, will be prepared.

13.03.02.02 Utility Verification Request to Owner

The Utility Coordinator must send the verification maps to each Owner with existing or potentially existing facilities within the project area. The request letter should include the elements shown in Exhibit 13-EX-10. The Owner should be encouraged to add to the maps any facilities not already located or depicted on the verification maps and show any abandoned facility. Normally, the Owner is allowed 30 days to respond. The Utility Coordinator is responsible for follow-up to ensure timely completion of verification. (See also CPUC General Order 128, Rule 17.7 for legal requirements for regulated Owners to provide facility location information.)

13.03.02.03 Owner's Verification of Facilities

Once the Owner returns the verification maps, if the Owner's verification indicates facilities within the project limits, the Utility Coordinator must:

- Transmit Owner's verified facility locations to the Project Engineer for review and inclusion on project plans.
- Assist the Project Engineer in identifying utility facilities in conflict with the State's accommodation policy.
- Assist the Project Engineer in identifying high and low risk facilities.

If no physical or utility accommodation policy conflicts are identified, the Utility Coordinator notifies the Owner(s) involved in the verification process of the finding(s). The letter advising them must include the elements shown in Exhibit 13-EX-11.

13.03.03.00 Positive Location of Underground Facilities

To accurately determine the type and location of all potentially impacted utility facilities, it is frequently in the State's and Owner's mutual interest to provide positive location of underground facilities. The process of obtaining this information may require that an excavation be made to expose the facility and allow the precise location to be surveyed to the State's datum. The excavation to expose the facility is frequently referred to as "potholing." Other methods of determining the positive location of an underground facility include probing, electronic detection, etc. Refer to the Department's Policy on High and Low Risk Underground Facilities Within Highway Rights of Way for policy specifics. For a copy of this policy, refer to Appendix LL of the Project Development Procedures Manual.

The Project Engineer is responsible for determining when positive location is required, usually whenever facilities are known to exist within the project construction area but cannot be precisely located, particularly as to depth. Without precise location information, physical conflicts within the project cannot be determined nor safe construction assured.

The Utility Coordinator shall provide reasonable notice to the Owner regarding positive location of underground utility facilities and is responsible for determining liability for costs in accordance with Positive Location Agreements (Section 13.03.03.01) or usual liability requirements.

If the Owner is conducting the positive location, the Utility Coordinator shall provide the required Encroachment Permit with the Notice or assist Owner in obtaining it.

If the State's Positive Location Contractor is conducting the positive location, the Utility Coordinator shall submit a Task Order to the contractor. The Utility Coordinator must still provide notice to the Owner so that they are aware of the work and may have an inspector present during the positive location process.

13.03.03.01 Positive Location Agreements (PLAs)

The Department has created and executed a Positive Location Agreement (PLA) with numerous utility owners throughout the State. PLAs were created in 2003 as a tool to improve the efficiency of R/W Utility Relocations project delivery. The agreements provide for the State to assume 100% of the liability for ordered positive locations and provide Owner's consent for the State's positive location contractor to conduct the positive locations. If the Owner requests to conduct the positive location with their own staff, the State will pay only the going contract rate in effect at the time. If, however, the State requests the Owner to conduct the positive location because of a lack of an ongoing contract or insufficient contractor staff, the State will pay 100% of the Owner's actual and necessary costs.

A list of current PLAs may be obtained at the HQ Utility Relocation Web site.

A PLA should be offered to any Owner not on the list that requires positive location as a means of streamlining project delivery. The Utility Coordinator prepares two originals of the standard PLA and sends both to the Owner with a cover letter describing the PLA. Once the Owner executes the PLAs and returns them to the Department, the Utility Coordinator sends them to the Utility Relocations Chief in HQ for signature. Once signed, a scanned "PDF" copy is added to the Web site. One original is kept on file in HQ and one is returned to the District. The Utility Coordinator then sends the original to the Owner.

When positive location is ordered for an Owner, the Utility Coordinator sends either a Notice to Owner or a notification letter advising the Owner of the scheduled positive location of their facilities so they may have an inspector present.

The PLA, under paragraph 8, gives the Department permission to enter upon the private right of way (usually an easement) of the Utility Company. The Utility Company should notify the underlying fee owner as a courtesy and confirm the landowner does not have any activities planned.

13.03.03.02 Positive Location (Pos-Loc) Contracts

The Pos-Loc Contract is an on-call service contract to provide positive location services to the Department. Each District independently advertises for bids for the contract. To begin the process of obtaining a Pos-Loc Contractor, the District Utility Coordinator must complete a Service Contract Request (ADM 360).

As the Contract Manager, the District Utility Coordinator works closely with the assigned Contract Analyst through the entire bid process. They determine the timing of the new contract, the length, and ultimate award of the contract. The contract may involve multiple fiscal years. (Most contracts can be amended once to extend the contract life or contract amount, if circumstances warrant.) Once a contract is awarded, the executed contract is then encumbered at the "program level." (See P&M for specifics.) The on-call service is then accomplished through the use of Task Orders.

13.03.03.03 Positive Location Task Orders

The Task Order must provide for a minimum payment of four "holes" for vacuum excavations. The Contract Manager shall send the appropriate number of maps along with the Task Order.

When an invoice is received from the Pos-Loc Contractor, a Request for Utility Payment (Form RW 13-6) is prepared and sent to HQ R/W Accounting. The request for payment is charged to the specific project Phase 9 EA(s). (P&M will instruct R/W Accounting to disencumber the same amount of the program level encumbrance.) Vendor information is required for all payments and the Contract Manager may have to send the Pos-Loc Contractor a STD 204 to complete prior to payment of the initial invoice.

13.03.03.04 Positive Location Requirements for High Risk Utility Facilities

All underground high risk facilities lying within the construction area of a project shall be positively located in accordance with the Department's Policy on High and Low Risk Underground Utility Facilities Within Highway Rights of Way. For a copy of this policy, refer to Appendix LL of the Project Development Procedures Manual. The Project Engineer is responsible to ensure the policy requirements have been met and to provide a certification to that effect as part of the PS&E.

The Project Engineer makes a written request to the Utility Coordinator to obtain positive location information for all utility owned high risk facilities that may be in physical conflict with planned construction or that may be exposed to risk of damage during construction. The request must identify the location where the high risk facilities are to be positively located and include three sets of maps for each utility involvement (two sets for the Owner and one set for the Utility Coordinator's files).

For Owners who have a current PLA on file, the Utility Coordinator prepares a task order for the State's Pos-Loc Contractor and a written notification to the Owner.

For Owners who do not have a current PLA on file, the Utility Coordinator arranges a meeting between the Owner and the Project Engineer to go over the plan for determining positive location requirements.

The Project Engineer is also responsible for obtaining the necessary positive location information on Department owned high risk facilities and for including this information on project plans; the Utility Coordinator is not involved.

13.03.03.05 Liability for Ordered Positive Locations

If the Owner has a current PLA, the Department ordered positive location conducted by our contractor or by the Owner is 100% State liability. If the Owner does not have a current PLA, liability is determined using the same rules that are applied to normal relocations. The liability is based on the occupancy rights possessed by the State and Owner as to each positive location site. Exhibits 13-EX-12 and 13-EX-13 provide sample letters for requesting liability information and issuance of the Notice.

NOTE: See Section 13.06.03.04 for expedited procedures for issuance of the Notice and Section 13.05.04.02 for lump-sum payments.

13.03.03.06 Prevailing Wage Requirements for Positive Location Contracts

Contract Managers share in the Department's responsibility to comply with federal and state prevailing wage laws when they request, write, award or manage any publicly funded contract.

When a new Positive Location contract is awarded, the Contract Manager should brief the contractor on all prevailing wage requirements, among other expectations, at a contract "kickoff" or prejob conference. A record of the conference and an attendance sheet signed by the contractor, Contract Manager, and all attendees are retained with the contract.

California Law requires the Department to have an orderly system of auditing contractor payrolls. The Positive Location contract requires the contractor submit a certified copy of all payroll records for verification by the Department's Contract Manager and/or Designee with each invoice. When progress payments are called for, the Contractor shall submit a certified copy of all payroll records for verification for the work completed to date with each invoice. Delinquent or inadequate certified payrolls or other required documents will result in the withholding of payment until such documents are submitted by the Contractor. If payment is withheld, Invoice Dispute Notification, Form STD. 209, must be filled out in order to suspend the Prompt Payment Act. The Contract Manager will review and maintain the certified copy of the payroll.

The Contract Manager, or their Designee, will conduct interviews with employees of the Pos-Loc Contractor to verify compliance with prevailing wage laws.

13.03.03.07 Contract Manager's Working File

The Contract Manager is required to maintain a "working" contract file for each separate contract. The file should contain all the information or documentation:

- Copy of Service Contract Request Form (ADM 360) with all the supporting documentation
- Copy of the executed contract
- Copy of all Certificates of Insurance, if applicable

- Copies of Payment and Performance Bonds, if applicable
- Copy of each executed contract amendment, if applicable
- Log or diary of all contract activity
- Correspondence to Contractor or other correspondence relating to the contract, including the "kickoff" meeting or prejob conference documentation
- Copy of each invoice, backup documentation and approval documentation
- Spreadsheet of contract funds and expenses
- Spreadsheet indicating DVBE/DBE usage, if applicable
- Evaluation of the Contractor/Consultant, if applicable
- Copy of CMIST certification - (see Section 13.03.03.08)

Additional information can be found in the Contract Manager's Handbook located at the Department of Procurements and Contracts (DPAC) Intranet Web site.

13.03.03.08 Contract Manager Certification under CMIST (Contract Management Information and Specialized Training)

Contract Managers are required to register as a certified Contract Manager. The training and certification is online at DPAC's Intranet Web site under Contracts Management Information and Specialized Training (CMIST).

13.03.03.09 Utility Coordinator Responsibilities

The Utility Coordinator is responsible to coordinate all positive location requirements specified in the Notice to Owner (NTO) and in the Task Order. Duties performed generally consist of:

- Request/prepare Positive Location Task Orders and NTO based on the maps.
- Follow up to ensure the positive location work will be done by the date specified in the Notice to Owner and/or in the Positive Location Task Order.
- Confirm necessary inspections with the applicable office/branch.
- Coordinate with Surveys to obtain required horizontal and vertical location data for utility facilities. See high and low risk positive location requirements. For a copy of this policy, refer to Appendix LL of the Project Development Procedures Manual.
- Ensure that survey information is transmitted to the Project Engineer for inclusion in the contract plans.
- Assist in identifying longitudinal utility facilities not meeting the utility accommodations and high risk facilities policies.
- Process Pos-Loc Contractor's invoices for payment, subject to the Prompt Payment Act.

13.03.03.10 Project Engineer Responsibilities

Pursuant to the Plans Preparation Manual Section 2-2.13, the Project Development Procedures Manual, and this manual, the Project Engineer is responsible to:

- Plot survey information on the contract plans.
- Identify “physical” and “policy” conflicts.
- Prepare utility conflict maps and/or a conflict matrix for the Owner to prepare relocation plans.
- Recommend all existing or new utility accommodation policy exceptions to Division of Design, Encroachment Exceptions Section, for approval.

NOTE: See Section 300, Exceptions to Policy - Encroachment Permit Manual and Chapter 17, Encroachments in Caltrans’ Right of Way - Project Development Procedures Manual for exception requirements.

13.03.04.00 Utility Conflicts Identified

The Project Engineer (PE) is responsible to review all existing utility locations for conflicts, determine which facilities need to be relocated, and make a written request to the Utility Coordinator to obtain affected Owner’s relocation plans. The Project Engineer will provide the Utility Coordinator with conflict maps (see Section 13.03.04.03) the Utility Coordinator sends to the Owner to accompany a request for relocation plans, the Owner’s claim of liability, and estimate of cost. (See Section 13.03.04.04.)

Some conflicts may not be immediately evident on the plans, such as staged construction requirements, detours, pile-driving operations, signal and lighting facilities, longitudinal encroachments, and encasement exception requirements. The Utility Coordinator shall review all plans with the Project Engineer for possible conflicts with all facilities within the project.

If after reviewing all utility information, including positive location data, the Project Engineer determines certain utility owners have no conflict with the State’s proposed construction project, the PE notifies the Utility Coordinator who must then notify those Owners of the finding. The letter advising them must include the elements shown in Exhibit 13-EX-11.

If the PE identifies conflicts with the State’s proposed construction project, the Utility Coordinator must arrange a meeting with all affected Owners, the Project Engineer, and a Structures representative if a structure (bridge) is involved. The purpose of the meeting is to discuss the project, identify needed relocations, and work out the most economical and practical solutions consistent with highway and utility design standards. The Utility Coordinator should document the meeting in the Utility File and should include a list of attendees, items of discussion, and any agreed upon solutions.

If a Local Public Agency (LPA) Cooperative Agreement with cost sharing is involved, the Utility Coordinator must ensure the LPA is billed for their share of the estimated total relocation costs for all Owners in advance of the work being completed and prior to R/W certification. See Section 13.12.00.00 for procedures in dealing with Cooperative Agreement projects.

Ensure that the E-76 (if a federal aid project) has been prepared and transmitted to P&M for processing. See Section 13.14.00.00 for more discussion on federal aid procedures.

The District Utility Coordinator is responsible to ensure that all budgeting information (specifically the R/W Data Sheet) is up to date. If the information has changed as a result of conflict identification, the Utility Coordinator shall update the data sheet. A sample memorandum to P&M for updating capital and support budget information is shown in Exhibit 13-EX-14.

13.03.04.01 Utility Accommodation Policy for Freeways and Exceptions to the Policy

The Department's basic accommodation policy for utilities within freeways allows subsurface or aerial transverse crossing after approval of an encroachment permit. The policy prohibits at-surface encroachment within the access control lines. Utility facilities within the project limits of planned freeway projects that are in violation of this policy must be relocated to clear the project. Division of Design, Encroachment Exceptions Section, must approve exceptions to this clearance requirement prior to R/W Certification.

NOTE: See Section 300, Exceptions to Policy - Encroachment Permit Manual and Chapter 17, Encroachments in Caltrans' Right of Way - Project Development Procedures Manual for exception requirements.

Longitudinal installations or crossing support facilities may be allowed to remain within the access-controlled area in extreme cases, after Division of Design, Encroachment Exceptions Section approval, with the following restrictions:

A. The facility must be a public utility facility.

B. The facility must not adversely affect highway safety, maintenance, and traffic operations.

C. The facility should be installed outside the desired clear recovery zone where reasonable. (See Section 13.03.04.02 for a description of "clear recovery zones.")

D. Relocation of the facility would be inordinately difficult or unreasonably costly.

E. Access for construction and maintenance of a facility located within the access-controlled area must be from other than the traveled way of the freeway, such as from adjoining frontage roads or nearby streets or trails.

F. Utility service connections to adjacent properties shall not be permitted.

G. All underground high/low risk facilities shall meet the Department's established policy and procedures as set forth in the "Policy on High and Low Risk Underground Facilities Within Highway Rights of Way." For a copy of this policy, refer to Appendix LL of the Project Development Procedures Manual.

13.03.04.02 Identify CURE/CRZ Conflicts

"Clean Up the Roadside Environment" (CURE) is a State program for removing fixed objects from within the clear recovery zone (CRZ) adjacent to the traveled way of State highways. The objective of CURE is to remove fixed objects such as signs, trees, culvert heads, and utility poles from within the CRZ, thus improving the recovery opportunity for errant vehicles leaving the traveled way and reducing accidents. CURE is to be part of every new project undertaken on rural high speed highways. Policies and procedures for handling CURE projects can be found in Appendix 2.0 of the Department's Highway Safety Improvement Program (HSIP) Manual, Division of Traffic Operations, Traffic Safety Program.

13.03.04.03 Conflict Maps/Conflict Matrix

Utility conflict maps are essentially the State's preliminary layout sheets for the PS&E. They should show any construction feature that may affect the Owner's facilities including, but not limited to, the following:

- Utility location
- Right of Way lines
- Cross Sections
- Profile
- Drainage
- Stage Construction
- Bridge Structure

13.03.04.04 Request for Relocation Plans, Claim of Liability, and Estimate of Cost

Prior to issuing the Notice to Owner, Utility Agreement, and Encroachment Permit, the Utility Coordinator must obtain the Owner's claim of liability, estimate of cost, and relocation plan. An exception can be made for expedited positive location. See Section 13.06.03.04.

The letter to the Owner must include the elements shown in Exhibit 13-EX-9 and normally allows the Owner 60 to 120 days to respond. Since this is a crucial element in the utility relocation process, the Utility Coordinator must actively follow up with the Owner to ensure they maintain a schedule that will allow successful project delivery.

13.03.04.05 Receipt of Relocation Plans, Claim of Liability, and Estimate of Cost

Upon receiving the Owner's relocation plans, the Utility Coordinator routes the plans to the Project Engineer for review and approval, comparison with other Owners' plans for compatibility, and review for compliance with the Department's "Policy on High and Low Risk Underground Facilities Within Highway Rights of Way" (for a copy of this policy, refer to Appendix LL of the Project Development Procedures Manual) and the Department's Utility Accommodation Policy.

NOTE: See Section 300, Exceptions to Policy - Encroachment Permit Manual and Chapter 17, Encroachments in Caltrans' Right of Way - Project Development Procedures Manual for exception requirements.

The district's Environmental Branch should review the Utility Relocation Plans whenever there is a possible relocation of 50KV and higher power lines and/or electrical substations, to ensure inclusion in and/or changes to the Department's environmental document.

NOTE: If changes to the environmental document are required at this stage, there may be a delay in project delivery as no relocation work can take place in any location not previously included in the "area of potential effect" (APE) described in the approved document unless the area of utility relocation has a blanket ND or CatX by the CPUC.

The District Utilities Coordinator has basic responsibility for reviewing all relocation plans to determine that they provide a cost effective functional restoration of the utility facility. Betterments are to be identified on the plans and all other elements of the planned relocation must be supportable as necessary and appropriate. The Utility Coordinator may solicit technical engineering support, but cannot shift this responsibility to the Project Engineer. The Coordinator shall make the final call.

Where any portion of the utility work claimed by the Owner is to be at State expense, the Utility Coordinator must review the Owner's claim letter that sets forth the basis for the State's liability and the estimated cost of relocation. (See Section 13.04.00.00 for liability determinations.) When the claim of liability and estimate of cost are found acceptable, the Utility Coordinator prepares the Report of Investigation (ROI) package for transmittal to Headquarters R/W or the authorized district person. The ROI package should consist of the Report of Investigation, the Owner's claim letter, the estimate of cost, the Notice to Owner, and a draft Utility Agreement along with any supporting documentation and mapping.

13.03.04.06 Special Provisions

All utility facilities to be relocated, abandoned, or protected in place during construction, whether done by the State's contractor or Owner, are to be addressed in the construction contract's "Special Provisions." The Utility Coordinator is responsible to provide the Project Engineer with the information necessary to prepare these clauses for inclusion in the "Special Provisions." Failure to do so may result in claims by the State's contractor for right of way delays.

All Utility facilities remaining within the project limits at start of construction shall be delineated on the state's plans.

The following table lists the most commonly used Standard Special Provisions for utility relocations. Any nonstandard Special Provision language must be approved through the Project Engineer.

Table 13.03-1 Standard Special Provisions (Section 13.03.04.06)

99 SSP No. Old SSP No.	Owner Code	Description	Instructions for Use
08-020 08-020 M	DE (Design)	Obstruction	Use when there are underground utilities on the project.
	SSP 08-020		
08-025 08-025 M	DE (Design)	Miscellaneous Clause for High Risk Facilities	Use for high risk facilities on special projects and trenching for the installation of electrical conduit is NOT required. Special projects are defined in Section 4-3 of the "Policy on High and Low Risk Underground Facilities Within Highway Rights of Way." Add to SSP 08-020.
	SSP 08-025		
08-026 08-026 M	DE (Design)	Miscellaneous Clause for High Risk Facilities	Use for high risk facilities on special projects and trenching for the installation of electrical conduit is required. Special projects are defined in Section 4-3 of the "Policy on High and Low Risk Underground Facilities Within Highway Rights of Way." Add to SSP 08-020.
	SSP 08-026		
08-027 08-027 M	RW	Miscellaneous Clauses for Utilities To Be Relocated During Construction	Use when utilities are to be relocated during construction. Add to SSP 08-020.
	SSP 08-027		
08-027 08-027 M	RW	Miscellaneous Clauses for Utilities To Be Relocated During Construction	Use when utilities are to be relocated during construction. Add to SSP 08-020.
	SSP 08-027		
08-030 08-030 M	RW	Miscellaneous Clause for Utility Right of Way Delay	Use when a right of way delay clause is required. Add to SSP 08-020.
	SSP 08-030		

13.03.05.00 Utilities on Structures

Occasionally, utility facilities that are located on an existing bridge must be relocated to a new structure as a result of a rebuild. Additionally, utilities currently in an underground or aerial position may be relocated into a structure as part of the relocation plan. In these situations, special conditions that require early coordination with Structures must be met so Owner needs can be included in both the plans and project specials. Structures must be advised as early as possible of any Owner's desire to install facilities on a structure.

13.03.05.01 Coordination Requirements

The placement of utility facilities on structures requires special coordination between the Owner, the Department, and the highway contractor as to who provides what material, who installs it, Owner's time frame for required installations, who pays for what and when, etc.

Structures has produced a form (Exhibit 13-EX-7) to obtain needed information. The Utility Coordinator is responsible for forwarding the form to the Owner for timely completion and subsequent return to Structures through the Project Engineer. See Exhibit 13-EX-8 for a sample transmittal letter to the Owner.

If Structures finds the preliminary information acceptable, they advise the Utility Coordinator through the Project Engineer. The Owner should then submit detailed installation plans by the date Structures specifies. The Utility Coordinator then requests the Owner's estimate of cost and claim of liability (see Section 13.03.04.04). The Owner should normally be given a minimum of 60 days to prepare plans (see Exhibit 13-EX-9).

If Structures does not find the preliminary plans acceptable, they inform the Project Engineer. The Utility Coordinator conveys this decision to the Owner and advises them to redesign or to develop plans not using the structure.

As an alternative procedure, the Utility Coordinator may, by a focus meeting or series of focus meetings, coordinate the relocation with Design, Structures, the utility company, and other personnel the Coordinator deems necessary to complete the design.

13.03.05.02 Guidelines for Utilities on Structures

The Division of Structures has established guidelines that define size limitations and special design requirements for utility installations on bridge structures. These guidelines, shown in Table 13.03-2 entitled "Guidelines for Utilities on Structures," apply to normal installations where utilities are installed in a box girder cell, suspended between girders (I- or T-girder structure types), or in sidewalk slab. Unusual utilities must be analyzed on a case-by-case basis. The Project Engineer should make preliminary decisions on possible utility placement on the bridge before design of the structure has begun.

Table 13.03-2

GUIDELINES FOR UTILITIES ON STRUCTURES (Section 13.03.05.02)	
Description	**Explanation**
Size	The maximum allowable utility size depends on structural constraints. When the utility depth, including its casing, exceeds one-third the bridge structure depth, accommodating the utility is difficult. Any utility or its casing over 20 inches may not be acceptable, and Structures Design or Structures Maintenance must be consulted. The maximum diameter conduit allowed in sidewalks is 4 inches.
Type	1. Electrical - The maximum voltage allowed in an electrical line is 69kv. High voltage installations in the sidewalk portions of the structure are strongly discouraged. Installing high voltage lines in box girder cells or between girders is preferable. Exceptions to this policy should be directed to Structures Design or Structures Maintenance. 2. High-Pressure Water and Sewer - The maximum diameter carrier pipe or casing allowed is 20 inches. The maximum operating pressure of a 20-inch carrier line is 100 psi. Full-length casing is required for all installations, but exceptions may be allowed for facilities in box girder bridges. 3. Volatile Gas - Installation must conform to Structures "Guidelines For Natural Gas Pipelines On Caltrans Bridges."
Combinations of Utilities	Volatile fluids, gases, or high voltage lines shall not occupy the same cell or area between girders with any other utility or with each other.
Seismic Design Requirements	Owners of facilities carrying volatile fluids, gases, or high-pressure fluids must be provided with the following options to be used when designing their facilities for expected seismic movement within the structure. 1. For existing structures, design for an expected minimum horizontal and/or vertical displacement of 2.5 inches. For new structures, design the facilities for an expected movement of 2.5 inches. 2. Provide an event-actuated device that will automatically shut off the utility line. 3. Provide a device that will detect a break in the utility line (and casing) and automatically shut off the utility line. 4. Locate the utility line off the bridge.

13.03.06.00 Utility Acquisitions

Public utility facilities impacted by highway construction normally have a functional replacement constructed and are seldom acquired. Exceptions are where the facilities are for administrative or other nonutility service uses.

The distinction between a public utility service use versus a nonutility use may be based on whether severance of the particular improvement directly affects utility service to one or more customers. An improvement that is determined to be a nonutility, e.g., corporate office, is appraised and acquired in the usual fashion.

The distinction between a public utility service and similar facilities that may only provide service to the Owner is frequently confusing (see Section 13.01.01.03). The latter improvements are appraised and acquired in the usual manner.

An exception to the purchased acquisition of private facilities is permissible for major oil companies where the Owner has agreed to application of standard rules on the functional replacement of facilities.

13.03.06.01 Uniform Acquisition Act Requirements

When the State or LPA acquires replacement right of way, the requirements of the Uniform Relocation Assistance And Real Property Acquisition Policies Act of 1970 (Uniform Act) and the Surface Transportation and Uniform Relocation Assistance Act of 1987 and its amendments to the Uniform Act apply.

When a privately owned utility acquires their own replacement right of way, the requirements of the Uniform Act do not apply.

13.03.06.02 Acquisition From the Utility Owner

Properties that lie in the path of transportation projects and are held in fee by Utility Owners must be purchased outright or exchanged.

Generally, most fee-owned property is for substations or pumping plants, although some Owners have fee-owned corridors for transmission purposes. (See Table 13.03-3 entitled “Acquisition from the Utility Owner.”

Table 13.03-3

ACQUISITION FROM THE UTILITY OWNER (Section 13.03.06.02)	
Type	**Requirement**
Fee-owned	All fee-owned property is acquired by R/W Acquisition via R/W Contract and Deed. Terms of the R/W Contract depend on whether the property in question is vacant or improved, and whether it is a site or a corridor. In all cases, the Utility Coordinator should consult with Acquisition to reach a full understanding about what the property is and how it may be used, now and in the future. Things to look for include: 1. Vacant Site - The Owner may be holding the site for future use in conjunction with an existing facility, such as a substation expansion. 2. Vacant Corridor - Although treatment is similar to a vacant site, the possibility of easement acquisition on the Owner's behalf or JUA/CCUA should be explored. 3. Utility Facility Improved Site - Replacement of the site is usually necessary. If done, Acquisition may handle via a R/W Contract. Relocation or rearrangement of utility facilities shall be handled by the Utility Coordinator via Utility Agreement in coordination with Acquisition. 4. Utility Facility Improved Corridor - Same as for an improved site; however, the possibility of replacing fee with easement or JUA/CCUA should be explored. Access to the replacement corridor must be considered. 5. Nonutility Occupied - Acquire via normal appraisal/acquisition procedures.
Easement-owned	1. Utility Occupied - Occupied easements are usually for transmission or distribution of the Owner's product. Where a replacement right of way is needed, the State or the Owner may acquire an easement. Usually the Owner's existing easement interest is quitclaimed to the State in exchange for the new location by executing a JUA/CCUA as a part of the utility relocation. 2. Nonutility Occupied - Acquisition is responsible for clearance of vacant easements.
Franchise/Permit Privileges	Except as noted below, the State is not obligated to provide a replacement right of way for utility facilities installed under a franchise or permit. In some cases, the State may need to make the method of installation for safety or other good reason a requirement for occupancy under an Encroachment Permit. For instance, the most common requirement is that the facility cannot continue to be installed within the right of way as an aerial facility. If the Owner does not meet our requirements for relocation within the new right of way, the Owner is responsible to provide any needed easement at their own expense. The exception is for facilities located within a freeway that will be relocated under S&H Code Section 702. Under Section 702, the State is obligated to provide a replacement easement if one is needed. Section 702 does not apply to Owners with master contracts that contain language superseding Section 702.

13.03.06.03 Acquisition for the Utility Owner (Replacement Right of Way)

If the Utility Owner has superior occupancy rights, the State can acquire the needed replacement right of way. The Owner normally selects the replacement right of way location, subject to the normal constraint of providing for necessary functional replacement only. Either the State or the Owner may accomplish the acquisition. If the replacement location crosses a parcel where the State is to make a highway acquisition, the preferred acquisition method is to include it in the State's acquisition program. The State may acquire the replacement right of way by one of the following methods (in order of preference):

- Acquired in the name of the Owner, preferably on the Owner's own deed form.
- Acquired in the name of the State by deed and subsequently conveyed to the Owner by Director's Deed.
- Use of State-owned (or to be acquired) excess land. Care must be exercised in making any commitments regarding acquisition of excess land. Liaison with Excess Land should be maintained so easements are reserved in excess land conveyances.

If the utility facility being displaced is not in a superior right status, the State may acquire the replacement utility easement as a convenience to and at the expense of the Owner, but cannot condemn for it. Where the facility was in an encroachment permit status only (non-prior rights), replacement utility easements must never be acquired at State expense as this would constitute a gift of public funds.

13.03.06.04 Consent to Condemnation for Exchange Purposes From the Owner

Condemnation may be necessary if the State is unable to acquire the replacement right of way through normal negotiations. A "Consent of Owner to Condemnation for Exchange Purposes" must be obtained from the Owner pursuant to Code of Civil Procedure Section 1240.320 to support a "Resolution of Necessity" from the CTC.

Individual consent forms need not be secured on each condemnation for the Owners listed below that have a basic form of consent on file with the State.

- **Pacific Gas and Electric Company** (Exhibit 13-EX-15A) - The State can condemn for PG&E without additional authorization, except that easement needs and location must have PG&E's prior acceptance.
- **Southern California Edison Company** (Exhibit 13-EX-15B) - SCE requires the Company's written approval of both the complaint form and easement location.
- **AT&T California** (formerly SBC, Pacific Bell Telephone Company and Pacific Telephone and Telegraph Company) (Exhibit 13-EX-15C) - AT&T California requires the Company's written approval of the easement location.
- **Southern California Gas Company** (Exhibit 13-EX-15D)
- **General Telephone Company** (Exhibit 13-EX-15E)

For Owners that do not have a consent form on file, the Utility Coordinator shall prepare a consent form using one of the accepted filed forms (13-EX-15A-E) as a guide and forward it to the Owner for execution on an individual parcel basis. Upon return of the executed consent form, it should be filed in the parcel file.

13.03.06.05 Utility Easements on Federal Lands

On Federal Lands, the State acquires a DOT Highway Easement, a Right of Way Easement, a License or a Permit, not fee title, for the project. Therefore, the State does not have the authority to allow a utility company to relocate within our right of way. The utility company's Real Estate Department will be required to deal directly with the involved Federal agency. Depending on the authority at the time the existing utility easement was issued, the Federal agency may amend or require a new right of way. The time frame is typically six months to a year from the date the requested easement package is given to the Federal agency. Utility relocation cannot begin until the issuance by the Federal agency of the new right of way to the utility company.

The Utility Coordinator's responsibilities include:

- Contact the Regional/District FHWA Coordinator as soon as possible to establish a plan.
- Provide early identification of required utility easements at field review.
- Coordinate between Federal Lands Specialists, Utility Owner staff, and our environmental department.
- Ensure the potential easement rights are considered during the environmental document stage. If covered in the State's environmental document, the Federal agency will require a copy of the final environmental document. (This could save the utility company time in obtaining the new right of way.)
- Provide the Utility Owner with necessary mapping and forms.
- Follow the progress of the negotiations between the Utility Owner and the Federal agency to ensure timely delivery.

NOTES:

13.04.00.00 - LIABILITY DETERMINATION PHASE

13.04.01.00 General

Liability determination is the process of analyzing the occupancy rights of the owner of utility facilities being impacted by a highway project versus the State's rights. Prior and/or superior rights in the area of the impacted facility form the basis for determining responsibility for payment of relocation costs. The burden of establishing prior and/or superior rights rests with the Owner. If the State has cost liability, the district is responsible for accumulating the data, providing a complete and accurate Report of Investigation, and confirming and approving the liability. In the case of 100% Owner liability, a Report of Investigation is not required if the Utility Coordinator has a written acknowledgment or diary entry to document the Owner's acceptance for 100% liability. Until liability is approved, the district is not to provide any determination to the Owner.

Since an incorrect liability determination may be interpreted by Utility Owners as representing a change in current Department policy, thus adversely impacting statewide relationships, the Region/District will be required to immediately contact the Utility Owner and correct any errors.

13.04.01.01 Determining Superior Rights

The Owner is responsible to prepare, document and submit a claim for their declared right of occupancy. If the Utility Coordinator's investigation confirms the Owner has rights prior and superior to those of the State, and Headquarters R/W or the authorized district person concurs, the Owner is paid for all or a portion of the actual and necessary costs of the required relocation work.

13.04.01.02 Liability Calculation

Liability determination is generally based on occupancy rights. Liability for the relocation cost is the responsibility of the entity that has the subservient right in the area of the existing impacted facility. However, the factors in Table 13.04-1 entitled "Liability Determination Factors" must be taken into consideration. Also, if an Owner has an executed Freeway Master Contract, all liability determinations on freeway projects are governed by the terms in the contract. See Section 13.04.03.00, et seq.

If the entire impacted facility is within an area of a single type of occupancy right, the entry in the subservient position is responsible for 100% of the relocation cost. If the facility area of occupancy consists of more than one type of occupancy right, e.g., part within a utility easement and part under an Encroachment Permit, then a proration between Owner and State of the total cost must be calculated using one of the three methods shown in Table 13.04-2 entitled "Methods of Calculating Proration of Cost."

It is important to remember that only the impacted portion of the existing utility facility that lies within the defined project limits is counted or measured, as applicable, for use in the proration formula. However, the total cost to be prorated includes the cost of relocated facilities both within and outside the right of way. This total cost must not include any betterment or other nonreimbursable items of cost.

Table 13.04-1

LIABILITY DETERMINATION FACTORS (Section 13.04.01.02)	
Factor	**Discussion**
What is the legal basis, if any, under which the utility facility is occupying the property?	Property rights are the primary determinant of the superior right of occupancy and will be based on one of the following: 1. Fee Ownership 2. Easement (recorded or unrecorded) 3. Implied/Secondary Easement 4. Joint Use and/or Consent To Common Use Agreements 5. Prescriptive Right 6. Lease 7. License 8. Franchise 9. Encroachment Permit 10. Trespass Normally, Items 1 through 5 establish prior rights, and the State is probably liable for relocation costs, unless the documents involved contain clauses that reserved to the original grantor the right to order one or more relocations at the grantee's expense. Occupancy under Items 6 through 10 usually requires that relocations be at the Owner's expense on conventional highways. Item 8 is addressed in S&H Code Section 680 for conventional highways. Item 9 is addressed in S&H Code Section 673. Item 7 is generally like a permit and can be canceled by the fee owner of the property; therefore, the State must be the fee owner of the property to exercise any contractual rights that were originally reserved by the grantors. Item 10 is generally treated as a highway encroachment permit.
Is there a Freeway Master Contract between the Owner and State?	The State has entered into Freeway Master Contracts with several Owners. When the terms of a Freeway Master Contract address any specific S&H Code section or right, the terms of the Contract supersede the requirements of the applicable statute.
When was the route adopted by formal action of the CTC as a State Highway?	This date establishes the order of priority for the State and Owners for superior rights.
When was the adopted route declared by formal action of the CTC to be a freeway or expressway?	After the date of formal action, freeway statutes and Freeway Master Contracts apply.

Table 13.04-2

METHODS OF CALCULATING PRORATION OF COST (Section 13.04.01.02)		
Method	**Usage**	**Explanation**
Pole Count	Pole count is the normal method used for aerial facilities.	The calculation is based exclusively on the number of impacted poles located within the project limits where the Owner has the superior right, divided by the total number of impacted poles within the project limits. This calculation produces the State's share of the total relocation cost. Equal weight is normally given to each impacted pole within the project limits regardless of ancillary equipment or attachments such as guys, transformers, and switches. The impacted poles must be otherwise similar, as wood pole relocation costs are greatly different than special designed steel poles or other supporting structures. If impacted poles are of a mixed type, separate costing may be necessary for the dissimilar poles. See "Dollar Weighted" method below.
Facility Length	Measurement of the length of the impacted facilities is normally used for underground facilities, such as gas, sewer, and water, or for cables either directly buried or within conduits and for facilities on the surface, such as ditches or conduits.	The calculation to prorate liability is similar to the pole count method above and is based on the Owner's superior right length of the impacted facility lying within the project limits divided by the total impacted length within the project limits. The measured lengths must be of the same or similar size and type of facility, irrespective of ancillary equipment or features such as valves, manholes, switches, and transformers.
Dollar Weighted	This method is used where mixed facilities are to be prorated.	This approach requires considerably more effort and documentation, as it is necessary to establish and support an installed replacement cost new for the existing facilities. The simple cost of the materials is not sufficient to establish this proration. The calculation is based on the installed replacement cost new of the existing facilities located within the project limits where the Owner has the superior right, divided by the total of the installed replacement cost new for all of the impacted existing facilities within the project limits. This calculation produces the State's share of the total relocation cost.

<u>13.04.01.03</u> <u>Report of Investigation (ROI) Plan</u>

The ROI plan is crucial to liability determination. Like an appraisal map, it shows who owns what and shows the before and after location of improvements and property rights. Since relocation liability is generally based on property rights, accurate plotting of the State's and Owners' rights of way is essential to an accurate liability determination. See Section 13.05.03.01 for specific ROI plan requirements.

13.04.02.00 Conventional Highway or Freeway

Liability determination methodology for conventional highway projects and freeway projects is basically the same. However, different S&H Code sections apply and some owners have signed Master Contracts that apply only to freeway projects. In addition, the Department has entered into numerous Positive Location Agreements where the cost of the positive locations, whether on a highway or freeway, will be the liability of the State. (See Section 13.03.03.01 for information about Positive Location Agreements.)

13.04.02.01 Conventional Highway Relocations

Liability for the cost of relocating facilities to provide for conventional highway construction is primarily based on occupancy rights. The Owner is generally obligated to remove, relocate, etc., their facilities at their sole expense unless such facilities are in place pursuant to rights prior and superior to those of the State. In addition, Section 13.04.05.02 [the relocation of a facility for a temporary move of the highway (detour)] and Sections 13.04.06.00-13.04.06.02 (a facility to be relocated pursuant to Water Code Section 7034 or 7035) modify and/or supersede basic occupancy rights.

If an existing conventional State highway route has been declared/designated a freeway, the project is considered a conventional highway project unless both the following conditions are met:

- The current project includes acquisition of access rights from adjoining properties.
- The current project right of way acquisition and roadway improvement are part of the ultimate freeway design.

NOTE: Where access rights are being acquired as part of a conventional highway, the project shall not be considered a freeway project unless the route has been designated as part of the freeway and expressway system (S&H Code Section 250, et seq.). If not so designated, S&H Code Sections 703 through 707.5 are not applicable to liability determination.

13.04.02.02 Freeway Relocations

Liability for the cost of relocating facilities to provide for construction of a State freeway or expressway is determined by a combination of occupancy rights, statutes (S&H Code Sections 700 through 707.5), and applicable Master Contracts.

Extension or reconstruction of city streets or county roads done in accordance with a Freeway Agreement that provides for closure of streets or roads for freeway construction is considered part of the freeway project for the purpose of determining liability.

Facilities installed in a road prior to a CTC resolution adopting the road as a State highway shall be considered as originally installed before the road became a State highway for application of S&H Code Sections 700, et seq. All new facilities, including additional equipment and cables installed in existing facilities, placed within the State freeway after the CTC resolution shall be relocated at the Owner's expense.

13.04.02.03 Bicycle Path Construction

S&H Code Section 156, et seq., provides that the Department may enter into an agreement with another agency for construction of bicycle paths or other nonmotorized transportation facilities along State highway rights of way. The Department's contribution, if any, toward the construction cost shall be based upon a finding that the facility will result in increased traffic safety or highway capacity. If construction of a new freeway will cause the severance or destruction of an existing nonmotorized transportation facility, the Department is to provide a reasonable alternative routing for the facility.

The Department's cost liability for relocation of utility facilities impacted by construction of bicycle paths is dependent on a number of factors and is determined in accordance with the rules in Table 13.04-3 entitled "Liability for Bikeways."

Table 13.04-3

LIABILITY FOR BIKEWAYS (Section 13.04.02.03)	
Situation	**Rule**
Freeway construction where there is no increase in highway safety or capacity due to the bikeway construction.	1. Use of State highway funds for utility relocation is not authorized for a bikeway construction project when there is no increase in traffic safety or capacity. 2. If freeway construction severs or destroys an existing improved nonmotorized transportation route, Department shall pay the cost of utility relocation to provide a reasonable alternate route. 3. In designing freeways, Department shall consider local agencies' master plans for nonmotorized transportation, but the cost of construction other than design cost is the responsibility of the local agency or others.
Freeway construction with a supportable determination of increased highway safety or capacity due to the bikeway construction.	1. If the nonmotorized transportation facility is designed and built within the freeway right of way and in connection with the freeway construction project, liability for utility relocation is pursuant to S&H Code Section 700, et seq., or the Freeway Master Contracts where applicable. 2. If construction of a nonmotorized transportation facility is outside the freeway right of way but within a frontage road, either State-owned or relinquished to a local agency, liability is based on common law priority of rights except when a Freeway Master Contract is involved. In the latter situation, the Contract will control.
Conventional State highway construction where there is no increase in highway safety or capacity due to the bikeway construction.	Use of State highway funds for utility relocation is not authorized for a bikeway construction project when there is no increase in traffic safety or capacity.
Conventional State highway construction with a supportable determination of increased highway safety or capacity due to the bikeway construction.	Cost of facility relocation is based on common law priority of rights. If the Utility Owner has prior and superior rights, payment for utility relocations may be paid from State highway funds.

13.04.03.00 Master Contracts

Following enactment of the Collier-Burns Act in 1947 (which includes most of S&H Code Sections 700-711), the accumulation of disputed claims was of such magnitude as to threaten delay of the newly enacted freeway program. To meet the problem, the Legislature in 1951 enacted S&H Code Section 707.5, which authorizes the Department to enter into contracts with Utility Owners that supersede the provisions of the S&H Code identified in such contracts and govern exclusively the apportionment of relocation costs.

Section 707.5 has been interpreted to allow the Department to apportion liability under these contracts so as to achieve the result that would have been obtained over a period of time in the absence of such contracts. Thus, the determination of the apportionment provisions, as well as other terms, has been based on examination of past experience and evaluation of liability in the future. These contracts, while involving compromise, reflect as nearly as the Department can predict the overall liability that would exist without them.

Freeway Master Contracts govern apportionment of the cost of rearranging facilities in connection with freeway projects in lieu of the provisions of S&H Code Section 700, et seq. In other words, under Master Contracts, the provisions of the S&H Code and other laws have no application to the rearrangement of the facilities on freeway projects and are replaced by the terms of the Master Contracts. The contracts do not affect relocations on conventional highways.

NOTE: Only three original contracts from the 1950s and 1960s remain in effect, which are shown as Exhibits 13-EX-18L, 13-EX-18M, and 13-EX-18N.

13.04.03.01 Interpretation of Master Contracts

Master Contract liability determinations apply to all State freeway projects regardless of who funds the project or does the work; therefore, consistent statewide interpretations are mandatory. (See Section 13.12.02.00 for more information.) However, the Master Contracts do not apply to any private-developer-initiated and privately funded project. In accordance with statutory and judicial law, the developer shall pay for all utility adjustments required to accommodate a private-developer-sponsored project. (See Section 13.12.04.00.)

There are several Master Contracts in place with different utility companies. A list can be found on HQ Right of Way Utility Relocations Web site at http://onramp.dot.ca.gov/hq/row/offices/Right_of_Way_Utility_Relocations/. Although the current Master Contracts are much simpler than previous Master Agreements, careful interpretation is crucial.

Application of Master Contracts to relocations on adjunct, ancillary or nonhighway use parcels/projects must be carefully considered and the HQ R/W Utility Liaison should be contacted for discussion.

Any question or conflict concerning interpretation of any terms or scope of a Master Contract may be submitted to Headquarters R/W if the district cannot resolve. Master Contracts can be found on the HQ Right of Way Utility Relocations Web site at http://onramp.dot.ca.gov/hq/row/offices/Right_of_Way_Utility_Relocations/.

13.04.03.02 Application of Master Contracts

Master Contracts apply to freeway projects as defined in the Master Contract on highways that are part of the California Freeway and Expressway system. See S&H Code Section 250, et seq., as a guide for a listing of applicable highway routes. A guide for each highway can be found at http://www.dot.ca.gov/hq/tsip/hseb/products/state_highway_routes_selected_information_1995_revised.pdf.

The project is not considered a freeway project unless access rights to adjoining property have been previously acquired or are being acquired as part of the immediate project.

Master Contracts apply to utility facilities within the freeway rights of way and any other frontage or local road being reconstructed as a direct part of the freeway project. Master Contract terms should not be applied to other ancillary highway improvement projects, such as park-and-ride lots and acquisition of replacement property sites, unless such sites are acquired as part of a freeway project.

13.04.04.00 Property Rights

The Owner may submit one or more superior right claims for a facility. Each prior right claim the Owner submits must be fully documented and supported. The documentation must be referenced in, and attached to, the Report of Investigation (ROI) (see Section 13.05.00.00). The types of property rights in the following sections are applicable to both conventional highways and freeways. They generally indicate how each superior right should be documented and the extent to which the Utility Coordinator should investigate the validity of the Owner's claim. (See also Table 13.03-3, "Acquisition from the Utility Owner.")

NOTE: When reviewing a superior rights claim, the Utility Coordinator must determine if there is a Master Contract with the Owner that may modify or supersede normal occupancy rights or statutes and establish the basis of the Owner's claim.

13.04.04.01 Fee Ownership

The State is liable for relocation costs any time the facility is on property where the Owner has fee title. The Utility Coordinator shall review title reports and right of way maps to verify Ownership.

All fee-owned property must be acquired by R/W Acquisition via R/W Contract and Deed. Relocation or rearrangement of utility facilities shall be handled by the Utility Coordinator via Utility Agreement in coordination with Acquisition. The Utility Coordinator must ensure the R/W Contract and/or Utility Agreement covering relocation does not set up a double payment for property rights.

13.04.04.02 Easement

In most cases, when the facility is located within an easement, recorded or unrecorded, the State is liable for relocation costs. When the Owner claims a superior right pursuant to a prior easement, the Utility Coordinator must verify the location of the easement, that the easement is valid and that the Owner's rights are prior and superior to the State's.

Any Owner's relocation obligation or other limitation clauses within the easement document may be passed to the State upon acquisition of the underlying fee and must be investigated to determine if they are in conflict with the Owner's claim. State's liability for relocation costs under a valid easement extends to subsequent additions to those facilities originally installed as long as the additions are not inconsistent with the terms of the easement.

13.04.04.03 Implied/Secondary Easement

All city-owned facilities located in city streets and county-owned facilities located in county roads that were installed in the street or road within the city or county jurisdictional limits prior to their becoming a State highway are considered to be installed in the Owner's implied easement reservation. All facilities so located are relocated at State expense. The Utility Coordinator should check permits, "as-built" drawings, and the Owner's records to confirm the facilities were installed prior to the date the CTC adopted the route.

After the date the CTC adopted the route, the local agency may maintain or even improve their facilities as long as the improved facility remains in substantially the same location. The local agency may not, however, expand upon their existing system by installing new parallel facilities except under the usual encroachment permit requirement.

Facilities not under the city's or county's direct ownership and control, such as regional sanitation or fire districts, are not subject to the implied/secondary easement liability rule.

13.04.04.04 Joint Use and Consent to Common Use Agreements

In most cases, the State will bear relocation costs for facilities installed within a JUA or CCUA area. The Utility Coordinator must determine that the JUA/CCUA existing facility is, in fact, in the area of the JUA/CCUA by comparing the facility location with the JUA/CCUA description. The document must also be reviewed for any conditions that may change or limit the Owner's rights such as:

- A JUA/CCUA based on prescriptive rights where the existing facility is different than the facility covered in the JUA/CCUA, e.g., rights for a buried 4-inch gas line but the facility to be relocated is a 16-inch gas line.
- A JUA/CCUA has an expiration date for the Owner's rights.

An Owner has the legal right to expand their facilities to the extent allowed by the terms and conditions of an easement deed. This right extends to a JUA and CCUA granted in recognition of existing easement deeds but does not extend to prescriptive right claims. Regardless of Owner's prior rights or existing JUA/CCUA, any expansion of Owner's facilities within the highway right of way must be in accordance with encroachment permit requirements. (See Section 13.11.00.00 for more information on JUA/CCUAs.)

13.04.04.05 Prescriptive Right

Relocation costs for facilities installed under a right of occupancy established by a prescriptive right may become the State's liability if the occupancy condition meets statutory requirements. The occupancy right must have been:

- established by the open and notorious adverse use of another's property, and
- installed on private property with the knowledge of the property owner but without a right of way, permit, lease, or other license, and
- continuously maintained in the same location for the prescriptive period of at least five years.

If underground facilities are involved, the original installation and continuous maintenance of the facility in the prescriptive location must be with the property owner's knowledge. Prescriptive rights cannot be established on publicly owned property. The Owner must submit a claim letter containing the above-mentioned statutory requirements (see Exhibit 13-EX-19 for an example).

The extent of the prescriptive easement is measured by the Owner's use during the preceding five years. Accordingly, the precise extent of the prescriptive easement, e.g., "a single line of poles with one cross-arm and eight telephone wires," should be set out in any instrument in which the State recognizes the superiority of such rights over those of the State.

The Owner has the burden of proof in establishing a valid claim to a prescriptive right. The factual situation where prescriptive rights are claimed shall be carefully investigated. The possibility of entry and occupancy under lease, permit, license, or other permissive use should be explored.

The determination of liability under Prescriptive Right requires the completion of Form RW 13-18.

13.04.04.06 Lease

A lease is similar to an easement; however, it is restricted to a specific time period written into the lease. The Utility Coordinator should investigate the validity of the lease in the same manner as for easements, e.g., the ownership and description. Any Utility Owner's relocation obligations or other limitation clauses contained in the lease may be passed to the State upon acquisition of the underlying fee and must be investigated to determine if they conflict with the Utility Owner's claim. If the Utility Owner has a valid lease and there are no provisions for Owners to pay for the relocation, the cost is usually the burden of the State.

13.04.04.07 License

A license is permission from a property owner for another person to use land. A license differs from an easement or a lease in that it is only between the two parties and cannot be transferred unless it is specifically written into the license. Normally, when an Owner has a license and the State acquires the property on which the facility exists, the license is no longer valid and the State can require the Owner to relocate at their own expense.

The Utility Coordinator must read the license to determine if the above requirements, such as successors or assigns, are mentioned in the license.

When evaluating a license, the Utility Coordinator must take into account the level of title the State has already acquired at the time of issuance of the Notice to Owner because only the fee owner of property can enforce conditions reserved in the license.

NOTE: When the Owner has placed substantial improvements within the license area, a review by Legal is necessary before determining liability.

13.04.04.08 Franchise

Utility facilities that are placed in public rights of way pursuant to a franchise privilege from a city or county, or pursuant to State Law do not convey any property rights and Utility Owners are to relocate at their own expense whenever requested to do so for a legitimate or proper governmental purpose by State or local authorities. Required relocations for construction of maintenance stations, highway drainage, truck inspection facilities, accommodation of other relocated utility facilities, functional replacement acquisition sites, etc., are covered under "proper governmental purpose." However, circumstances of each utility relocation, with respect to provisions of the specific franchise involved, must be carefully reviewed. See also Section 13.04.05.02.

13.04.04.09 Encroachment Permit

An Encroachment Permit is a form of license that provides permission to the Owner to install a facility but does not convey any property rights. The permit also imposes certain restrictions on the Owner. The permit contains a relocation clause that states the Owner must relocate their facilities upon request at the Owner's own expense. See also Section 13.04.05.01.

13.04.04.10 Joint Pole Agreement Cost Liability Determination

The California Public Utilities Commission has authorized the joint sharing of poles by different Utility Owners, through a Joint Pole Agreement (JPA) as a means of providing more cost effective service and to reduce "utility pole blight." The JPA rarely, if ever, will convey property rights to the joint pole user. The Lead Pole Owner's (Owner of the Pole) rights must be reviewed to determine joint pole user's rights. As with any claim of property right, the Owner making such a claim must submit all necessary documents to support that claim.

On joint pole facilities, when multiple Owners are found sharing the pole, each joint pole user must submit all necessary documents to support their claim whether or not the JPA covers such use. The joint pole user may have a valid cost liability claim even though they occupy the pole under a lease, license, or permit with the Lead Pole Owner.

If the Utility Owner has a Freeway Master Contract, liability for the JPA will be determined pursuant to the Freeway Master Contract.

If the Region/District is unclear as to liability at this point, Headquarters' Right of Way and Legal should be consulted.

13.04.05.00 Streets and Highways Code

The provisions of S&H Code Sections 673 and 680 authorize the State to issue a written notice to the Owner to remove, relocate, positively locate, etc., facilities installed under permit or franchise privilege at the Owner's expense (see Sections 13.04.04.08 and 13.04.04.09).

Sections 700 through 711 pertain only to utility facilities in access-controlled freeways or expressways. Where the Owner has a valid superior right and is also entitled to reimbursement under one of the 700 series of the Code, the basis for the State's liability must be the Owner's superior right (unless modified by a Master Contract). This allows the State to perpetuate the Owner's superior right within the freeway right of way.

Liability for the cost of relocating facilities to provide for improvement of State freeways is generally based on the superior occupancy right in the same manner as previously discussed for conventional highways. However, S&H Code Sections 702 through 707.5 modify this basis for freeway projects and must therefore be carefully reviewed and applied. In addition, Master Contracts modify and/or supersede S&H Code Sections 702 through 707.

Below is a description of each section within the S&H Code that applies to the relocation of utility facilities.

NOTE: As used in the following S&H Code Sections, "lawfully maintained" means "A utility facility that has a legal basis/right to be in its present location and, therefore, is not in trespass." An Encroachment Permit satisfies the requirement of "lawfully maintained."

13.04.05.01 Section 673 - Relocation or Removal of Encroachment

This section applies to publicly owned facilities, such as counties, cities, public corporations, or political subdivisions (governmental agencies), where the governmental agency has been issued an Encroachment Permit by the Department to install facilities within a conventional highway. When the facility requires relocation for improvement of the highway, the governmental agency must relocate at their own expense. See also Section 13.04.04.09.

13.04.05.02 Section 680 - Franchises in State Highways; Temporary Relocations

This section applies to Owners who have installed their facilities within a conventional highway by a franchise privilege guarded by a governmental agency. When the facility requires relocation for a highway improvement, the Department can enforce provisions of the franchise and require the facility to be relocated at Owner's expense. An Owner may occasionally claim relocation is at State's expense pursuant to provisions of their franchise. In these situations, the Utility Coordinator must review the franchise to ensure the provisions apply. See also Section 13.04.04.08.

Relocation for temporary purposes has historically been interpreted to mean a utility relocation that results from a temporary move of the highway (a detour). Thus, any utility adjustment resulting from a temporary move of the highway (a detour) is at State's expense.

Utility relocations necessary to permit the safe construction of the highway project, such as utility "shooflies," are not considered to be relocations for temporary purposes under the law. In this situation, the Owner has the option to temporarily relocate to clear construction or to permanently relocate to another location rather than to go back to their original location. In this situation, the Notice must <u>not</u> refer to a temporary relocation as it is entirely the Owner's option as to whether they wish to return to the original location.

Liability for temporary relocations that are requested by the highway contractor as a means of convenience for construction shall be the highway contractor's responsibility. The Project or Resident Engineer, as appropriate, shall determine construction necessity versus contractor's convenience.

13.04.05.03 Section 702 - Relocation Outside Freeway

This section applies in situations where the Owner is required to remove and relocate their existing lawfully maintained facility to a location entirely outside the freeway right of way. The State must pay the reasonable and necessary cost of such removal, relocation, and reinstallation into the new location.

This section does not apply to relocation of the facility from one location within the freeway to another location within the freeway, nor does it apply to relocations into a service road or outer highway because these are considered part of the freeway.

Essentially, this section only applies if a utility easement is required to accomplish the relocation of the Owner's facilities entirely outside the State's or other public road right of way.

13.04.05.04 Section 703 - Relocation Within Freeway

This section applies to situations where the State requires the Owner to relocate their existing facilities from one location within a freeway right of way to another location within the freeway right of way. Several different types of facilities are covered as shown in Table 13.04-4 entitled "S&H Code 703 - Relocations Within Freeways - Types of Facilities."

Table 13.04-4

S&H CODE 703 - RELOCATIONS WITHIN FREEWAYS - TYPES OF FACILITIES (Section 13.04.05.04)	
Type	**Requirements**
Publicly owned utility facilities other than sewers, fire hydrants, and street lights	Whenever relocation of such facilities is required, the State shall pay the cost of relocation, provided the facility was lawfully maintained and originally installed in its existing location prior to the public roadway becoming part of a State highway. **NOTE:** An important critical control date for determining liability is the CTC freeway adoption date. The State highway alignment, including the local streets and roads within its boundaries, shall be considered a part of the State freeway from the CTC freeway adoption date forward.
Privately owned water facilities	Whenever relocation of such facilities used solely to supply water is required, the State shall pay the cost of relocation, provided the water facility was lawfully maintained and originally installed in its existing location prior to the local street or road becoming a State highway.
Privately owned utility facilities other than water	Whenever relocation of such facilities is required, the State must pay the cost of relocation provided: 1. The facility was lawfully maintained and originally installed in its existing location prior to the local street or road becoming part of a State highway. 2. The facility, as established by the Owner, is not under an express contractual obligation to relocate at the Owner's expense. **NOTE:** The term "express contractual obligation" means a written obligation. Franchises dated after 1937 were generally written to comply with the State Franchise Act, which does spell out the obligation in writing.
Sewers, fire hydrants, and street lights	Publicly owned sewers, publicly or privately owned fire hydrants, and publicly or privately owned street lighting structures that are required to relocate shall be relocated at State expense, regardless of maintenance or original date of installation in the local street or road.

13.04.05.05 Section 704 - Subsequent Relocation

If the State requires an Owner to relocate any of their facilities within the freeway right of way more than once within a period of ten years, the State shall pay the cost of the second relocation and any subsequent relocation within the ten-year period. The ten-year period is interpreted as the date between completion of the original relocation to the beginning of construction on the subsequent relocation. Each time a new relocation is accomplished, the ten-year period starts anew.

13.04.05.06 Section 705 - Allowable Credit on Relocation

In any case in which the State is required under the provisions of the S&H Code to pay the cost of rearranging, removing or relocating any facility, the State shall be entitled to credits as shown in Table 13.04-5 entitled "S&H Code Section 705 - Allowable Credits."

Table 13.04-5

S&H CODE SECTION 705 - ALLOWABLE CREDITS (Section 13.04.05.06)	
Type	**Explanation**
Betterment Credit	The State should only pay for a functional equivalent replacement of the impacted utility facility. Any increase in the size or capacity of the facility that is for the Owner's benefit is considered the Owner's betterment. The State shall receive a credit for the difference between the cost of the functional replacement of the original facility and the cost of the facility as constructed. There are exceptions to the general rule. However, any betterments that result in increased capacity or more desirable placement that the Owner may claim to be at State's expense must be carefully reviewed. In the following instances, betterment may, at the State's discretion, be accepted as part of the State's liability: 1. Required by the highway project. 2. Replacement devices or materials that are of equivalent standards although not identical. 3. Replacement of devices or materials no longer regularly manufactured with next higher grade or size. 4. Required by State or Federal law or regulation. 5. Required by current design practices regularly followed by the Owner in their own work, but only if there is a direct benefit to the highway project. The Utility Coordinator is responsible to determine the overall scope of the betterment, and Audits is responsible to verify accuracy of the Owner's calculation. Usually, betterment issues must be discussed with Headquarters R/W before final resolution. Betterment is normally measured by an increase in size or capacity such as a larger pipe, a greater number of telephone circuits, additional conduits, or a higher capacity power line. A betterment credit is not limited to the cost of materials, but must include all increased costs of engineering and installing the betterment facilities. Examples of some extra costs may be additional engineering, special construction methods, and increased overhead.

Table 13.04-5 (Continued)

<table>
<tr><th colspan="2">S&H CODE SECTION 705 - ALLOWABLE CREDITS (Section 13.04.05.06)</th></tr>
<tr><th>Type</th><th>Explanation</th></tr>
<tr><td>Salvage Credit</td><td>When relocation is required, the State shall be given credit for the value of any materials from the old facility that the Owner removes and/or retains from the construction project. Generally, such material is either reconditioned and returned to stock or sold as scrap. Under PUC accounting regulations, Utility Owners shall provide a credit based on the original cost.

The State is entitled to a credit for each item of material returned to stock at its current inventory price less depreciation and less cost of reconditioning. The State is also entitled to a credit in the amount of the sales price or, if not sold at the time of billing, the estimated value for materials sold or to be sold as scrap or junk.

The Owner must be made aware that the State will not participate in the cost of removing a facility where the cost is greater than its salvage value unless it has to be removed for safety or aesthetic reasons. See Section 13.04.07.09 for additional discussions of removal of hazardous material.</td></tr>
<tr><td>Accrued Depreciation Credit/Used Life Credit</td><td>The State shall receive credit for accrued depreciation on the old facilities whenever the relocation of a facility is required. Where there are no replacement facilities, such as for abandoned facilities, credit for depreciation shall not be taken.

Accrued depreciation credit is an allowance for the value of expired service life or used life. Expired service life/used life is that portion of a facility’s useful life for which the Owner has received a return on their investment or benefit of service. The credit given shall be based on straight line depreciation computed on original installed cost, age of facility and normal expected life as reflected in the Owner’s books or calculated by industry standards. For example:

$$\text{Credit} = \frac{\text{Age of Facility}}{\text{Normal Expected Life}} \text{ (Original Cost)}$$

Following are special conditions for handling accrued depreciation credits for publicly owned sewers and private oil company facilities:

1. Publicly owned sewers - The State is not entitled to receive a credit for accrued depreciation on relocations of publicly owned sewers.

2. Private oil companies - The State is to receive a credit for depreciation on noncommon carrier (nonpublic utility) longitudinal facilities owned by oil companies. The State has historically calculated accrued depreciation credit on the following basis:

• Straight-line depreciation, as with other Utility Owners, except the normal expected life will always be 40 years, as previously agreed to by the State and the oil companies. In other words, only for the purpose of calculating accrued depreciation credits, the subject oil facility will always have a normal expected life of 40 years.

• Credit is not to exceed 70 percent of the original installation cost.

• When no accrued depreciation credit is provided, or the credit supplied is zero, the Owner must supply proof of the remaining service life of the facility and a written certificate from the Owner’s comptroller or chief accountant stating that no part of the replacement facility will be capitalized or depreciated. (See Section 13.07.06.02.)</td></tr>
</table>

13.04.05.07 Section 707.5 - Contracts With Utilities; Freeway Master Contracts

Statutes provide that the State and any Owner, as defined in S&H Code Section 700, may enter into a contract providing for pro rata liability for the costs for affected utility facilities.

(See Section 13.04.03.00 and Exhibit 13-EX-18 for further information on Master Contracts.)

13.04.06.00 Water Codes

Water Code Sections 7034 and 7035 were enacted to cover liability for existing bridges and water conduits lying within the existing right of way for crossings of either freeways or conventional highways. Conduits include canals, ditches, culverts, pipelines, flumes, or other facilities for conducting water. "Bridge" means a structure constructed to allow the conducting of water underneath by canal, ditch, flume or other uncovered facility for conducting water.

If a conduit is relocated or replaced pursuant to Section 7034 or 7035, the State is not entitled to credit for depreciation, but will be entitled to credits for betterments and salvage. The State shall only be responsible for replacement in kind, e.g., same size and type.

Application of Section 7034 or 7035 is not to be considered where the conduit is located longitudinally in the highway. Where the facts of a situation fall within both sections, Section 7034 will be applied. Sections 7034 and 7035 are not to be used if the Owner of the facility has some form of property right, such as fee title or easement.

When the Utility Company cannot provide information showing the facility predated the highway, the Utility Coordinator may have to make some additional verification efforts. The Utility Coordinator should refer to old Departmental as-builts, old subdivision maps, old title reports, or old aerial or other historical photographs. The Utility Coordinator should also discuss the existing facility with District Maintenance to determine if the Department has ever performed maintenance acts that may tie the Department to liability for the relocation.

The determination of liability under the Water Code requires the completion of Form RW 13-19.

13.04.06.01 Section 7034

Section 7034 provides that the bridge or conduit will become the sole responsibility of the county (or the State where the county road has subsequently become a State highway) where it has been or will be placed across county roads, if:

- The facility has been constructed in a permanent manner and constructed or brought up to county standards.
- The facility has been accepted either formally or informally by the county.

Acceptance is defined as:

- **Formal acceptance** - Formal acceptance means the County Board of Supervisors has taken appropriate action, usually in the form of a motion or resolution.

- **Informal acceptance** - While the meaning of informal acceptance (action) is not free from doubt, evidence of the act or acts by the county exercising jurisdiction over the conduit or bridge and indicating an intent on the part of the county to take over the facility, such as periodic acts of maintenance or substantial repairs or replacement, represent informal acceptance of the facility.

If both of the above requirements are fulfilled, the bridge or conduit becomes the sole responsibility of the county or the State if the county road has subsequently become a State highway. The State is obligated to structurally maintain, repair, improve for the benefit of the county or the State, reconstruct, or replace such bridge or conduit. The Owner shall be responsible for keeping the conduit clean and free from obstruction and debris to ensure the free passage of water in the conduit. (See Utility Clause V-10 in Section 13.07.03.05 for specific utility clause language.)

In a relocation under Section 7034, a JUA or CCUA should not be issued to the Owner as this implies the Owner had prior rights. The Utility Owner would remain under an encroachment permit.

13.04.06.02 Section 7035

The effect of Section 7035 is to establish responsibility for relocation costs when an existing conduit (but not a bridge) crosses the highway without evidence of prior rights and the State's records of its right of way do not establish a superior right. Section 7035, where applicable, establishes a conclusive presumption of prior rights in the conduit Owner. Use Section 7035 only if some other form of prior rights cannot be established. This law also requires the replaced or reconstructed conduit resulting from a State-initiated project to become the State's responsibility for future repairs, relocation, replacement and structural maintenance similar to that required by Section 7034. This applies only to the conduit portion of Owner's facilities that lie within the State highway right of way and does not apply if such repair or replacement is necessary by negligent or wrongful acts of the Owner.

In addition, the Owner shall be responsible for keeping the conduit clean and free from obstructions and debris to ensure the free passage of water in the conduit. (See Utility Clause V-10 in Section 13.07.03.05 for specific utility clause language.) In no event is the State to accept responsibility for maintenance of the conduit, such as cleaning out dirt or silt.

The issuance of a JUA or CCUA is appropriate for a relocation under Water Code Section 7035.

Special clauses in the JUA/CCUA may be appropriate (see Sections 13.07.03.05 and 13.11.05.01).

13.04.07.00 Special Liability Issues

There are numerous types of miscellaneous costs for which the Owner may or may not be reimbursed that do not directly relate to a single authorizing statute. Liability for reimbursement of such costs is determined by previous legal interpretation or judicial ruling of existing utility relocation law and from nonutility related statutes. Unique costs must be cleared with Headquarters R/W before entering into an agreement requiring State reimbursement of such unique costs.

13.04.07.01 Interest During Construction

State utility regulations permit Utility Owners to be reimbursed for interest expenses on funds used or borrowed for use during construction as a cost of construction (also known as Allowance on Funds Used During Construction or AFUDC). The California PUC has accepted these regulations as being applicable to State-ordered relocation work. Final reimbursement of interest charges is conditioned on Audit approval. In general, interest is allowed only where unreimbursed completed work is substantial, the facility has not yet been put back into service, and the Owner is using monthly or quarterly progress billing to minimize outstanding reimbursable costs. These interest expenses are not Federal-aid reimbursable. (See also Sections 13.07.03.04 IV-3 and 13.14.10.01.)

13.04.07.02 Contributions in Aid of Construction (CIAC)/Income Tax Component of Contributions and Advances (ITCCA)

Utility billings for reimbursement of relocation expenses pursuant to a Utility Agreement are not subject to CIAC/ITCCA and will not be paid.

After enactment of Section 824 of the Federal Tax Reform Act of 1986, the IRS released Bulletin 1987-51 which provides guidance with respect to the treatment of CIAC. The IRS determined the contributions by customers or potential customers are not contributions to capital and are not excluded from gross income and are, thus, taxable. However, the IRS subsequently determined that many types of relocation fees were not affected by this change. Where the utility is being reimbursed for the costs of relocating utility lines to accommodate the construction or expansion of a highway for the benefit of the public at large and not for the provision of utility services, those reimbursements are not taxable. This should also include Local Public Agency (LPA) projects, but not private developer initiated, privately funded projects.

If the Utility Coordinator receives an estimate or bill including this charge, return it to the Owner and direct them to remove it and resubmit the bill.

13.04.07.03 Clearance of Highway Adjunct Properties

On occasion, the State acquires separate properties for the purpose of fulfilling a highway construction or operational need, such as roadside rests, park-and-ride lots, weigh stations, and mitigation parcels. Relocation of utility facilities on these properties follows the same laws and rules applicable to the highway project for which these adjunct sites were acquired. This means that a park-and-ride lot in support of a freeway follows laws and rules applicable to freeways. See Section 13.04.03.02, Application of Master Contracts.

13.04.07.04 Extraordinary Relocation Costs

The State normally pays its pro rata share of all reasonable and necessary utility relocation costs. The State generally does not accept total responsibility for a unique item of cost merely on the basis that the Owner would not have incurred the extra cost except for the State-ordered relocation. Some of the more frequent examples are discussed below. Other less frequently occurring examples may be found in the Utility Reference File.

- **Clearing and grubbing of new right of way** - Where possible, utility relocations are coordinated with the highway construction project so the utility relocation may take place after the highway contractor has cleared the new right of way. If this delayed relocation is not feasible, the utility work may have to proceed in advance. The State is not liable for the additional cost beyond its usual pro rata share.

- **Owner's overtime costs** - If the State fails to provide a reasonable time frame for the Owner to complete necessary relocation activities without incurring highway construction contractor delay costs, the State may be liable for the additional expense. The District Utility Coordinator may authorize State-paid labor overtime upon approval by the HQ Utility Liaison. The authorization should be made a part of the Notice and clearly state the necessity for such extraordinary costs. Whether or not the State is responsible for a pro rata portion of the relocation costs, the State's specific liability for the cost of overtime is limited to the difference between the premium wage and the regular wage. The District Utility Coordinator should not request HQ's approval for payment of labor overtime simply because of the Owner's lack of planning or scheduling. This additional cost is not Federal-aid reimbursable.

- **Wasted work** - Sometimes as a result of a change in design or construction change order, completed relocation work has to be redone. The State is liable for all such wasted relocation work regardless of the initial liability proration (see Section 13.09.04.00). The cost of such wasted relocation work is not Federal-aid reimbursable.

- **Hazardous waste costs** - Should the Owner incur extra costs due to the removal or disposal of hazardous waste, the State, at a minimum, pays its pro rata share of the extra costs. If hazardous waste is encountered within the project limits, the spoils and associated handling costs are dealt with in the same manner and liability as project construction hazardous waste costs. The extra costs incurred for hazardous waste found outside the project right of way, such as on local streets beyond project construction, are reimbursed in accordance with the State's pro rata liability in the same manner as for any other type of extraordinary construction costs associated with utility relocations. (See Section 13.01.02.05.) (Refer to the Freeway Master Contract for details of handling hazardous materials and their associated costs on freeway projects for those Owners who have a current Freeway Master Contract.) The cost of hazardous waste removal is Federal-aid reimbursable.

13.04.07.05 Delayed or Canceled Projects

Owners are required by law to relocate their facilities in compliance with an issued Notice. If such a required relocation is completed in part or totally at the Owner's expense, and the project is subsequently canceled by the CTC's official action, the Owner shall be entitled to reimbursement of their wasted work costs. If the project is merely delayed, even for what appears to be an indefinite period of time, reimbursement is not required so long as the project remains on the State's program for future construction. Headquarters R/W prior approval shall be obtained before obligating the State to any reimbursement of this type. If HQ R/W approves the State's reimbursement of these costs, the Utility Coordinator must ensure the costs are not billed to FHWA, as they are not Federal-aid reimbursable.

13.04.07.06 Future Maintenance of Water Conduits

The State shall not accept liability to maintain the interior of a water conduit, such as silt removal, on the basis of a claim that the conversion or extension of an existing open ditch to a conduit has increased the Owner's operating costs. Even though the State may have placed the conduit and is thus becoming the owner of it, the water provider shall be responsible for all maintenance associated with the product conveyance.

On the basis of a factual, nonspeculative showing that there are additional real costs arising out of the State-caused relocation, the State may be liable for some of the additional new costs. Compensation must be based on the present worth of the future labor and equipment costs that are shown to substantially exceed current maintenance costs for open ditch maintenance. This same premise may be applied to other similar situations that may cause increased costs associated with a major change to an existing facility, such as the addition of a sewer lift pump. HQ R/W prior approval should be obtained before entering into any Utility Agreement obligating the State to these types of costs.

13.04.07.07 Loss of Plant, Investment, or Business

The State is required by law to physically replace the utility facility in the same functionally equivalent state of operation in the after condition as it was before. Relocation costs, therefore, do not include the cost of abandoned property, loss of income resulting from loss of customers, loss of revenue due to temporary shutdowns, or for any other form of consequential damages.

13.04.07.08 Undergrounding

When a project conflict exists and the State must relocate an existing aerial utility facility, the State cannot pay any portion of the undergrounding costs unless the undergrounding is based on an engineering need for the State's project or is the most cost effective. Undergrounding requirements as established by local government for aesthetic purposes are not binding upon the State. The State is only obligated to pay for replacement of the functional utility that previously existed. If the State determines undergrounding is necessary for engineering reasons or is the most cost effective relocation, only then are these costs Federal-aid reimbursable.

13.04.07.09 Abandonment or Removal Costs

Costs for removal or abandonment of existing utility facilities are reimbursable provided the removal or abandonment is necessitated by the highway project, required for aesthetic or safety reasons, or contains hazardous material that cannot safely remain. In many cases, it may be feasible to abandon the existing utility facilities in place if the existing facilities will not conflict with the proposed highway project. Abandonment of underground facilities containing hazardous material, e.g., asbestos and lead, should be discussed with Region/District Environmental. If removal is required, the State will reimburse Owner for normal pro rata costs for removal effort only.

In cases where there is no need to remove the existing utility facilities but the Owner elects to proceed with the removal, the State shall not pay any removal costs above the salvage value of recovered materials credited to the project.

NOTE: Due to safety problems that may arise during the vacancy or demolition/removal of an improvement with a gas meter, the Owner is usually instructed to remove the meter when the improvement is to remain vacant. The removal date must be coordinated with R/W Property Management. The State will reimburse the Owner for removal costs based on liability of the gas distribution line located in the adjoining street.

Meter removal costs are paid without credit for salvage value. Under Federal-aid reimbursement requirements, these costs must be coded as demolition costs for the project (see Section 13.14.03.02).

13.04.07.10 Additional Spare Ducts for Underground Conversion of Aerial Telephone Facilities

A long-term understanding with telephone Owners provides that the State will reimburse additional duct costs for State-ordered conversion of nonfiber-optic aerial facilities to underground. This was based on the premise that typical aerial installation was constructed to provide for a minimum capability to install four cables even if fewer were initially installed. Therefore, whenever nonfiber-optic aerial facilities are ordered to be converted to a like-form underground installation, the following table is used as a basis for allowed State reimbursement.

Number of Existing Cables	Number of Replacement Ducts
1	4
2	4
3	4
4	6
5	7
6	8
7	9
8	10

If the existing facilities to be placed underground are fiber-optic, the State will only reimburse for duct installations on the basis of the number of ducts needed to replace the existing telephone capability plus one spare duct.

NOTE: FHWA will only reimburse on the basis of providing one spare duct regardless of the type of existing facility.

13.04.07.11 Disruption of Service Facilities

Service facilities that are located on the property being served are usually there by permission of the property owner as a requirement for receiving utility service. The State in acquiring the property being served may, as the new property owner, revoke the owner's permission for occupancy and thus require the service facilities to be removed or abandoned.

If some portion of the impacted property remains in private ownership with a continuing need for utility service or provides current service to other remaining properties, the State is liable for whatever facility adjustments may be necessary. Other than removal of portions of the severed facilities for safety reasons, which is handled by Notice and Agreement, all other utility adjustment costs are treated as cost-to-cure damages in the acquisition of the impacted parcel.

13.04.08.00 Liability Undetermined

The Utility Coordinator shall make every effort to determine liability prior to issuance of a Notice to Owner. However, in situations where the Owner is unable to provide timely documentation that will allow the State to verify the information necessary to determine liability in a reasonable time, and when project schedule delays may occur, a Notice can be issued with liability undetermined. District Utility Coordinator approval is required prior to issuing this type of Notice.

Liability undetermined is not to be used simply because the staff work necessary to determine liability for a relocation has not been done. The liability package for liability undetermined should contain everything that is normally provided for a liability approval with the exception of the proration of liability. The liability statement will simply read: "Liability is undetermined." (For Owners with a Freeway Master Contract, see Section 13.04.08.02 for modified liability statement.)

The Owner must agree to accept the Notice with liability undetermined and perform the relocation. The Owner's acceptance should be in writing. If the Owner does not provide a firm (enforceable) commitment, the certification and project could be in jeopardy. A copy of the Owner's letter or other documentation regarding acceptance of liability undetermined should be included in the liability package.

13.04.08.01 Request for Approval of Liability Undetermined

The request for approval of a liability undetermined transaction must be in writing and must contain all of the elements required by Section 13.05.01.00, with complete and detailed supporting documentation. In addition, the Report of Investigation must cite and support the reasons for the request for liability undetermined.

A preaward evaluation may be necessary before approval can be made where the transaction involves work by Owner's contractor, a substantial dollar amount or an Owner with whom the State has not recently done business. Be sure to check the most recent Utilities Reference File (URF) memorandum for current preaward evaluation criteria, dollar thresholds, and a listing of preapproved utility companies.

Upon approval, a Conceptual FHWA Specific Authorization with liability undetermined is issued authorizing the district to issue only the Notice to Relocate. The Utility Agreement cannot be sent to the Owner until the final Report of Investigation, detailing the liability, is approved and a full FHWA Specific Authorization is issued.

In all instances where a Notice to Owner has been issued under liability undetermined, the Utility Coordinator shall expeditiously settle liability determination with the Owner. The final Report of Investigation package, including the Owner's Claim Letter and the Utility Agreement, should normally be submitted within 30 days of the date of the Notice to Owner unless the District Utility Coordinator approves an extension.

13.04.08.02 Liability Undetermined - Master Contract

On Freeway projects where there is a Master Contract between the Owner and the State and liability is undetermined, the liability statement on the Notice to Owner should state "Liability is pursuant to the Freeway Master Contract dated __________________________."

The above liability statement is used in lieu of "Liability is undetermined" as liability for Owners with Master Contracts is always based on one or more sections of the Contract.

13.04.09.00 Liability in Dispute

Unlike right of way acquisition, there is no administrative settlement process to resolve disputes in utility relocations because liability issues are largely based on a factual determination of what is required to produce a functional replacement for the impacted facility and who has the superior right.

The preferred method of resolution is to mutually agree on how to handle a particular situation and what the liability should be. As the Owner's areas of operation may encompass other districts or the situation may reoccur with another Owner, a statewide resolution of the problem is essential. This may require Legal, as well as Headquarters R/W, work with the district toward its resolution.

Litigation is normally used where a large cost is involved or a significant legal premise is at stake. The decision to proceed to litigation depends heavily on Legal's input as well as Right of Way functional needs.

A compromise settlement should only be used for a low-cost situation or a very specialized issue that, in the district's opinion with Headquarters R/W concurrence, is not apt to reoccur or set a bad precedent. The Utility Coordinator, with the concurrence of the DDC-R/W, develops a proposed settlement and sends it to Headquarters R/W for approval. HQ R/W will obtain concurrence by Legal, when necessary, and will return the settlement to the District Utility Coordinator with a letter of approval or denial.

13.04.09.01 Agreement to Disagree

The resolution of the dispute may be too time consuming to be accomplished and still meet project dates. The Utility Coordinator should attempt an "agree-to-disagree" understanding with Owner. With the Owner's concurrence, the Notice may be issued using "liability in dispute" as the liability statement in the Notice. All Agreements issued in this manner require HQ R/W approval prior to issuance.

If the Owner does not concur with the issuance of a Notice on this basis, the provision of S&H Code 706 must be enforced. This requires the State to advance a deposit to cover the disputed cost of the work, and, when so advanced, the Owner is obligated to complete the utility relocation as ordered. State's deposit shall not include the cost of any Owner-initiated betterments. A special agreement is required (see Exhibit 13-EX-17) to cover the advanced funds. Advanced funds require specific handling requirements and special accounting coding. See Sections 13.01.02.10, 13.07.03.04 (IV-4), and 13.10.03.00. When funds are advanced, the Utility Coordinator must work proactively to ensure an accurate accounting for work progress and continue to work toward ultimate resolution of the dispute.

13.04.09.02 Liability In Dispute - Master Contract

On Freeway projects where there is a Master Contract between the Owner and the State and liability is in dispute, the liability statement on the Notice to owner should state "Liability per Freeway Master Contract, dated __________________________, is in dispute."

13.04.10.00 Processing Approved Liability Package

Once liability is approved, either by Headquarters R/W or the authorized district representative, the Utility Coordinator prepares a cover letter to the Owner transmitting the Notice to Owner, Encroachment Permit, and Utility Agreement (if required). See Exhibit 13-EX-13 for elements of the transmittal letter.

13.05.00.00 - REPORT OF INVESTIGATION

13.05.01.00 General

The Report of Investigation (Form RW 13-3) documents facts and circumstances that support the liability determination. All information, documentation, and analysis supporting the liability determination for the required relocation must be included in the Report. The Report of Investigation (ROI) must be prepared and approved before the district obligates the State for the cost of relocation. An ROI is not required for a relocation that is 100% Owner liability if the Utility Coordinator has a claim letter from the Owner acknowledging 100% liability. The Report of Investigation package (sometimes referred to as the "Liability Package") includes the following mandatory items. Additional supporting documentation may be included as deemed necessary by the Utility Reviewer to support the determination.

A. Original, signed Report of Investigation (Form RW 13-3).

B. Owner's estimate of cost of work to be done.

C. Color-coded ROI plan showing work to be done, or a copy of the Approved Relocation Plan.

D. Copy of the Owner's claim letter.

E. Copy of the Owner's documents that support their prior and/or superior rights claim.

F. Copy of the proposed Notice to Owner.

G. Copy of the proposed Utility Agreement.

H. Copy of the E-76, if federal reimbursement will be used.

I. The Request for FHWA Specific Authorization, if federal reimbursement will be used.

J. Proposed special provisions, if applicable.

Instructions for filling out the Report of Investigation are included with Form RW 13-3.

13.05.02.00 Owner's Estimate of Cost

The Owner's estimate of cost serves the following purposes:

- The estimate details, along with the proposed utility relocation plan, allow a preconstruction determination of reasonableness of the planned functional replacement for the impacted utility facility.
- It provides support for FHWA Specific Authorization.
- It provides an amount to be used for encumbering capital dollars for utility work.
- It becomes a contract pay amount for lump-sum agreements.

13.05.02.01 Standard Estimate Format

The standard estimate format (Exhibit 13-EX-21) must contain the following elements:

A. Cost of labor.

B. Cost of materials (include a list of major items).

C. Cost of transportation and equipment.

D. Cost of contracted out work.

E. Cost of overhead (include a list of major components).

F. Cost of new right of way (if required).

G. Credits due the State shown separately for betterment, depreciation, and salvage.

H. Percentage and dollar amount of the State's liability.

Each item above must be shown on the estimate. If an item does not apply, it still must be listed with a zero in the cost column. The same format is used for lump-sum estimates, except all costs must be itemized and detailed by category, e.g., labor by number of hours and dollars, materials by quantity and dollars, etc.

The cost estimate for work to be performed or paid for by the Owner must come from the Owner. If the Owner uses broad-gauge units in their estimates, e.g., a per-pole or per-meter cost factor, the broad-gauge units may be substituted for the cost of labor, material, and transportation and equipment (Items A, B, and C above). The Owner must provide a statement about the methodology used in arriving at the broad-gauge unit cost, e.g., "based on 1992 costs incurred." Right of way costs, credits, and the State's liability must still be listed separately.

If for timing reasons it is not possible to obtain an adequate estimate from the Owner, the Utility Coordinator may prepare an estimate based on the Owner's plan using the Owner's current cost data from similar utility relocation work. Justification for district-prepared estimates must be in the file. District-prepared estimates shall not be used as a basis for lump-sum agreements. The Utility Coordinator should ensure an Owner's prepared estimate is received as soon as possible, normally within 30-45 days of issuing a District-prepared estimate.

13.05.02.02 Preaward Evaluation

All ROI packages will require compliance with current preaward evaluation criteria. A preaward evaluation of the estimate may be needed if:

- Audits has had difficulties with the utility owner's cost accounting system during a previous audit.

- Audits has not audited the utility owner's cost accounting system within the last three years.

- The amount of the estimate exceeds a dollar limit threshold determined by Audits.

Since all of these criteria are subject to change from time to time, be sure to check the most recent Utilities Reference File (URF) memorandum for current preaward evaluation criteria, dollar thresholds, and a listing of preapproved utility companies.

Whether the estimate requires evaluation by Audits or not, the Region/District is responsible to carefully review the estimate to ensure it is fully detailed, is reasonable, contains all of the elements required in Section 13.05.02.01 and complies with Departmental policy.

13.05.03.00 ROI Plan

The ROI plan is crucial not only to liability determination, but also to the engineer's ability to determine that the relocation clears project construction. It shows who owns what and shows the before and after location of improvements and property rights. The plan also provides a visual picture of what the estimate is based on, thus allowing a quick check of the reasonableness of various measurements and quantities listed in the estimate.

13.05.03.01 ROI Plan Requirements

A color-coded or an Approved Relocation Plan shall be included with every liability package. The plan must accurately and clearly plot the following elements:

A. Existing and proposed right of way lines.

B. Existing and proposed access control lines (if applicable).

C. Existing and proposed highway centerline.

D. Existing and proposed utility facility features: location, type, size, and length.

E. Owner's easements or other claimed prior right areas.

F. Proposed property rights the State is to supply (if applicable).

G. Highway geometric features, if the relocation is related to them.

H. Legend and title block.

13.05.04.00 Lump-Sum Utility Agreements

To reduce the Owner's administrative and record keeping costs associated with documenting payment for completed work and to reduce postconstruction audits, the Department has adopted a federal provision (23 CFR 645.113) that allows lump-sum (also called flat-sum) payments for utility relocations. This procedure provides for reimbursement of relocation costs based on an Approved Relocation Plan and a detailed preconstruction estimate and should only be used where the utility adjustment can be clearly and accurately defined. If actual costs should vary from the accepted estimate, neither the Owner nor the State can adjust the agreed upon lump-sum payment amount. Savings to either party could be quickly offset by inaccuracies in the cost estimating process.

Lump-sum payments over $100,000 require review and approval by HQ R/W Utilities, and require a preaward audit.

The use of the lump-sum payment process shall only be authorized where:

- A detailed and itemized estimate has been provided by the Owner and the Utility Coordinator has verified the costs are complete, comprehensive, reasonable and in sufficient detail to give a clear picture of the work involved and the cost of individual items. (See Section 13.05.02.00.)

- A utility relocation plan is developed per requirements of Section 13.05.03.00 that clearly correlates with the detailed estimate.

- The lump-sum payment Utility Agreement, not to exceed $100,000, has the District Utility Coordinator's approval before it is transmitted to the Owner for execution.

An additional provision must be added to Clauses IV-8 and IV-9 when the lump-sum payment will exceed $25,000. (See Section 13.07.03.04.) This provision allows the State to perform an informal post audit of the Owner's costs to ascertain the reasonableness of lump-sum payments and thus judge the continued effectiveness of this type of reimbursement.

13.05.04.01 Lump-Sum Payments - AT&T

The State has an understanding with AT&T when entering into a lump-sum agreement, that AT&T will use the specific billing rates shown in Exhibit 13-EX-22 for construction, engineering, estimating, posting, inspector, cutover, and assignment. If AT&T does not use the rates and forms shown in Exhibit 13-EX-22, the Utility Coordinator shall not accept the estimate as the basis for a lump-sum agreement unless Headquarters R/W prior approval is obtained.

13.05.04.02 Lump-Sum Payments for Completing Positive Location Work

Where no positive location agreement exists with the Owner, and as an exception to the general requirement that a preconstruction estimate be obtained and approved before authorizing the work, the district is delegated authority to enter into a lump-sum agreement with an Owner for doing positive relocation work, without a preliminary detailed cost estimate from the Owner when:

- The preconstruction estimate of cost indicates it will not exceed $25,000 for the State's liability as documented in the district's files. (See Section 13.06.03.04 for additional expediting procedures.)

and

- A specific plan, approved by the Project Engineer, is issued with the Notice showing the location of necessary positive location work.

and

- The district performs a review during the positive location operation to document the number of workers and pieces of equipment and the approximate on-the-job time for comparison with the bill when received.

A lump-sum Utility Agreement for positive location work may also be necessary if the Owner has signed a Positive Location Agreement and requests to conduct their own positive location work. If their cost exceeds the per-hole cost of the current Positive Location Contract, the State will pay a lump sum per-hole rate at the Contract rate in effect at the time of issuance of the NTO. (See Section 13.03.03.01 for additional information.)

Owner's positive location work costs anticipated to exceed $25,000 for the State's liability shall be processed as directed in Section 13.05.04.00.

13.06.00.00 - NOTICE TO OWNER

13.06.01.00 General

S&H Code Sections 673, 680, and 720 require that Owners be given formal notice to relocate, remove, abandon, protect, pothole, etc., their utility facilities to accommodate proposed State transportation projects. This Notice to Owner (Form RW 13-4) also sets forth a schedule for performing proposed utility relocation work and a statement of liability for the cost of relocation.

It is essential that the Notice reflects a true “meeting of the minds” between the Department and the Owner regarding the location and type of facility, the work that is being ordered, the schedule to accomplish it, and the liability for the cost of work. A “meeting of the minds” is necessary to prevent subsequent disagreements about the need for the work, scheduling, liability, etc., that may arise and delay the project. Since issuance of the Notice may obligate the State to pay for all or a portion of the cost of relocation, there must be a specific understanding of the required work to which the State is obligating itself.

A Notice is required when the State’s contractor is doing facility adjustment and an executed Utility Agreement with the Owner has been obtained prior to R/W Certification. An Encroachment Permit is not required. See Sections 13.08.03.00 and 13.08.04.00.

13.06.01.01 Joint Facility Relocations

When two or more Utility Owners occupy or are relocating to joint poles or joint trenches, the relocation work normally cannot be performed concurrently. It must instead be performed sequentially. If, after the first Owner’s work is completed, the last Owner to move does not have sufficient remaining time to perform work as ordered by the Notice, it would be very difficult to hold them responsible for right of way delays if the Department did not adequately coordinate the work of all Owners.

To be fair to all Owners involved and to ensure timely utility clearance of the project, the Utility Coordinator must establish the overall relocation time frame and the sequence of operations for each Owner involved in the joint relocation. The completion dates set out in each Notice must be specific to each Owner and be based on the overall coordinated schedules necessary to complete all work within the project clearance schedule.

13.06.02.00 Preparation

The Utility Coordinator is responsible for preparing the Notice to Owner in accordance with the following guidelines:

- The Notice will be prepared only after the Utility Coordinator has received relocation plans and the Owner’s estimate of cost and has determined liability. (See Sections 13.04.08.00 and 13.04.09.00, etc., for exceptions.)

- The Notice will be prepared and issued to the Owner with sufficient lead time to allow a reasonable relocation schedule. S&H Code Section 680 states, “The department shall specify in the demand a reasonable time within which the work of relocation shall be commenced.” Failure to provide reasonable notice may jeopardize timely project certification or result in the State becoming liable for contractor delay caused by unresolved utility conflicts.

- The Notice should never state how the Owner is to perform the relocation work, such as: “Owner shall underground the relocated facility” or “Owner shall temporarily relocate their facilities.” The details of the method and conduct of the relocation must be left to the Owner’s discretion. Including requirements of this type in the Notice may obligate the State to reimburse the Owner for any additional costs associated with the work.

- A single Notice should be used covering each Owner involvement on each project to the extent possible. Instructions for completing the Notice are included with Form RW 13-4.

  NOTE: An “involvement” is defined as the issuance of a Notice to Owner for a specific utility type on one project (EA). Multiple Notices are issued when an Owner operates multiple utility types, e.g., if a project has relocations for PG&E-Gas Transmission, PG&E-Gas Distribution and PG&E-Electric Distribution, on a single project (EA) it would require three (3) Notices to Owner, equaling three (3) involvements. Involvement also includes providing a separate Notice for positive location work.

13.06.02.01 Storm Water Plans

Work within the State highway right of way shall be conducted in compliance with all applicable requirements of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Department to govern the discharge of storm water and non-storm water from its properties. The permit requires the preparation, submission and approval of a Storm Water Pollution Prevention Plan (SWPPP) or a Water Pollution Control Program (WPCP) prior to the start of any work. (Information on these requirements may be reviewed at http://www.dot.ca.gov/hq/construc/stormwater/stormwater1.htm.)

13.06.03.00 Processing

All Notices to Owner must be submitted with the Report of Investigation package (see Section 13.05.00.00). Upon approval of the Report of Investigation package, the Notice can be transmitted to the Owner.

When a Utility Agreement is needed for the required relocation work, it shall be transmitted to the Owner along with the Notice. Because the Notice may obligate the State to pay for portions of the work to be done, a completely prepared and encumbered Utility Agreement must also accompany the Notice.

The Encroachment Permit is essential before the Owner can start work within the right of way. Owners are not to be charged permit fees for any State-ordered relocation work or for any work an Owner undertakes in a prior right area. The procedure for issuing a permit is covered in the Encroachment Permits Manual, Section 621.

The letter transmitting the Notice, Encroachment Permit, and Utility Agreement (if required) must include the elements shown in Exhibit 13-EX-13.

To ensure all parties concerned with a utility relocation are notified, the Utility Coordinator must distribute copies as specified on the Notice form, along with any necessary plans and specifications.

13.06.03.01 Utility Coordinator Responsibilities

The Utility Coordinator is responsible to coordinate all activities required to support the Notice to Owner. Duties performed generally consist of the following:

- Obtain and issue Encroachment Permit with the Notice for required work within the right of way.
- Follow up to ensure relocation is done by the date specified in the Notice.
- Coordinate with Construction for inspection of the Owner's relocation work.
- Coordinate preconstruction meetings with the project Resident Engineer, the Owner's representative, and the highway contractor on utility adjustments planned to take place after award of the highway contract.
- Resolve conflicts with newly discovered facilities in coordination with the project Resident Engineer.
- Obtain approval for all change-in-scope relocation work resulting from project changes and issue Revised Notices to Owner, when necessary.

13.06.03.02 Owner Responsibilities

The Owner is responsible for completing all work as specified in the Notice to Owner, Encroachment Permit, and Utility Agreement (if required). Upon receipt of Notice to Owner, the Owner shall have a minimum of 60 days to complete Owner's facilities rearrangement, unless the Owner agrees to a shorter time frame. If the Owner agrees to a shorter time frame, this agreement must be documented in the Utility File/Diary. Failure to comply with terms of the Notice may potentially subject the Owner to payments for resulting construction delays.

13.06.03.03 Construction Responsibilities

District Construction is responsible for monitoring the Owner's relocation of their facilities to ensure compliance with approved relocation plans. This is normally accomplished through assignment of a Resident Engineer to inspect the Owner's work. The inspector will monitor all utility relocation work and keep records for State reimbursed work in accordance with the Department's Construction Manual, Chapter 3, General Provisions, Section 3-809 Utility and Non-Highway Facilities.

The inspection has two major objectives:

- To ensure that all utility facility conflicts within the project limits are resolved.
- To observe and record the amount of labor, equipment, and materials used to accomplish State reimbursed work and to provide an estimate of the amount of materials removed for salvage. This is necessary to provide reasonable verification of the Owner's bills.

NOTE: Under no circumstances is Construction authorized to deviate from the approved plan of work as ordered in the Notice. Construction must have the District Utility Coordinator's authorization to proceed with any changes as any alterations in the Owner's work may change the State's liability obligation. See Sections 13.06.03.05 and 13.09.03.05 for information on revisions to/changes in planned work. If Construction authorizes a change and it improperly increases the State's liability, it could be considered a "gift of public funds."

13.06.03.04 Expedited Procedures for Positive Location Notices

To expedite Design requests for positive location of potentially impacted utility facilities, the district is authorized to issue the Notice to Owner without the usual requirements of first obtaining an estimate of cost and determining liability for these costs. This procedure should only be used where project scheduling is extremely tight and the Owner concurs with issuance of the Notice without an accompanying Utility Agreement. (See Section 13.05.04.02.)

13.06.03.05 Revised Notices

The Notice to Owner is a legally binding order on the receiving Owner to adjust their facilities in a prescribed manner and time. As such, the issued Notice in effect must always agree with the latest plan for adjustment and ordered completion time. The standard Utility Agreement clauses provide that a revised Notice to Owner (Form RW 13-4R) shall be issued whenever there is a deviation from the agreed plan for adjustment of the facility or whenever the completion date is changed. It may also be necessary to issue a revised Utility Agreement. These changes are comparable to construction change orders and are crucial to establishing a legally binding understanding with the Owner.

To ensure federal participation in the additional expenditures, a supplemental FHWA Specific Authorization (Form RW 13-15) will be required and the E-76 estimate of cost may have to be increased. (See Section 13.14.00.00.)

13.06.03.06 Notices Issued with Liability Undetermined

A Notice issued with liability undetermined requires District Utility Coordinator approval prior to being sent to the Owner. When a Notice is issued for a freeway project with liability undetermined (pursuant to Sections 13.04.08.00, 13.04.08.01 and 13.04.08.02), there are two liability statements that can be used in the Notice. They are:

- Liability is undetermined.
- Liability is per Freeway Master Contract dated ____________________.

The latter liability statement is used in lieu of “Liability is undetermined” as liability for Owners with Master Contracts is always based on one or more sections of the Contract.

13.06.03.07 Notices Issued with Liability in Dispute

A Notice issued with liability in dispute requires HQ R/W approval prior to being sent to the Owner. See Sections 13.04.09.00, 13.04.09.01 and 13.04.09.02 for additional information.

When a Notice is issued for a freeway project with liability in dispute (pursuant to Section 13.04.09.00), there are two liability statements that can be used in the Notice. They are:

- Liability is in dispute.
- Liability per Freeway Master Contract, dated xx/xx/xxxx, is in dispute.

The latter liability statement is used in lieu of “Liability is in dispute” as liability for Owners with Master Contracts is normally resolved based on one or more sections of the Contract.

13.07.00.00 - UTILITY AGREEMENTS

13.07.01.00 General

Pursuant to State Administrative Manual 8300, et seq., and S&H Code Division 1, Chapter 1, Article 3, Section 94, the State and the Utility Owner must enter into a Utility Agreement (Form RW 13-5) whenever the State is paying or receiving payment for all or a portion of the cost of relocation of a utility facility, regardless of who performs the work. The number assigned to each Utility Agreement shall be the same number assigned to the corresponding Notice to Owner covering the same facilities. Each Utility Agreement must be submitted with the Report of Investigation package (see Section 13.05.01.00).

13.07.02.00 Circumstances Requiring a Utility Agreement

The State must prepare a Utility Agreement for each facility being relocated or adjusted by the Utility Owner or its contractor with State reimbursement of the cost or being relocated or adjusted by the State's contractor, regardless of who is responsible for the cost. The Utility Coordinator is responsible for preparing the Utility Agreement.

A single Agreement is used for each Owner's involvement on a single construction project to the extent possible. Separate Agreements may be necessary for individual purposes such as design, advance of funds, or physical relocation(s).

Instructions for completing the Utility Agreement are found with Form RW 13-5.

> **NOTE: An "involvement" is defined as the issuance of a Notice to Owner to a Utility Owner for a specific utility type on one project (EA). For example, if a project has relocations for PG&E-Gas Transmission, PG&E-Gas Distribution, and PG&E-Electric Distribution, it would require three (3) Notices to Owner, equaling three (3) involvements. An involvement also includes a Notice for Positive Location (potholing) for each specific utility type.**

13.07.03.00 Standard Clauses

The clauses in the following sections have been standardized and shall be used whenever possible. Use of these standard clauses will reduce errors and omissions as well as save preparation, review, and approval time as the clauses have been reviewed and approved by most major Utility Owners and Department's Headquarters Legal Division. The following standard clauses are numbered for ease of reference. The Utility Coordinator preparing the Utility Agreement selects the appropriate clause(s) to be used.

On projects where Federal reimbursement will be sought, additional information is necessary on the FHWA Specific Authorization (Form RW 13-15). See Section 13.14.04.00 for specific wording requirements.

Before using any nonstandard clauses, the Utility Coordinator must obtain approval of necessity and language from HQ R/W and HQ Legal.

13.07.03.01 Section I. Work to Be Done:

I-1. Work Performed by Owner per Owner's Plan:

"In accordance with Notice to Owner No. __________ dated ___________, OWNER shall ____. All work shall be performed substantially in accordance with OWNER's Plan No. ________ dated ______________________ consisting of

____________ sheets, a copy of which is on file in the District office of the Department of Transportation at __________________________________. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the OWNER's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the revised Notice to Owner."

NOTE: Significant changes in previously approved plans and estimates require a revised FHWA Specific Authorization (Form RW 13-15).

I-2. Work Performed by State's Contractor per State's Plans:

"In accordance with Notice to Owner No. ___________ dated _________________, STATE shall relocate OWNER's ____ as shown on STATE's contract plans for the improvement of State Route _______, EA ________ which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities, except in the case of liability determined pursuant to Water Code 7034 or 7035."

NOTES:

(1) In the event the Owner wants to retain ownership of their old facilities removed by the State's highway construction contractor, a clause stating this fact must be included in the "Special Provisions" portion of the State's highway construction contract. Otherwise, the "Standard Specifications" of the contract will award all salvaged material to the State's contractor. If the Owner wants to retain ownership of the replaced facility, the Clause above must be modified to delete "and relinquishes to STATE ownership of the replaced facility."

(2) Whenever liability is determined pursuant to Water Code Section 7034 or 7035, Standard Clauses V-10a or V-10b shall then be added to the Utility Agreement.

I-3. Work Performed by State's Contractor per Owner's Plan:

"In accordance with Notice to Owner No. ____________ dated ________________, STATE shall relocate OWNER's ____ as shown on OWNER's Plan No. ____________ dated ___________________, which plans are included in STATE's Contract Plans for the improvement of State Route _________, EA __________ which, by this reference, are made a part hereof. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the OWNER's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the revised Notice to Owner. OWNER shall have the right to inspect the work by STATE's contractor during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities, except in the case of liability determined pursuant to Water Code 7034 or 7035."

NOTE: See NOTES under Clause I-2.

I-4. Work Performed by Both Owner and State's Contractor per Owner's Plan:

"In accordance with Notice to Owner No. ______________ dated ________________, OWNER shall ____. All work shall be performed substantially in accordance with OWNER's Plan No. ___________ dated ___________________ consisting of ______ sheets, a copy of which is on file in the District office of the Department of Transportation at __________________________________."

"Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the OWNER's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the revised Notice to Owner."

"It is mutually agreed that the STATE will include the work of _______________________ as part of the STATE's highway construction contract. OWNER shall have access to all phases of the work to be performed by the STATE for the purpose of inspection to ensure that the work being performed for the OWNER is in accordance with the specifications contained in the highway contract. Upon completion of the work performed by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities, except in the case of liability determined pursuant to Water Code 7034 or 7035."

NOTE: See NOTES under Clause I-2.

I-5. Preliminary Engineering by Utility Owner:

"In accordance with Notice to Owner No. ______________ dated ________________, OWNER shall prepare their relocation plans. Any revision to the OWNER's plan described above, after approval by the STATE, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and 13.07 - 2 (REV 7/2005) agreed to/acknowledged by the OWNER, will constitute an approved revision of the OWNER's plan described above and are hereby made a part hereof. No redesign or additional engineering, after approval by the STATE, shall commence prior to written execution by the OWNER of the Revised Notice to Owner and may require an amendment to this Agreement in addition to the revised Notice to Owner."

13.07.03.02 Section II. Liability for Work:

II-1. State's Expense - S&HC Section 702 or 703:

"The existing facilities are lawfully maintained in their present location and qualify for relocation at STATE expense under the provisions of Section (702) (703) of the Streets and Highways Code."

II-2. State's Expense - S&HC 704:

"This is a second or subsequent relocation of existing facilities within a period of ten years; therefore, relocation is at STATE expense under the provisions of Section 704 of the Streets and Highways Code."

II-3. State's Expense - Superior Rights:

"Existing facilities are located in their present position pursuant to rights superior to those of the STATE and will be relocated at STATE expense."

II-4. State's Expense - Service Line on Private Property:

"The facilities are services installed and maintained on private property required for highway purposes and will be relocated at STATE expense."

II-5. State's Expense - Prescriptive Rights:

"The existing facilities are located in their present position pursuant to prescriptive rights prior and superior to those of the STATE and will be relocated at STATE expense."

II-6. Owner's Expense - Encroachment Permit:

"The existing facilities are located within the STATE's right of way under permit and will be relocated at OWNER's expense under the provisions of Section (673) (680) of the Streets and Highways Code."

II-7. Owner's Expense - Trespass:

"The existing facilities are located within the STATE's right of way in trespass and will be relocated at OWNER's expense."

II-8. State or Prorated Expense - Right of Way Contract:

"The existing facilities described in Section I above will be relocated (at STATE expense) (at ________% STATE expense and ________% OWNER expense) as set forth in Right of Way Contract No. _______ dated ________."

II-9. State or Prorated Expense - Master Contract:

"The existing facilities described in Section I above will be relocated (at STATE expense) (at ________% STATE expense and ________% OWNER expense) in accordance with (Section __________ of the Master Contract dated _________.) (Sections ________ of the Master Contract dated ___________ in accordance with the following proration: ____.)"

NOTE: Where liability for portions of the utility facility to be relocated will be based on different sections of the Master Contract, insert the equation used to develop the overall percentage of liability in the Utility Agreement in the space following the word "proration:".

II-10. Prorated Expense - No Master Contract:

"The existing facilities described in Section I above will be relocated at _______% STATE expense and _______% OWNER expense in accordance with the following proration: ________________________________."

NOTE: Where liability for portions of the utility facility to be relocated will be based on different sections of the S&H Code or other government code, insert the equation used to develop the overall percentage of liability for the relocation in the space following the word "proration:".

II-11. PG&E Master Agreement - Potholing:

This section has been superseded by the Agreement for the Positive Location of Underground Facilities executed by PG&E dated January 3, 2002.

II-12 Liability in Dispute - Deposit is not a Waiver of Rights:

"Ordered work described as ____________ is in dispute under Section __________ of the Streets and Highways Code. That in signing this Agreement neither STATE nor OWNER shall diminish their position nor waive any of their rights nor does either party accept liability for the disputed work. STATE and OWNER reserve the right to have liability resolved by future negotiations or by an action in a court of competent jurisdiction."

NOTE: The appropriate Payment for Work clause (IV-1, 2, 8 or 9) must also be modified by inclusion of "after final liability determination and" immediately following "45 days."

13.07.03.03 Section III. Performance of Work:

III-1. Owner's Forces or Continuing Contractor Performs Work:

"OWNER agrees to perform the herein described work with its own forces or to cause the herein described work to be performed by the OWNER's contractor, employed by written contract on a continuing basis to perform work of this type, and to provide and furnish all necessary labor, materials, tools, and equipment required therefore, and to prosecute said work diligently to completion."

III-2. Owner Performs Work by Competitive Bid Process:

"OWNER agrees to cause the herein described work to be performed by a contract with the lowest qualified bidder, selected pursuant to a valid competitive bidding procedure, and to furnish or cause to be furnished all necessary labor, materials, tools, and equipment required therefore, and to prosecute said work diligently to completion."

III-3. State's Contractor Performs All or a Portion of Work:

"OWNER shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition."

III-4. Owner to Hire Consulting Engineer:

"Engineering services for locating, making of surveys, preparation of plans, specifications, estimates, supervision, inspection, ________________________ (delete or add services as established by the Owner's Agreement with the consultant) are to be furnished by the consulting engineering firm of ______________________________ on a fee basis previously approved by STATE. Cost principles for determining the reasonableness and allowability of consultant costs shall be determined in accordance with 48 CFR, Chapter 1, Part 31; 23 CFR, Chapter 1, Part 645; and 18 CFR, Chapter 1, Parts 101, 201 and OMB Circular A-87, as applicable."

NOTE:

(1) If the Utility Owner is not regulated by the Federal Energy Regulatory Commission (FERC), you may delete reference to 18 CFR.

(2) OMB Circular A-87 applies to local agencies and local governments.

III-5. Owner and State's Contractor Performs Work:

"OWNER agrees to perform the herein described work, excepting that work being performed by the STATE's highway contractor, with its own forces and to provide and furnish all necessary labor, materials, tools, and equipment required therefore, and to prosecute said work diligently to completion."

III-6. Out-of-State Travel Expenses and Per Diem: (Has been made as part of the mandatory language of the agreement)

"Use of out-of-state personnel (or personnel requiring lodging and meal "per diem" expenses) will not be allowed without prior written authorization by State's representative. Requests for such authorization must be contained in OWNER's estimate of actual and necessary relocation costs. Accounting Form FA-1301 is to be completed and submitted for all non-State personnel travel per diem. OWNER shall include an explanation why local employee or contract labor is not considered adequate for the relocation work proposed. Per Diem expenses shall not exceed the per diem expense amounts allowed under the State's Department of Personnel Administration travel expense guidelines."

III-7. Prevailing Wage Requirements for Contracted Work:

"Pursuant to Public Works Case No. 2001-059 determination by the California Department of Industrial Relations dated October 25, 2002, work performed by OWNER's contractor is a public work under the definition of Labor Code Section 1720(a) and is therefore subject to prevailing wage requirements. OWNER shall verify compliance with this requirement in the administration of its contracts referenced above."

III-8. Owner to Prepare Preliminary Engineering Plans:

"Engineering services for locating, making of surveys, preparation of plans, specifications, estimates, supervision, inspection, ________________________ (delete or add services as established with the Utility Owner) are to be furnished by the Utility Owner and approved by the STATE. Cost principles for determining the reasonableness and allowability of OWNER's costs shall be determined in accordance with 48 CFR, Chapter 1, Part 31; 23 CFR, Chapter 1, Part 645; and 18 CFR, Chapter 1, Parts 101, 201 and OMB Circular A-87, as applicable."

13.07.03.04 Section IV. Payment for Work:

IV-1. Owner Operates Under PUC, FERC or FCC Rules:

"The STATE shall pay its share of the actual and necessary cost of the herein described work within 45 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense incurred and charged or allocated to said work in accordance with the uniform system of accounts prescribed for OWNER by the California Public Utilities Commission, Federal Energy Regulatory Commission or Federal Communications Commission, whichever is applicable.

It is understood and agreed that the STATE will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the STATE for the "used life" or accrued depreciation of the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by OWNER."

NOTES:

(1) When a lump-sum payment method is to be used, substitute Clause IV-8 or IV-9 as appropriate for Clause IV-1 or IV-2 and IV-3.

(2) See Clause IV-10 for work being done by State's contractor.

(3) "Used life" refers to the period of economic usefulness in a particular owner's operations as distinguished from physical life; it is evidenced by the actual or estimated retirement and replacement practice of the owner or the industry.

(4) See Section 13.07.06.02 for depreciation clause for Oil Companies.

(5) For "Liability in Dispute" Utility Agreements, add the wording "after final liability determination and" immediately following "45 days" on IV-1, 2, 8 or 9. See Note II-12 for cross reference.

IV-2. Owner Does Not Operate Under PUC, FERC or FCC Rules:

"The STATE shall pay its share of the actual and necessary cost of the herein described work within 45 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles.

It is understood and agreed that the STATE will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the STATE for the accrued depreciation or "used life" of the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by OWNER."

NOTES:

(1) Section 705 of the S&H Code states that "A credit allowance for age shall not be applied to publicly owned sewers." In these cases, the following words "... for the accrued depreciation or "used life" of the replaced facilities and " shall be eliminated from the second paragraph above.

(2) See NOTES under Clause IV-1.

IV-3. For All Owners - Progress/Final Bills: (Has been made as part of the mandatory language of the agreement)

"Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills not to exceed the amount of this Agreement may be made under the terms of this Agreement. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement."

"The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements for OWNER's facilities (if required), STATE will provide written notification to OWNER of its intent to close its file within 30 days. OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission."

"The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission."

"In any event if the final bill exceeds 125% of the estimated cost of this Agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER'S final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE."

"Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Part 645 and/or 18 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing."

NOTES:

(1) See NOTES under Clause IV-1.

(2) Contract Cost Principles and Procedures of 48 CFR, Federal Acquisition Regulations Systems, Chapter 1, Part 31 have been accepted as the State's standards for all projects including State-only funded projects.

(3) See Manual Sections 13.04.07.01 and 13.10.02.03 for additional information.

(4) If Utility Owner is not regulated by FERC, modify above clause by deleting reference to "and/or 18 CFR, Chapter 1, Parts 101, 201, et al."

IV-4. Advance of Funds - State Liability:

"OWNER, at the present time, does not have sufficient funds available to proceed with the relocation of OWNER's facilities provided for herein. It is estimated that the cost of the work provided for by this Agreement and, as hereinafter set forth, is the sum of $__________. STATE agrees to advance to OWNER the sum of $__________ to apply to the cost of the work to be undertaken as provided hereinabove. Said sum of $__________ will be deposited by the STATE with OWNER within 45 days after execution of the Agreement by the parties hereto and upon receipt of an OWNER's bill for the advance."

"It is further agreed that upon receipt of the monies agreed upon to be advanced by STATE herein, OWNER will deposit said monies in a separate interest-bearing account or trust fund in state or national banks in California having the legal custody of said monies in accordance with and subject to the applicable provisions of Section 53630, et seq., of the Government Code; and all interest earned by said monies advanced by STATE shall be remitted to STATE quarterly, via a separate check, even when the cost of relocation exceeds the advance amount."

"When the work is completed, OWNER shall send the STATE a Final Bill for reconciliation of the advance. In the event actual and necessary relocation costs as established herein are less than the sum of money advanced by STATE to OWNER, OWNER hereby agrees to refund to STATE the difference between said actual and necessary cost and the sum of money that was advanced. The remittance check for the balance of advanced funds will be separate from the remittance check for the earned interest. In the event that the actual and necessary cost of relocation exceeds the amount of money advanced to OWNER, in accordance with the provisions of this Agreement, STATE will reimburse OWNER said excess costs upon receipt of five (5) copies of an itemized bill as set forth herein."

NOTE: Advance of funds should not exceed 90% of the Utility Agreement amount due to possible credits for depreciation, salvage, etc. No funds are to be advanced to cover owner initiated betterments. Per 2010 Accounting procedural requirements, two separate checks are required for remittance of: a) advanced funds and b) interest on advanced funds.

IV-5. Loan of Funds - Owner Liability:

"OWNER recognizes its legal obligation to relocate its facility at its own cost, but, at the present time does not have sufficient funds available to proceed with the relocation of OWNER's facilities provided for herein. It is estimated that the cost of the work provided for by this Agreement and, as hereinafter set forth, is the sum of $__________. STATE agrees to advance to OWNER the sum of $__________, in accordance with Section 706 of the Streets and Highways Code, to apply to the cost of the work to be undertaken as provided hereinabove. Said sum of $__________ will be deposited by the STATE with OWNER within 45 days after execution of the Agreement by the parties hereto and upon receipt of an OWNER's bill for the advance."

"It is understood that OWNER shall pay interest upon receipt of said advance. The rate of interest shall be the rate of earnings of the Surplus Money Investment Fund and computation shall be in accordance with Section 1268.350 of the Code of Civil Procedure."

NOTE: See State Controller's Office Web site at http://www.sco.ca.gov for the Surplus Money Investment Fund rate chart.

IV-6. Agreement for Identified Betterments:

"It is understood that the relocation as herein contemplated includes betterment to OWNER's facilities by reason of increased capacity in the estimated amount of $______________ (which represents _____%

of the estimate dated __________. Said _____% shall be applied to the actual and necessary cost of work done), and OWNER shall credit the STATE for the actual and necessary cost of said betterment, all of the accrued depreciation and the salvage value of any materials or parts salvaged and retained by OWNER."

IV-7. State Performs Work - Owner Requested Betterments:

"The STATE shall perform the work under Section I above at no expense to OWNER except as hereinafter provided."

"It is understood that the relocation as herein contemplated includes betterment to OWNER's facilities by reason of increased capacity in the estimated amount of $__________, said amount to be deposited upon demand in the _____________________ Office of the Department of Transportation, prior to the time that the subject freeway/highway contract bid is opened by the STATE. The final betterment payment shall be calculated based upon the actual quantities installed as determined by the STATE's engineer, and the current cost data as determined from the records of the OWNER. In addition, the OWNER shall credit the STATE at the time of the final billing for all the accrued depreciation and the salvage value of any material or parts salvaged and retained by the OWNER."

NOTE: A memorandum must be sent to Accounting requesting the Owner be billed for the amount of betterment.

IV-8. Lump-Sum/Flat-Sum Billing Utility Agreements (Excluding Pac Bell/SBC):

"Upon completion of the work, and within 45 days after receipt of five (5) copies of OWNER's bill, signed by a responsible official of OWNER's organization, and prepared on OWNER's letterhead, STATE will pay OWNER the lump-sum amount of $____________. The above lump-sum amount has been agreed upon between the STATE and the OWNER and includes any credits due the STATE for betterment, depreciation and salvage."

NOTE: For lump-sum amounts in excess of $25,000, the following clause should be added.

"STATE and OWNER further agree that for lump-sum payments in excess of $25,000, that STATE shall have the option of performing an informal audit of OWNER's detailed records from which the billing is compiled. The purpose of STATE's audit shall be to establish the continued acceptability of using lump-sum payments for high cost relocations and shall not in any way affect the amount or acceptability of the lump-sum amount herein agreed to. OWNER shall keep supporting detailed records available for STATE review for a period of one year following OWNER's submittal of final bill."

NOTE:

(1) Lump-sum Utility Agreements should be used for all utility involvements where the STATE's cost is estimated to be $100,000 or less, and the conditions of Section 13.05.04.00 can be met.

(2) See Clause IV-9 for Pac Bell/SBC lump-sum Utility Agreements.

IV-9. Lump-Sum/Flat-Sum Pac Bell/SBC Billing Utility Agreements:

"Upon completion of the potholing and relocation work, and within 45 days after receipt of five (5) copies of OWNER's bill, signed by a responsible official of OWNER's organization, and prepared on OWNER's letterhead, STATE will pay OWNER the lump-sum amount of $______________. The above lump-sum amount, for the physical relocation work, has been agreed upon between the STATE and the OWNER and includes any credits due the STATE for betterment, depreciation and salvage."

NOTE: Although most positive location will be done pursuant to the Positive Location Agreement, if Pac Bell/SBC will be conducting their own potholing, the following clause should be added.

"In addition to the amount specified above, the STATE will pay the OWNER an additional amount of $__________ for each pothole location requested by the STATE in order to determine the location of the OWNER's facilities. It is estimated that ________________ pothole locations will be required. The final cost for potholing will be the lump-sum amount of $______________ per pothole location times the actual number of pothole locations."

NOTE: For lump-sum amounts in excess of $25,000, the following clause should be added.

"STATE and OWNER further agree that for lump-sum payments in excess of $25,000, that STATE shall have the option of performing an informal audit of OWNER's detailed records from which the billing is compiled. The purpose of STATE's audit shall be to establish the continued acceptability of using lump-sum payments for high cost relocations and shall not in any way affect the amount or acceptability of the lump-sum amount herein agreed to. OWNER shall keep supporting detailed records available for STATE review for a period of one year following OWNER's submittal of final bill."

NOTE:

(1) Lump-sum Utility Agreements should be used for all utility involvements where the STATE's cost is estimated to be $100,000 or less and the conditions of Section 13.05.04.00 can be met.

(2) Use of this clause also requires that the fees and form shown in Exhibit 13-EX-22 be used by Pac Bell/SBC.

IV-9a. Lump-Sum/Flat-Sum AT&T Billing Utility Agreements:

"Upon completion of the Preliminary Engineering, and within 45 days after receipt of five (5) copies of OWNER's bill, signed by a responsible official of OWNER's organization, and prepared on OWNER's letterhead, STATE will pay OWNER the lump-sum amount of $______________. The above lump-sum amount, for the preliminary engineering design work, has been agreed upon between the STATE and the OWNER."

IV-10. State's Contractor Performs Portion of Work-Owner Liability:

NOTE:

(1) Insert the following Clause after Clause IV-1 or IV-2, unless the Owner is liable. As soon as the Utility Agreement is executed, a memorandum shall be sent to Accounting requesting the OWNER be billed.

(2) Use only this Clause if a Phase 4 or Phase 5 Utility Agreement where the Owner is liable.

"The OWNER shall pay its share of the actual cost of said work included in the STATE's highway construction contract within 45 days after receipt of STATE's bill, compiled on the basis of the actual bid price of said contract. The estimated cost to OWNER for the work being performed by the STATE's highway contractor is $__________."

"In the event actual final relocation costs as established herein are less than the sum of money advanced by OWNER to STATE, STATE hereby agrees to refund to OWNER the difference between said actual cost and the sum of money so advanced. In the event that the actual cost of relocation exceeds the amount of money advanced to STATE, in accordance with the provisions of this Agreement, OWNER hereby agrees to reimburse STATE said deficient costs upon receipt of an itemized bill as set forth herein."

13.07.03.05 Section V. General Conditions:

V-1. State Liable for Review and Design Costs, Project Cancellation Procedures and Utility Agreement Subject to State Funding Clauses - FOR ALL OWNERS:

"All costs accrued by OWNER as a result of STATE's request of _____(date)_____ to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement."

"If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement."

"All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission."

V-2. Notice of Completion - FOR ALL OWNERS:

"OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein."

V-3. Owner to Acquire New Rights of Way with STATE liable for a portion of costs:

"Total consideration for rights of way to be acquired by OWNER for this relocation shall not exceed $__________(e.g., $2,500) unless prior approval is given by the STATE. Said property shall be appraised and acquired in accordance with lawful acquisition procedures."

NOTE: A reasonable easement cost limitation must be stated to preclude excessive acquisition cost.

V-4. State to Provide New Rights of Way Over State Lands:

"Such Director's Easement Deeds as deemed necessary by the STATE will be delivered to OWNER, conveying new rights of way for portions of the facilities relocated under this Agreement, over available STATE owned property outside the limits of the highway right of way."

"STATE's liability for the new rights of way will be at the proration shown for the relocation work involved under this Agreement."

NOTE: New rights of way shall mean a right of way described in the same language as found in the OWNER's document by which it is acquired, or held, in its original right of way.

V-5. State to Provide New Rights of Way Over Private Lands:

"STATE will acquire new rights of way in the name of either the STATE or OWNER through negotiation or condemnation and when acquired in STATE's name, shall convey same to OWNER by Director's Easement Deed. STATE's liability for such rights of way will be at the proration shown for relocation work involved under this Agreement. OWNER shall reimburse the STATE all costs for the easement."

NOTE: New rights of way shall mean a right of way described in the same language as found in the OWNER's document by which it is acquired, or held, in its original right of way. In those cases where the OWNER requests acquisition be made in their name, it will be permissible to negotiate or condemn in their name, providing the OWNER has the power to condemn and the State has OWNER's consent for condemnation on OWNER's behalf. The above paragraph should be revised accordingly.

V-6. State to Issue a JUA or CCUA:

"Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties."

V-7. Master Contract Specifies Equal Replacement Rights:

"Upon completion of the work to be done by STATE in accordance with the above-mentioned plans and specifications, the new facilities shall become the property of OWNER, and OWNER shall have the same rights in the new location that it had in the old location."

V-8. Federal Aid Clause - No Master Contract:

"It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement."

V-9. Federal Aid Clause - Master Contract:

"It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement by reference; provided, however, that the provisions of any agreements entered into between the STATE and the OWNER pursuant to State law for apportioning the obligations and costs to be borne by each, or the use of accounting procedures prescribed by the applicable Federal or State regulatory body and approved by the Federal Highway Administration, shall govern in lieu of the requirements of said 23 CFR 645."

NOTE: The FHWA allows liability to be determined in accordance with the terms of Master Contracts in lieu of otherwise applicable S&H Code sections.

V-10a. Facilities Replaced per Liability Determination Under Water Code Section 7034:

"Inasmuch as Water Code Section 7034 requires STATE to be responsible for the structural maintenance of the conduit portion of OWNER's facilities which transports water under the highway at Engineer's Station __________, STATE will repair or replace the conduit portion of OWNER's facilities which lies within the STATE highway right of way when such becomes necessary. In no event shall STATE be liable for any betterments, changes or alterations in said facility made by or at the request of the OWNER for its benefit."

V-10b. Facilities Replaced per Liability Determination Under Water Code Section 7035:

"Inasmuch as Water Code Section 7035 requires STATE to be responsible for the structural maintenance of the conduit portion of OWNER's facilities which transports water under the highway at Engineer's Station __________, STATE will repair or replace the conduit portion of OWNER's facilities which lies within the STATE highway right of way when such becomes necessary unless such repair or replacement is made necessary by negligent or wrongful acts of the OWNER, its agents, contractors or employees; provided that the OWNER shall keep the conduit clean and free from obstruction, debris, and other substances so as to ensure the free passage of water in said conduit. In no event shall STATE be liable for any betterments, changes or alterations in said facility made by or at the request of the OWNER for its benefit."

NOTES:

(1) Use of Clause V-10 is dependent upon the delegated approval of the Water Code Checklist (Form RW 13-19).

(2) See NOTE under Clause I-2.

13.07.04.00 Processing

All Utility Agreements must be submitted for approval, along with the Report of Investigation, either to Headquarters R/W or to the authorized Region/District representative.

Each Region/District may have its own internal procedures for processing the Utility Agreement for approval. Following are the minimum requirements:

- Prepare four originals of the Utility Agreement. All four originals will become fully executed "wet-ink"originals.

- Process the four original Utility Agreements through P&M for EA setup and funding verification. P&M shall "wet-ink" sign all four original Utility Agreements. P&M shall then forward the four originals to R/W Accounting for certification of funds. R/W Accounting shall "wet-ink" sign all four originals. All Utility Agreements where work is done by the Utility Owner/Owner's contractor will be encumbered with R/W ("Phase 9") funds.

- Construction ("Phase 4") funds will be needed for any utility relocation work done by the State's contractor. Construction funds are normally not encumbered by R/W; therefore, P&M must coordinate with District Construction before encumbrance of "Phase 4" funds can be accomplished.

- The funding block on the last page of the Utility Agreement must reflect all project phases funding the specific Utility Agreement.

- Accounting will "wet-ink" sign all four originals of the Utility Agreement to show funds have been certified (encumbered) and will return all four originals to R/W.

- The Utility Coordinator will transmit all four original Utility Agreements, along with the Notice and Permit as required, to the Owner for execution. See Exhibit 13-EX-13 for elements of the transmittal letter. The letter should instruct the Owner to make a copy of an executed Utility Agreement for the interim for their files.

NOTE: There is no State requirement that the Owner execute the Utility Agreements first. With some Owners, it may be more expedient for the State to execute first and then forward to the Owner for execution.

NOTE: One of the restrictions of Legislative Budgeting is the State can only pay bills the owner presents within four fiscal years following the fiscal year in which funds were encumbered. If payment is necessary after the five fiscal years, the Utility Agreement may need to be re-encumbered, or an Amended Utility Agreement may be needed. P&M receives an annual report of Utility Agreements about to expire and will notify Utilities.

NOTE: Utility Agreements encumbered during the fiscal year should be fully executed prior to the end of the same fiscal year, or shortly thereafter. HQ Accounting has been instructed to disencumber any encumbered Utility Agreements not fully executed by the end of the fiscal year. If the Utility Agreement remains partially executed/unexecuted, the Utility Coordinator shall coordinate with P&M and/or Accounting to determine how to proceed.

As soon as the Owner returns the Utility Agreement:

- Check for four "wet-ink" signed originals. Be sure the Owner's signature complies with their bylaws or charter. Check for a copy of their resolution, if one is required. The person or official signing the agreements should have the proper authority delegated to him/her by the Utility Company/Owner to sign the agreements.

- If the Utility Agreements are not dated, date them to match the Owner's transmittal date.

- Obtain State execution of the four original Utility Agreements as required. Make one machine copy of the Utility Agreement.

- Distribute the fully executed original Utility Agreements and machine copy as follows:

  – Send ONE original document to the Utility Owner with instructions to replace and destroy the interim copy in their files. The transmittal letter must include the elements shown in Exhibit 13-EX-23.

  – Retain ONE original document in the Region/District's file. The fully executed, wet-ink original Utility Agreement shall never be removed from the file, unless required in response to a written request from HQ Legal or in compliance with a court order.

  – Send TWO originals to R/W Accounting. One original is for R/W Accounting's files; One original is for transmittal to the State Controller's Office at the time of the first payment request.

  – Send the machine copy to HQ Audits along with a copy of the E-76, if required, and a copy of the Utility Owner's estimate.

13.07.04.01 Processing a Phase 4 or Phase 5 Utility Agreement where the State's Contractor will be handling all or a portion of the Utility Relocation for the Owner

The primary purpose of a Phase 4 Utility Agreement is to correctly allocate the Liability for the work per relocation plans and estimate the amount of construction funds that the State will need to complete the utility relocation when the State's contractor performs the work. Per Section 13.07.02.00, a Utility Agreement is needed for work completed by the State's Contractor, regardless of the extent of State liability.

The Utility Agreement will be prepared with specific attention to the paragraphs which show the work, part or all, the State's Contractor will perform. The "Funding Type" block (generally on the last page) will use a Phase 4 Expense Authorization under Construction Funds and show the estimated amount. P&M must coordinate with District Construction per 13.07.04.00, processing of Utility Agreements.

<u>If the Liability is 100% State</u>

- The Utility Agreement will be sent to the Owner for signature and then signed by authorized Region/District Representative (13.07.04.00) and <u>retained in the Utility File</u>. The Utility Coordinator will show the estimated amount on the "Funding Type" block and <u>No Routing</u> to Headquarters "Accounts Receivable" is required. The relocation is processed as a bid item in the contract. This agreement is primarily prepared for the purpose of Paragraph I to have the Owner agree to the relocation plans being used, and Paragraph III-3 to specify that the Resident Engineer has the final disposition.

If the Liability is Prorated

- The Department's estimated portion of the liability will be shown on the "Funding Type" block of the Utility Agreement. A fully executed copy of the Utility Agreement will be forwarded to Headquarters "Accounts Receivable" (see 13-EX-29) where an invoice will be prepared and sent to the Owner. Headquarters Accounting will place the Owner's funds in the Construction Contract and the Resident Engineer will handle them in the same manner as other construction funds. The State's portion of liability for the relocation is processed as a bid item in the contract. An actual cost Utility Agreement is preferred when the relocation costs are significant. Headquarters Accounting will reconcile the final cost by creating a refund of excess amounts paid by the Owner or a billing for underestimated amounts.

If the liability is 100% Owner

- A fully executed copy of the Utility Agreement will be forwarded to Headquarters "Accounts Receivable" (see 13-EX-29) where an invoice will be prepared and sent to the Owner for their portion. The remaining procedure is the same as shown in "Prorated" above.

In all circumstances, the Utility Coordinator should prepare an ROI package (13.05.01.00) and verify that the work is listed as a bid item on the utility portion of the Right of Way Certification. A fully executed copy of the Utility Agreement must be sent to the Utility Owner in all circumstances.

On a Minor B Project where the State's Contractor will relocate the Owner's facilities (i.e., adjustment of manhole or value covers to grade), use a Phase 5 Expense Authorization on the Utility Agreement and process as above. Headquarters Accounting and 03.02.02.00 require this.

13.07.04.02 Processing a Phase 4 or Phase 5 Construction Funds and a Phase 9 Capital Right of Way Funds as One Utility Agreement

Section 13.07.02.00 indicates that the Utility Coordinator should process a single agreement to the extent possible for each involvement. Although you can process a single utility agreement for Phase 4 Construction Funds and Phase 9 Capital Right of Way together on one agreement form, there are situations where this may not be practical. Although this issue does not arise frequently, the District Utility Coordinator should evaluate each situation to determine if a single agreement versus two separate agreements for a single involvement is the best choice. In evaluating each situation, the following are some of the factors to be considered:

- The funding for a Phase 4 Construction and a Phase 9 Capital Right of Way Utility Agreement is routed to different Accounting Departments.

- To prevent confusion by third parties, such as Utility Owners, Headquarters Accounting, and Resident Engineers as to Right of Way's internal funding process.

- Whether there is an increased overall efficiency of a single agreement as opposed to two separate agreements.

If the decision is to issue two separate utility agreements, each agreement should have a different Utility File number.

For Minor B Projects

- Use a Phase 5 Expense Authorization and process the same as a Phase 4.

13.07.05.00 Amendments to Utility Agreements

Whenever portions, but not all, of a Utility Agreement must be changed, the change shall be accomplished through an "Amendment to Utility Agreement" following the format shown in Exhibit 13-EX-24.

In most cases, Amended Utility Agreements are processed the same as Utility Agreements. However, Amendments that do not have a change in the dollar amount do not need to go to R/W Accounting.

13.07.05.01 Amendments for Payments in Excess of Original Utility Agreement

Normal State Controller procedures do not allow payments in excess of contractual amounts. The State Controller has granted an exception for Utility Agreements whereby they will process final payment requests for reimbursement of relocation costs not exceeding 125% of the estimated amount as stated in the original Utility Agreement.

The basis for this exception is the State has obligated itself to participate in the actual and necessary cost of State-ordered relocation of the Utility Owner's facilities at an estimated cost to the State. Since the cost amount shown in the Utility Agreement is an estimate and not a fixed contractual amount, the State Controller allows for reasonable adjustments to the estimate.

Amounts in excess of 125% of the original Utility Agreement estimate must be covered by an Amended Utility Agreement before payment is requested. In addition, before an Amended Utility Agreement or a bill exceeding 125% of the estimated amount in the original Utility Agreement can be processed, the Utility Coordinator must receive **and approve** written documentation of the reasons and identification of the basis for the increase. (See Section 13.07.03.04, Clause IV-3.)

Amended Utility Agreements are not required whenever the total billing is less than the original Utility Agreement amount except as described in Section 13.07.05.02.

NOTE: This section does not apply to lump-sum/flat-sum Utility Agreements.

13.07.05.02 Amendments for Change in Scope of Work

Any significant change to the originally planned and agreed-upon work must be covered by an Amended Utility Agreement, a Revised Notice to Owner (RW 13-4R), and a Supplemental FHWA Specific Authorization before work on the proposed changes commences. (See Sections 13.06.03.05 and 13.14.05.00.)

Preparing an Amended Utility Agreement and Revised Notice for a change in scope is necessary to:

- Comply with Federal requirements for preapproval of relocation plans.

- Provide for any needed change in the proration of liability.

- Provide for necessary modification to the previously ordered plan of relocation.

13.07.06.00 Special Utility Agreements

Occasionally, a Special Utility Agreement is needed for a variety of reasons, e.g., liability disputes, engineering or construction reimbursement for a project that has been canceled or delayed, or where a Utility Agreement does not exist. The "WHEREAS AND NOW THEREFORE" type of Utility Agreement is usually adaptable and is acceptable. A sample Special Utility Agreement is shown in Exhibit 13-EX-25.

13.07.06.01 Utility Agreement to Cover Advance Engineering Effort

Occasionally, an Owner will expend considerable engineering effort on a planned relocation long before the usual Utility Agreement is executed. Upon request, a Special Utility Agreement may be completed and used as a basis for reimbursing the Owner's costs. The usual ROI is required to support the State's liability to pay. Upon issuance of the Notice for actual physical relocation, the Special Utility Agreement should be amended to cover the remaining items pertinent to relocation work.

13.07.06.02 Utility Agreements With Oil Companies

The relocation of oil company facilities to accommodate construction has historically been done under the terms of a modified Utility Agreement even though oil companies are privately owned, are not a public utility, and are not under the PUC's purview. Relocation is completed in the normal manner: preliminary letter, Report of Investigation, Notice, Utility Agreement and Joint Use Agreement, as required.

Special depreciation clauses are used in utility agreements with oil companies.

- No depreciation is required for a crossing relocation. The Utility Agreement should so state.
- The depreciation clause for longitudinal relocations is:

"State shall be entitled to a depreciation credit, based on the straight-line method and a total estimated service life of 40 years for the replaced facilities, such credit not to exceed 70% of the original installed cost of such facilities, unless owner shall claim no credit is due because the remaining service life of the replaced facility is as great as the anticipated service life of the replacement facility, and in support of such claim supplies:

(a) proof of the remaining service life of the replaced facility, the sufficiency of which to substantiate such claim shall be determined in the sole discretion of State, and

(b) a written certification by owner's controller or chief accounting officer that it is not Owner's normal accounting procedure to capitalize and depreciate portions of its facilities which are relocated, and that no part of the replacement facility will be capitalized and depreciated."

Invoices for Utility Agreements covering longitudinal relocations that do not reflect a credit for depreciation must be accompanied by written certification of the oil company's controller or chief accounting officer and by a statement signed by a State Engineer, that in the opinion of the Engineer:

- The remaining service life of the replaced facility is as great as the anticipated service life of the replacement facility, and
- The evidence submitted by the oil company (which must be described in the statement) fully supports the oil company's claim to that effect.

13.08.00.00 - CERTIFICATION PHASE

13.08.01.00 General

Activities performed in this phase of the project generally consist of:

- Reviewing the PS&E.
- Ensuring the Owner is billed for work the State's contractor performs.
- Preparing the R/W Utilities Certification.

13.08.02.00 PS&E Review

The Project Engineer's PS&E is to be completed prior to R/W Certification. The Utility Coordinator is responsible for reviewing the PS&E to verify:

- Plans show all underground utility facilities remaining within the right of way limits of the project in accordance with Government Code Section 4215.
- Special provisions have been included concerning coordination requirements for all utility work that will be done in coordination with the State's contractor.
- Construction estimates (Basic Engineering Estimating System - BEES) include "Phase 4" utility relocation costs that will be used for billing purposes when the State's contractor performs work for the Owner and the Owner is responsible for the expense.

13.08.02.01 Work Performed by State Contractor

When the State's contractor performs the work for the Owner and the Owner is liable for all or a portion of the costs, the Utility Coordinator obtains funds from the Owner prior to award of the State's construction contract, using the following procedure:

- Obtain an estimate for the work from the PS&E or request an estimate from the Utility Owner after consulting with the Project Engineer.
- Prepare a Phase 4 Utility Agreement. (Refer to Sections 13.07.04.01 and 13.07.04.02.)

13.08.03.00 Right of Way Utilities Certification

The R/W Utilities Certification is a written statement to P&M summarizing the status of all utility facilities located within the limits of the proposed construction project. The certification identifies all utility facilities found to be within the project area and documents if they are impacted and, if so, whether they have been or will be relocated, removed, or protected as required for the construction, operation, and maintenance of the proposed project. R/W Utilities shall certify all projects where a PS&E is prepared, or federal funds are involved, prior to the district advertising and awarding a construction contract.

In accordance with 23 CFR 635.309(b), utility work should be accomplished during construction only when it is not feasible or practical to complete the work prior to construction due to economic or special coordination features. Utility work that cannot be completed in advance of construction contract award shall have special provisions in the standard specifications portion of the PS&E identifying the utility work and details of the coordination involved. All facilities not cleared from the project limits before construction commences shall be shown in the project plans to provide the necessary coordination. (Refer to Section 13.09.01.00.)

When the Utility Coordinator satisfies the utility requirements of the R/W Certification, e.g., "Status of Required Utility Relocations," the project can be certified from a R/W Utilities standpoint. (Refer to Section 14.03.07.00.)

Where the State will do all or a portion of the utility relocation work under the highway contract on the Owner's behalf, a Utility Agreement shall be executed before the project can be certified. This allows the State to do work on the Owner's facilities and ensures Owner acceptance of the proposed plan of relocation. This work will be listed as a "Bid Item" on the Utilities Certification portion of the Right of Way Certification.

The Utility Coordinator shall update and recertify any certification of a project over one year old where the project has not been listed for advertising and any certified project where there was a subsequent design change.

Refer to Manual Chapter 14, Right of Way Certification, for further discussion on certifications and Exhibit 13-EX-26 for the suggested format of R/W Utilities Certification with instructions.

13.08.03.01 Utility Certification for Design/Build Projects

Until project design is completed, it is impossible to determine possible impact on utility facilities. A Utility Certification must be delayed, therefore, until design is completed, but before construction commences. (Refer to Section 14.01.11.00.)

13.09.00.00 - CONSTRUCTION PHASE

13.09.01.00 General

Utility Coordinator activities performed during the construction phase of the project generally consist of:

- Coordinating with Construction and Owner on compliance with Notice to Owner requirements.
- Handling utility relocations discovered during construction.
- Resolving utility relocation work that becomes wasted work.
- Monitoring district Construction review and documentation activities for State reimbursed utility relocation work.

By the time a project reaches the construction phase, the Utility Coordinator should already have sent copies of all Notices to Owner and approved relocation plans to Construction. Ideally, all utility relocation work will be finished before project construction commences. However, since this is not always possible, coordinated utility work may be necessary. Coordinated work must be addressed in the "Special Provisions/Obstructions" portion of State's PS&E. (Refer to Section 13.03.04.06.)

13.09.01.01 Pre-Construction Notification/Meeting

Each Owner of impacted facilities remaining within the project construction limits shall be notified in writing of the bid opening date, the contract award date, and the name and address of the selected highway contractor. Arrangements should also be made for a joint field meeting of the Owner's representatives, the project Resident Engineer, the utility inspector and the highway contractor to work out construction schedules.

13.09.01.02 Positive Location Work During Construction

Standard special provisions require the highway contractor to contact a regional notification center (Government Code Section 4216.2) before conducting any excavation on the project, as well as to exercise due diligence in working in areas of possible underground facilities. If the utility verification and positive location processes were properly completed during design, any additional positive location demands the State's contractor places upon the Owner should be at the contractor's sole expense. If additional positive location work was planned by the Utility Coordinator to be done during construction, this work should be included in the original Notice.

13.09.02.00 Inspection of Utility Relocation Work

The Utility Coordinator is responsible for ensuring that relocation and positive location work is inspected as required and that adequate records are maintained for State reimbursed work. The Utility Coordinator is responsible to notify district Construction of planned relocation and positive location work requiring inspection and the Resident Engineer is responsible for inspection of such work and maintaining diaries to document such work. (Refer to the Construction Manual, Section 3-809.) Inspection has three major objectives:

- Ensure Owner's work complies with design, construction, and traffic requirements within, or in the vicinity of, the roadway.

- Ensure proper placement of utilities to clear project construction in accordance with the Notice to Owner, Encroachment Permit, and Utility Agreement.

- Observe and record the labor, equipment, and materials used to accomplish the work, as well as materials removed for salvage when any work is to be performed at State expense. By reviewing the inspector's diaries, the Utilities Coordinator can make a reasonable verification of the Owner's bills.

NOTE: Proper construction for utility companies regulated by the California Public Utilities Commission (CPUC) is controlled by PUC issued General Orders. Under no circumstances is the Utility Coordinator, the Project Engineer, or the Resident Engineer to review the engineering adequacy of utility facilities except for those features that may adversely affect highway integrity or safety.

13.09.03.00 Discovered Work and Emergencies

Discovered work includes additional unanticipated utility facility adjustments that are required as a result of newly identified facilities, incomplete or inaccurate verification of known facilities, or the discovery of previously unidentified project conflicts. Emergencies are usually a result of storm damage.

The Resident Engineer or Project Manager should immediately notify the Utility Coordinator who will notify the Owner, when determined, of the newly discovered conflict or emergency requirement. The Manager/Engineer should provide the location and type of the existing facility and immediately follow up in writing with a suggested plan for conflict resolution. Although the Manager/Engineer is normally already aware of this responsibility, the Utility Coordinator should request the Manager/Engineer to investigate other work that the State's highway contractor can do to avoid potential contractor delays.

The Utility Coordinator must expedite liability determination and preparation of a new or revised Notice to Owner and Utility Agreement along with any new Encroachment Permit required for the new work. If liability cannot be established and the work is to be accomplished with liability undetermined, the requirements of Section 13.04.08.00 et seq., must be followed. In addition, the Utility Coordinator must ensure that any additional or unanticipated utility work takes place within the original environmental "footprint" described in the environmental document. If environmental reevaluation in the new area is necessary, no work other than studies or positive location should proceed.

The District Utility Coordinator has authority to approve Notices issued with liability undetermined and can give verbal approval in pressing circumstances. In deciding whether to do so, the District Utility Coordinator should evaluate the following:

- Reason for special expedited authorization and consequences of delay.

- Name of the Owner of the facility.

- Verification that the Owner will accept liability undetermined.

- Type of facility.

- Best available cost estimate.

- Is the Owner listed on the Utility E-76?

- Identification of who will do the work. If the Owner's contractor is to do the work, indicate how the contractor was selected.

If conditions merit verbal approval, it must then be documented in the Utility File in a memo or a diary entry.

If federal aid funding is involved on the project, FHWA Specific Authorization must be prepared prior to authorizing the work. The Owner and type of utility must already be listed on the approved E-76 or the discovered work cannot be approved for Federal-aid reimbursement. (Refer to Section 13.14.05.00.)

After the District Utility Coordinator has provided verbal approval of liability and prepared FHWA Specific Authorization (as applicable) and the Owner has agreed to the scope of and liability for the work, the Utility Coordinator should verbally authorize commencement of relocation work to minimize contractor delays. A written Notice to Owner (Form RW 13-4) or Revised Notice to Owner (Form RW 13-4R) should immediately be sent to the Owner. Formal liability approval should be completed within 30 days following issuance of verbal authorization.

13.09.03.01 Changes to Planned Relocation Work

The Utility Coordinator must issue a Revised Notice to Owner (Form RW 13-4R) under the terms of the Utility Agreement when it is discovered that a planned relocation needs to be changed. The Owner must agree to/acknowledge the change as provided for on the Revised Notice Form. Work on the change may not be started until the Revised Notice has been agreed to/acknowledged by the Owner. Changes in the scope of the work will also require an amendment to the Utility Agreement.

13.09.04.00 Wasted Work

Wasted work occurs when the Owner has relocated their facilities in accordance with a Notice to Owner and the State subsequently determines that all or a portion of the newly relocated facility must be adjusted again to avoid conflict with planned construction. Some Master Contracts address wasted work relocations and payments on freeway projects.

The procedures for handling wasted work are similar to discovered work (refer to Section 13.09.03.00) except that the State is liable for the cost of all completed relocation work deemed to be wasted as a result of a change in construction plans. The Resident Engineer must verify the wasted work resulted from plan changes rather than improper contractor work procedures.

The Revised Notice to Owner shall identify what work in the original Notice was wasted and what new work is to be done. The Revised Notice must also state that liability for wasted work is State expense. Cost of all new work is based on liability as set forth in the current Agreement or as determined by usual liability procedures.

13.09.04.01 Payment for Wasted Work

The Owner is responsible to submit a bill identifying the wasted work. The Utility Coordinator is responsible for verifying the Owner's bill. (Refer to Section 13.10.00.00 for processing procedures.) Verifying the cost of wasted work may require the Utility Coordinator to review the bill in greater detail as the wasted work effort must be singled out from costs of other remaining work performed. State's costs for wasted work are not Federal-aid reimbursable.

13.09.04.02 Payment for Betterment Portion of Wasted Work

Normally, the Owner is responsible for all betterment costs except where the betterment is caused by or necessitated by the project. However, when Owner initiated betterment is considered "wasted work" due to a post-relocation construction change, the State is liable to pay for that portion of completed betterment work rendered wasted by the State's action. All reinstallation of the Owner initiated betterment following the change in construction plans shall be at the Owner's expense.

13.10.00.00 - PAYMENT PHASE

13.10.01.00 General

Activities performed during this phase generally consist of:

- Obtaining bills from Owners.
- Checking and verifying bills.
- Processing bills for payment.
- Verifying transactions entered into TRAMS.
- Billing or refunding local agencies pursuant to Cooperative Agreements.

13.10.02.00 Processing Bills From Owners

It is essential to the efficient operation of the State's transportation program that funds encumbered for Utility Agreements be paid as soon as possible. The Utility Agreement billing clause requires Owners to bill the State at least quarterly but not more than monthly, during relocation of their facilities. Immediately after completion of the Owner's work, for which reimbursement is due and a bill has not been received, the Utility Coordinator should make a written request to the Owner requesting submittal of the final bill within 90 days of the date of the letter.

The Utility Coordinator should follow up with a letter to the Owner every 60 days if the bill has not been received. This gives the State credibility if, after 360 days from completion of the Owner's work, the Utility Coordinator needs to initiate the audit process. Before initiating the audit, the Utility Coordinator must inform the Owner of the State's intention to close the file in 30 days and start the audit process.

13.10.02.01 Prompt Payment of Bills

The State's Prompt Payment Act requires that bills be paid within 45 days after the date specified in the contract; and if not specified, the date the invoice is stamped received by the Department. This includes the time for the invoice to be reviewed against inspector's diaries, preparation of the payment request package, transmittal to HQ Accounting, submission to State Controller's Office and processing of the check. If invoices are not paid within the required time frame, SCO will also pay late payment penalty funds to the Owner, which could be substantial. These penalty funds are not Federally reimbursable.

If, after review of the invoice, the Utility Coordinator has concerns or questions about the validity of any part of the invoice, the Utility Coordinator must send an official invoice dispute form back to the Owner (Form STD. 209). This has the effect of "resetting" the Prompt Payment Act "clock." The Utility Coordinator should monitor payment of received bills to ensure the applicable payment date is met.

13.10.02.02 Review of Owner's Bill

When the bill is received, the Utility Coordinator shall check to see if it is a partial or final bill. Since consistent format will facilitate review, the bill should be in a format similar to that used for the original estimate of cost (Exhibit 13-EX-27). The Utility Coordinator is responsible to check the bill for consistency with the Utility Agreement and the Owner's previously submitted and approved relocation plan and estimate of cost and to ensure credit for previously identified betterments has been received. The bill must be on the Owner's letterhead and signed by the appropriate Owner representative. All bills must be addressed to the Department of Transportation, or the Controller will not pay the bill, and must contain the Utility Agreement number. If the Owner's invoice does not contain the Utility Agreement number, the Coordinator must imprint the Utility Agreement number on the invoice or bill. When the Coordinator completes the Utility Payment Request (Form RW 13-6), the number(s) of the Owner's invoice(s) to be paid must be listed on the form. Coordination between Right of Way, Construction, and Accounting is essential to adequately verify the bill.

IRS requires that all payments to vendors be recorded under the recipient's Tax Identification Number (TIN). Accounting maintains a TIN file for all Owners with whom the State normally does business. If the TIN is not on file, Accounting will advise the Utility Coordinator. The Utility Coordinator then sends the Owner Form STD. 204, "Payee Data Record," for them to complete and sign, and forwards the completed form to Accounting.

13.10.02.03 Bill Discrepancies

If discrepancies are discovered in the Owner's bill, the Utility Coordinator must return the bill to the Owner within 15 days of receipt with a request for correction. The Utility Coordinator completes Form STD. 209 identifying the type of discrepancy or deficiency in the bill and sends the original bill with the completed form back to the Owner. The Utility Coordinator must keep a copy of the bill and the form in the Utility File for documentation.

If the Owner's response is not acceptable, the Utility Coordinator should forward the bill to HQ R/W with a request for Audits' assistance. However, it is important for the Utility Coordinator to make every effort to resolve discrepancies before requesting Audits' help.

Some of the more usual discrepancies include:

- Failure to provide credits for betterments, salvage, or depreciation associated with the relocated facilities (see Section 13.04.05.06).
- Interest beyond the date the utility facility is put back into service (Section 13.04.07.01).
- Partial/progress billings that exceed the Agreement amount (see following sections).

13.10.02.04 Partial Billings

Partial bills are usually paid routinely, if the total of the partial bills does not exceed the amount encumbered under the Utility Agreement. A review of partial bills is essential where the State is due an unusually large credit, e.g., large betterments, or where billing exceeds work actually completed. The procedure for payment is the same as for final bills as described in Steps 5-10 in Table 13.10-1, "Processing Final Bills."

13.10.02.05 Payment for Engineering Effort

Occasionally, an Owner will expend considerable engineering effort for a required relocation in advance of executing the Utility Agreement. If the Owner requests to be paid for these efforts as they progress, a separate Utility Agreement must be entered into to cover this portion of the overall relocation. This payment is sometimes referred to as a progress payment and is processed the same as for a partial billing.

13.10.02.06 Final Bills

The process for paying final bills is shown on Table 13.10-1, "Processing Final Bills." Final bills must contain detailed charges in a format similar to that in the original estimate and must contain all information listed in Section 13.10.02.02. (If partial bills contained detailed charges, the details in the final bill could cover only the final portion of work.) The final bill must also contain the "start date" of the physical relocation work. The Utility Coordinator must check the start date against the FHWA Specific Authorization date, if applicable, to ensure proper Federal reimbursement. Based on an agreement with the State Controller's Office, payment of a final bill may be made up to 125% of the Utility Agreement amount without an amendment.

13.10.02.07 Payment Request Form

Payments for both partial and final bills are requested on the Utility Payment Request, Form RW 13-6. The form is fairly self-explanatory. However, the Utility Coordinator must take special care when more complex relocations are being handled. If there are costs that are not Federally reimbursable, these costs must be separated out and coded appropriately. Costs of this type most often include wasted work, discovered work, spare duct charges, costs incurred prior to Federal authorization and interest during construction.

In the case of an advance of funds to the Owner, the advance payment request is originally coded with an "FAE" code of "8" to suspend the funds. As invoices are received for actual work completed, even though no actual "payment" occurs, the Utility Coordinator must process the RW 13-6 and note in the "Other" category that the request is to "transfer" funds from FAE 8 to FAE 6 (federally reimbursable) or FAE 7 (State only funds).

13.10.02.08 Audit of Owner's Bill

Once all payments have been made and any JUA/CCUA/Director's Deeds have been processed, the Utility Coordinator must send a request to Audits for a post audit. Audits will issue an Audit Report identifying any discrepancies discovered during the audit. For money due the State on final bills, Audits sends the Audit Report to the Utility Coordinator with instructions to initiate billing the Owner for reimbursement of the discrepancy amount cited. Usually, the auditor will have reached an agreement with the Owner on any identified discrepancies. If the auditor cannot resolve the discrepancy with the Owner, the auditor notifies the District Utility Coordinator, who shall take necessary steps to resolve it.

13.10.03.00 Advance Payments to Owners

If the Owner does not have sufficient funds available to proceed with the relocation of their facilities, the State may choose to advance the State's portion of the relocation costs. The Utility Coordinator may advance up to 90% of the State's total portion (to allow for credits for salvage, depreciation, etc.). Once the Utility Coordinator receives an executed Utility Agreement and the Owner's bill for the advance, the Utility Coordinator shall process a Request for Payment (Form RW 13-6) within 45 days. The funds advanced by the State must be deposited into a separate interest-bearing account or trust fund in a California state or national bank. (See California Government Code Section 53630, et seq.) Any interest earned on the funds must be credited to the State. [See Section 13.07.03.04 (IV-4) for specific clauses relating to advance payments to Owner.]

If the actual and necessary relocation costs are less than the amount advanced, the Owner must refund the overpayment. If the actual and necessary relocation costs are more than the amount advanced, the Owner must process a final bill and the payment will be processed as in Table 13.10-1.

NOTE: No funds are to be advanced to cover Owner betterments.

13.10.03.01 Loan to Owner

If the Owner recognizes their obligation to relocate their facility at the Owner's cost, but does not have sufficient funds available to proceed with the relocation, the State may agree to advance the funds to the Owner in accordance with S&H Code Section 706. Once the Utility Coordinator receives an executed Utility Agreement and the Owner's bill for the advance, the Utility Coordinator shall process the payment within 45 days. The Owner must pay interest on the funds advanced by the State at the rate of earnings of the Surplus Money Investment Fund and the funds must be repaid within 10 years. (See Section 13.07.03.04 IV-4 for specific Utility Agreement clause.)

NOTE: See http://www.sco.ca.gov/ard/surplus/smifrate.pdf for the Surplus Money Investment Fund rate chart.

13.10.04.00 Verification of Transactions

The Utility Coordinator is responsible to review the R/W Accounting 1A Report to ensure all codes and amounts for each transaction were correctly entered into TRAMS. The 1A Report lists all transactions entered into TRAMS for the previous week. R/W Accounting sends the 1A report electronically to P&M every Monday, and P&M shall make a copy of the pertinent page of the weekly 1A report to the Utility Coordinator for review.

Table 13.10-1

PROCESSING FINAL BILLS (Section 13.10.03.00)		
Step	**Responsible Party**	**Action**
1	Utility Coordinator	Review the bill against the Utility Agreement (UA), the Owner's approved relocation plans, and the Owner's estimate of cost. Ensure that the Owner has submitted the required notice of completion.
2		Check total cost billed to State against amount encumbered by the UA. If final bill exceeds encumbrance by more than 25%, an amended UA must be processed before payment is requested (see Section 13.07.05.00).
3		Send a copy of the bill to Construction requesting them to review the bill and return it with a copy of the utility inspector's daily diary pursuant to the Construction Manual, Chapter 3, Section 3-809, General Provisions.
4		Review the bill against the inspector's diary, paying particular attention to items of credit to which the State is entitled. Credits for betterment, salvage, and depreciation are to be checked to ensure that they appear reasonable in the bill. Audits makes a final determination of the accuracy (see Section 13.04.05.06).
5		Prepare the Utility Payment Request (RW 13-6). Refer to Section 13.14.00.00 for federal aid procedures.
6		Prepare the Checklist for Final Utility Invoice (RW 13-7).
7		Send the original invoice, the Utility Payment Request (RW 13-6), and a copy of the UA signature page to HQ Accounting.
8	Region/District P&M	Complete unshaded coding boxes on the Utility Payment Request (RW 13-6). Route package to R/W Accounting for payment.
9	R/W Accounting	Schedule the bill for payment through the State Controller. (Check is mailed directly to Owner.)
10	Utility Coordinator	Verify the transaction against the following week's 1A report, electronically issued by R/W Accounting and forwarded by Region/District P&M.
11	Utility Coordinator	Send the following package to Audits for review. Copies of: • Final billing invoice and RW 13-6. (Include partial billings and related RW 13-6s if they contain details of the charges.) • Executed Utility Agreement, with amendments if applicable. • Notice to Owner, with Revised Notices to Owner if applicable. • Approved E-76, if applicable. • R/W Accounting's weekly 1A report(s). • Identification of specific concerns in need of Audit review.
12	Audits	Perform an audit of the Owner's bill and prepare the Audit Report, requesting that District R/W initiate the process to collect funds from the owner or recommending that District R/W close the file.
13	Utility Coordinator	If funds are to be collected from the Owner, prepare an Accounts Receivable memorandum requesting preparation of a bill. A copy of the Audit Report must be included with the memorandum for forwarding to the Owner with the bill. Forward both documents to Accounting - Accounts Receivable.
14		If a Cooperative Agreement with an LPA involves cost sharing, ensure the LPA is billed (or refunded) for their share of relocation costs for all owners. See Section 13.12.00.00 for procedures in dealing with Cooperative Agreement projects.

NOTES:

13.11.00.00 - PROPERTY RIGHTS CONVEYANCES

13.11.01.00 General

This section explains usage, preparation, and processing of Joint Use Agreements (JUA), Consent to Common Use Agreements (CCUA), and easement (replacement right of way) conveyances to the utility owner.

The Utility Coordinator is responsible for preparing JUA and CCUA on Form RW 13-1 and Form RW 13-2 respectively, except for Southern California Edison Company's JUA and CCUA, which are prepared on Form RW 13-8 and Form RW 13-9 respectively.

13.11.02.00 Requirements for JUA/CCUA

JUA and CCUA are documents that perpetuate the Owner's rights of way that are within the State's highway right of way. Both documents place limiting restrictions on the Owner's use to ensure the Owner's utility use is compatible with highway traffic safety. The Owner otherwise retains all their original easement use rights. The fact that the State is obligated to pay the cost of relocating the utility facility does not, in itself, entitle the Owner to such an agreement. The documents may be entered into only where the Owner's original easement:

- Possessed prior rights in the right of way acquired by the State.
- Did not contain termination or relocation clauses that were enforceable by the State.

These documents are used only for the portion of the Owner's utility easement that is within the State's highway right of way. The State may own the right of way either in fee (JUA or CCUA) or in easement (CCUA only).

In the case of an easement, the Owner's prior rights must be carefully checked for unusual conditions. For example:

- The Owner may have an easement that requires relocation at the Owner's expense but obligates the landowner (State) to issue a new easement (JUA or CCUA) for the newly relocated facilities.
- The Owner's easement may have been granted for a specific time period, in which case the JUA or CCUA must be written to terminate on the specified date. Following termination, the utility facility is considered as being under an Encroachment Permit.

NOTE: A JUA cannot be used where the State only possesses an easement right of way. The State as an easement holder has no legal right to grant a utility easement in a new location.

13.11.02.01 Joint Use Agreements

A JUA (Form RW 13-1 or RW 13-8) is used when the Owner's facility will remain on lands used for highway purposes but will be relocated to a position outside, or partly outside, the Owner's existing right of way where the Owner had prior rights. It is also used where the Owner's right of way is not occupied by any existing utility facilities but the Owner will not quitclaim the easement because of an unknown future use.

When existing facilities have been relocated to a new location both within the highway right of way and outside the right of way on a newly acquired utility easement, the JUA describes only the new location of the facilities within the highway right of way. The easement area outside the highway is covered by acquisition on the Owner's easement form or conveyed by State Director's Easement Deed (DED) if acquired in the State's name.

13.11.02.02 Consent to Common Use Agreements

A CCUA (Form RW 13-2 or RW 13-9) is used when all of the Owner's facilities, whether rearranged or not, will remain within the highway area covered by the Owner's existing easement area.

13.11.02.03 Water Code 7034 and 7035

Water Code Sections 7034 and 7035 specify the rights and obligations of each party regarding water facilities that fall under these statutes. A JUA or CCUA will be issued only for Section 7035. No JUA/CCUA shall be issued for Section 7034.

13.11.02.04 Local Agency Owned Facilities Within Highways and Frontage Roads

A JUA/CCUA is not required for facilities relocated to frontage roads to be relinquished to the local agency, as the local agency will be vested with all the title the State previously held.

In those cases where the local agency's facilities remain within the highway right of way and not in a frontage road and the facilities were installed in local agency streets prior to inclusion in the highway system, the practice is to enter into a JUA/CCUA only if the local agency so demands.

If the local agency's facilities exist upon a recorded easement, a JUA/CCUA with the local agency covering these facilities is in order.

13.11.02.05 Prescriptive Rights

It is appropriate to perpetuate the Owner's rights established under prescription with a JUA/CCUA. The extent of a prescriptive right, however, must be measured by the Owner's use during the period the Owner occupied the site under prescriptive right (not less than 5 years). Granting any rights greater, or specifying a dimension to the easement where none is documented, is a betterment and constitutes a gift of public funds. Accordingly, the precise extent of the prescriptive right, e.g., "a single line of poles with one crossarm and three 200 pair telephone cables," should be set out in any JUA/CCUA.

A prescriptive right cannot be established over land owned by any governmental entity.

13.11.03.00 JUA/CCUA Preparation

Following are guidelines for preparing JUA/CCUAs:

- The State normally prepares JUA/CCUA, and coordination between the Utility Coordinator and R/W Engineering is essential.
- To the extent practicable, a single JUA/CCUA document is used covering each location or related series of the Owner's easements for either a conventional highway or freeway transaction.
- Since the document must be returned to the State to allow for documenting the recording information on State Record Maps, the State's return address must be shown in the upper left-hand corner of the document.
- The document shall have the same number as the Utility Agreement with another numerical digit after the Utility Agreement number, e.g., Utility Agreement No. 01-UT-1234 corresponds to JUA/CCUA Document No. 1234-1.

13.11.03.01 Description of Owner's Rights

The "Owner's easement" portion of the JUA/CCUA document is described by reference to the document and recording information, if any, by which the Owner acquired the utility easement. If the document is unrecorded, language shall be inserted in the JUA/CCUA description stating that a copy of the unrecorded document is attached and made a part of the JUA/CCUA. (The unrecorded document is then attached.) In the case of Pacific Gas and Electric Company, a copy of the unrecorded document should not be attached to the JUA/CCUA to be recorded. A copy is retained and attached to the R/W Utilities file copy only.

When the Owner's easement rights have been acquired by prescription, or in any other manner that does not exactly describe the specific location or rights acquired, the "Owner's easement" must be described in precise terms using one of the following clauses as appropriate:

A. "The easement for a (voltage) electric distribution line consisting of a single line of poles with (number) conductors suspended therefrom and appurtenant thereto, together with a right of way along said pole line, acquired by (occupancy, etc., as appropriate to the circumstances)."

   NOTE: If a telephone facility is involved, this clause should be modified to describe the number of circuits instead of voltage. It should also include the number of poles erected within the area being described.

B. "The easement for a (size) inches or feet (gas, water, steam, oil, etc.) pipeline with valves and other appurtenances, fittings and connections thereto, together with a right of way along said pipeline acquired by (occupancy, etc., as appropriate to the circumstances)."

C. "The easement for a canal or ditch and pertinent structures within a strip of land (number) feet in width, together with a right of way along said strip acquired by (occupancy, etc., as appropriate to the circumstances)."

13.11.03.02 Vicinity Description

The "highway right of way" portion of the JUA/CCUA document is described by reference to the vicinity of a city, town, or other commonly recognized locality, the county, and the State Route.

13.11.03.03 Location Description

R/W Engineering prepares the description of the "new location" or "area of common use." The description is included in the JUA/CCUA in accordance with the following requirements:

A. In some instances, the Owner's existing facility will be located partially within an easement and partially under permit or other lesser right. In those cases, the "new location" or "area of common use" must be apportioned so the Owner has the same ratio of ownership and rights in the new location as were held in the old location. The Owner must not receive a betterment by a grant of an easement for the portion that was previously held under permit or lesser right.

B. The foregoing rule applies notwithstanding the fact that the existing facilities may leave the highway right of way for a portion of their length, so there is in effect more than one crossing of the highway or right of way line.

C. The description preferably should be by attached map, provided the map can be reduced to the size of a recordable document without being illegible.

D. For the purpose of the referenced apportionments, distances are determined by measurement on a scaled map that is an accurate horizontal plan of the affected easements. To the extent possible, the new easement location is described as a continuous strip even though the original easement locations may not have been continuous and abutting. The description for a new longitudinal location generally commences opposite the lowest highway engineer's station and is measured in the direction of increasing stations. In the case of perpendicular crossings, it commences at the right of way line, right or left of the highway station.

E. If two or more of the Owner's original easements are being combined into a single JUA, the following statement is added to the end of the description of the "new location":

> "For the purpose of determining the position and length of each of Owner's easements in the new location, said easements shall be deemed to be located in the same sequence as is set forth above, and the length of each easement in the new location shall bear the same proportion to the entire length of the new location as the length of such easement in the old location within the right of way of the highway bore to the entire said length, all lengths to be measured on a scaled map which is an accurate horizontal plan of the affected easements."

F. Where practical, more than one crossing of the highway right of way may be covered in a single JUA/CCUA.

G. When the Owner's rights have been acquired by prescription, or in any other manner that does not exactly describe the specific location or rights acquired, "Owner's easement" must be described in precise terms in the form as shown in Section 13.11.03.01.

13.11.03.04 Access Control Clauses

The JUA or CCUA specifies any limitations on the Owner's right to cross access control lines or fences erected across the new location of the Owner's easement or the area of common use. If the highway is not a freeway, the words "conventional highway, not applicable" are inserted as Paragraph 4 of the JUA or Paragraph 3 of the CCUA. If the Owner's facilities in the new location or area of common use do not cross a freeway access control line or fence, the following provision is inserted:

> "State's access control line does not intersect Owner's easement; not applicable."

If the State highway involved is a freeway and the Owner's facilities in the new location or area of common use will cross the freeway access control line or fence, the parties must enter into a specific understanding on how the Owner will access their right of way along the easement portions at each crossing of the freeway fence. Usually, the JUA/CCUA uses one of the clauses in Table 13.11-1, "Clauses - Access Control Across Freeway Fence," for the situations presented. If none of the clauses fits the situation, the parties will agree upon the manner in which the Owner is to exercise their rights. The clause negotiated shall be subject to Headquarters R/W and Legal review and approval.

Table 13.11-1

CLAUSES - ACCESS CONTROL ACROSS FREEWAY FENCE (Section 13.11.03.04)	
Situation	**Clause**
The Owner needs (a) gate(s) in the freeway fence, and the State accepts the need.	"Owner shall exercise its rights of way solely by use of the gate installed in the freeway fence (right or left) of Engineer's Stations ___________ (Insert as necessary: "together with the road approach thereto constructed within the freeway"). The said gate (and road approach) shall not be used for any purpose other than construction, reconstruction, operation, inspection, repair or maintenance of Owner's facilities now or hereafter installed pursuant to Owner's easement. Owner shall close and lock said gate after each use thereof by Owner."
The Owner agrees that it can adequately maintain the facilities installed on their easement by traveling over city streets, county roads, or State highways that are not planned to be closed, or a private easement owned by the utility.	"Owner shall not, in the exercise of its rights under its easement, pass through or over the freeway fence(s) constructed by State across Owner's easement (right or left) of Engineer's Station _______ except in emergencies or when necessary to permit the construction, reconstruction or replacement of Owner's facilities."
If neither clause above is applicable, the State shall provide a substitute route (or means) for the Owner's use for accessing the easement areas at each crossing of a freeway fence or access control line. In each case, the substitute route (or means) shall be fully described in the document.	"So long as Owner shall have a right to exercise its right of way along its easement by the means hereinafter described, or a reasonable substitute therefore, provided by State, Owner shall not pass through or over the freeway fence constructed by State across Owner's easement except in emergencies or when necessary to permit the construction, reconstruction or replacement of Owner's facilities. Said route (or means) is described as follows: (Provide description of route or means.)"
The Owner's easement does not cross the freeway access control line, or the Owner can only adequately reach their facilities from the freeway. **NOTE:** This situation also requires Division of Design encroachment exception approval.	"Owner shall enter and leave said (new location or area of common use) only by way of said freeway."
The Owner's facilities in the new location are entirely outside of the freeway fence and the Owner can adequately reach their facilities without crossing the fence.	"Owner's facilities in the new location are located entirely outside the freeway fence. This paragraph is therefore not applicable." or Clauses in the four sections above, as applicable, plus: "The foregoing is not applicable to that portion of the new location within a frontage road outside of the freeway in which the Owner's rights can be exercised by entry from such frontage road."

13.11.04.00 JUA/CCUA Processing

The Utility Coordinator processes the JUA/CCUA as shown in Table 13.11-2, "JUA/CCUA Process."

Table 13.11-2

JUA/CCUA PROCESS (Section 13.11.04.00)	
Step	**Description**
1	Request R/W Engineering to prepare the necessary maps and legal descriptions for the JUA/CCUA.
2	Review the JUA/CCUA for accuracy and compliance with policy.
3	Transmit the original, one counterpart, and one copy of the JUA/CCUA to Owner with the following instructions: • Request Owner to execute and return the original and the counterpart. The copy is for the Owner's records. • Request Owner to provide full organizational names and titles of the signing officers with their signatures acknowledged on the JUA/CCUA. • Advise that a fully executed and recorded original will be returned to Owner following State's processing.
4	Upon receipt from the Owner, review the documents to ensure they have been properly executed and acknowledged and sign both the original and the counterpart under "Recommended for Approval."
5	Forward the documents to the district person who is appointed as the Department's Attorney in Fact to execute both the original and the counterpart of the JUA/CCUA on the State's behalf.
6	Record the executed original JUA/CCUA. The State's return address must be shown in the upper left-hand corner of the document.
7	Upon return of the recorded JUA/CCUA, the district will: • Send the original recorded JUA/CCUA to the Owner with reference to County, Route, Post, EA, Utility Agreement No., Owner's file reference, and any other information pertinent to the project and file. • Send a copy of the recorded JUA/CCUA to R/W Engineering for entering on the District's Record Maps. • Retain the original, counterpart, and the copy of the recorded JUA/CCUA in the Utility File.

13.11.04.01 Recording JUA/CCUA Prior to Relinquishment of Frontage Roads

Occasionally, an Owner's prior rights easement will impact both a State freeway and a frontage road that will be relinquished to a local agency. To protect the Owner's prior rights, the JUA/CCUA must be recorded in advance of the relinquishment resolution.

13.11.05.00 Special Clauses

Where the Owner is in a prior right status to the State highway and is requesting a special clause in the JUA/CCUA, one of the following standard clauses may be used as appropriate to cover the Owner's needs. Use of these clauses requires written approval from Headquarters R/W. The circumstances warranting use of these clauses shall be included in the transmittal memo to HQ R/W. Under no circumstances are these clauses to be modified without Legal's prior approval.

13.11.05.01 Conversion of Open Ditch to Conduit When Owner Has Prior Rights

Where an open ditch exists under a granted easement, the highway is on a new alignment, and the State is changing the facility to a closed conduit within the highway right of way, the following clause may be added to the JUA/CCUA:

> "Inasmuch as Water Code Section (7034) (7035) requires STATE to be responsible for the structural maintenance of the conduit portion of OWNER's facilities which transports water under the highway at Engineer's Station _____________, STATE will repair or replace the conduit portion of OWNER's facilities which lies within the STATE highway right of way when such becomes necessary unless such repair or replacement is made necessary by negligent or wrongful acts of the OWNER, its agents, contractors or employees; provided that the OWNER shall keep the conduit clean and free from obstruction, debris, and other substances so as to ensure the free passage of water in said conduit. In no event shall STATE be liable for any betterments, changes or alterations in said facility made by or at the request of the OWNER for its benefit."

13.11.05.02 Special Clause for Public Agencies

Sometimes the standard form of JUA/CCUA cannot be used when dealing with another public agency, such as the federal government. To establish equal and concurrent rights to a common use area to be jointly used with the State, conveyances to another public agency may include the following clause with Headquarters R/W prior approval:

> "This grant is subject to all valid and existing encumbrances of record, and is subject to the continuing right of the grantor and its successor to use the said land hereof, in common with the grantee and its successors, with the understanding that after completion of the highway construction work presently contemplated, whenever either party alters or improves its facilities within such common area, such party shall assume the actual and necessary costs, exclusive of betterments, of accommodating the other's facilities located in such common use area and necessarily affected by the proposed alteration or improvement, and that neither party will undertake any such alterations or improvements without first submitting to and obtaining the written approval by the other of the plans and specifications thereof, which approval shall not be unreasonably withheld."

This clause is readily adaptable where the State is either the grantor or the grantee. Inasmuch as the party initiating the work of altering their own facility within the common use area is liable for the cost of reconstruction and relocation of the other public facility, it is important to carefully consider respective rights of the parties before consenting to use of this clause, and then only after Headquarters R/W review and approval.

13.11.06.00 Agreements With Public Agencies

The Bureau of Reclamation and the Department of Water Resources have special agreements with the Department that provide instructions for preparation of a JUA/CCUA going to them.

13.11.06.01 Bureau of Reclamation Agreements

The State and the Bureau of Reclamation have entered into master contracts as shown in Table 13.11-3 below.

Table 13.11-3

BUREAU OF RECLAMATION AGREEMENTS (Section 13.11.06.01)		
CONTRACT	**COVERAGE**	**EXPLANATION**
Bureau of Reclamation Contract No. 14-06-200-6020 (CVP) dated October 12, 1956	Joint use areas of State highways and facilities of the Central Valley Project.	Provides for perpetual joint use in common areas by either party on lands of the other party by means of a one-page form labeled “Exhibit ‘C’” of the contract (Form RW 13-10). Each joint use is subject to the terms and conditions in the master contract.
Bureau of Reclamation Contract No. 14-06-200-503-A (Non-CVP) dated October 9, 1963	Joint use of State highways and Bureau of Reclamation facilities, other than those of the Central Valley Project (Contract No. 14-06-200-6020).	Provides for the form of “JUA” to be used when the State or the Bureau proposes construction on the other’s property. The forms of “JUA” are: 1. “Exhibit ‘B’” (Form RW 13-11) of the master contract provides for the form of JUA to be issued by the State when the Bureau proposes transverse construction on the State’s property. 2. “Exhibit ‘C’” (Form RW 13-12) of the master contract provides for the form of JUA to be issued by the Bureau when the State proposes construction on the Bureau’s property.

13.11.06.02 Department of Water Resources Agreement

The Department and the Department of Water Resources entered into an agreement dated December 13, 1961 covering, among other things, the form of “Certificate of Common Use” to be used when the Department or the Department of Water Resources proposes construction on the other’s property. The forms of “Certificate of Common Uses” are:

- Exhibit ‘A’ (Form RW 13-13) of the master contract is used when the Department proposes construction on the Department of Water Resources’ property.
- Exhibit ‘B’ (Form RW 13-14) of the master contract is used when the Department of Water Resources proposes construction on the Department’s property. Transverse crossings by the Department of Water Resources are the only permitted crossings under this agreement.

13.11.07.00 Easement Conveyance Processing

Conveyance of easements to Owners is by deed. To initiate this procedure, the Utility Coordinator must include a clause/clauses in the Utility Agreement for property rights to be conveyed and the form of conveyance. Clause(s) should also include credit to the State for the Owner's share of the cost or market value of easements conveyed, as applicable. The cost of State acquired utility easements is part of the cost of relocation and must be apportioned between the State and the Owner in accordance with the Utility Agreement. See Section 13.07.00.00 for standard Utility Agreement clauses.

NOTE: Easements to be conveyed across excess lands or developable airspace parcels must be located so as to minimize possible adverse conflicts to site development. Requests for easements across airspace or excess lands not originating as a result of a Utility Agreement obligation should be handled in accordance with usual excess or airspace procedures.

13.11.07.01 Easement Billing Process with R/W Contract (No Utility Agreement)

This process is used when there is no Utility Agreement because liability is 100% Owner expense, easements have been purchased for the Utility Owner with State funds through a R/W Contract, and the deed has been recorded. The Utility Owner must reimburse the State for this cost.

When Acquisition has acquired the easement(s), the Utility Coordinator is responsible to:

- Document the Owner's request for the State to purchase easements in the Utility Diary.
- Obtain a copy of the R/W Contract and Memorandum of Settlement (RW 8-12 or RW 8-13) from Acquisition.
- Highlight the easement description and settlement cost in Paragraph 8 of the Memorandum of Settlement.
- Verify with Planning and Management (P&M) that the payment has been made to the grantor of the property and the project EA is open. *
- Use Exhibit 13-EX-31 to request an abatement invoice from HQ Accounts Receivable. Transmit the original and a copy of this exhibit with a copy of the R/W Contract and Memorandum of Settlement to Accounts Receivable. Retain a copy in the Region/District's Utility File.

* If the project EA is not open, request P&M to supplement the EA for the purpose of processing the invoice for the easement.

13.11.07.02 Acquired in Owner's Name

Acquisition of easements in the Owner's name using their deed form is the preferred method since the procedure for transferring this easement deed is the simplest. When Acquisition has acquired the easement in the Owner's name, the Utility Coordinator is responsible to:

- Obtain the Owner's approval of the description in advance of execution.
- Collect money due the State from the Owner for their share of the easement costs, if applicable.
- Ensure the easement deed is recorded.
- Retain a copy of the easement deed along with a copy of the recording request to the County Recorder.

13.11.07.03 Acquired in State's Name

The process for conveying an easement acquired in the State's name is slightly more difficult than conveying an easement in the Owner's name. When Acquisition has acquired the easement in the State's name, the Utility Coordinator is responsible to:

- Transmit necessary maps and/or legal descriptions (taken from the State's Grant Deed) to Excess Lands with a request for Director's Easement Deed (DED) preparation.

- Review the prepared DED for accuracy and transmit a copy of the DED to the Owner for review and approval. Any money due the State should be requested pursuant to the Utility Agreement.

- Upon Owner approval and receipt of money due State, request Excess Land to process the DED as provided for in Section 16.07.02.00.

- Ensure receipt of a copy of the DED for the District's Utility files and follow up to make sure the DED was recorded and sent to the Owner.

13.12.00.00 - LOCAL PUBLIC AGENCY PROJECTS

13.12.01.00 General

This section covers oversight requirements for utility involvements on the following three types of projects:

- Local Public Agency (LPA) Funded State Highway Projects.
- Federal Aid Local Streets and Roads Projects.
- Private Developer Funded State Highway Improvement Projects.

This section also covers review of Cooperative Agreements.

13.12.01.01 Preliminary Engineering Allowed for Local Programs

The use of Preliminary Engineering by Local Agencies is allowed prior to and in support of the Environmental Document. The Local Agencies are to follow the procedures outlined in 13.02.02.02 and other sections of this Manual.

13.12.02.00 Locally Funded State Highway Projects

Locally funded State highway projects are those projects on the State highway system that are locally sponsored through use of LPA and/or private funding. They typically are not CTC initiated STIP projects, but are included in the STIP for project identification and approval. These projects do not include federal aided local projects that are included in the Local Streets and Roads Program. The more common types of Special Funded projects are:

- Tax Measure Projects
- "$1" Projects
- Interchange Cost Sharing Projects
- Cooperative State/Local Projects
- Toll Road Projects

13.12.02.01 Oversight of Locally Funded State Highway Projects

The Utility Coordinator provides oversight on locally funded State Highway projects. Oversight includes the activity of monitoring as well as the effort of assisting, guiding, and advising the LPA to ensure that all utility adjustments and encroachments are accomplished in accordance with the Department's policies, procedures, standards, practices, statutes, contracts, and agreements. Within this context, use of State mandated forms shall be required of all LPAs and/or their consultants.

Where protection, relocation, or removal of facilities is required, the work shall be performed and liability determined in accordance with:

- State law, policy, procedure, contracts, and agreements for those facilities located within the project limits providing improvements to the State highway.
- Local agency policy and procedures for those facilities located outside the project limits of the State highway.

This requires the local agency to adhere to all requirements of the State's Master Contracts for work related to the State freeway portion of the locally funded project.

The S&H Code authorizes the State to issue Notices for ordered relocations on the State highway system. This authorization can be specifically delegated to an LPA. If the impacted Owner of facilities refuses to accept an LPA issued Notice, the Utility Coordinator may issue the Notice after appropriate review.

13.12.02.02 Use of Scopes of Work

To ensure the State's policies and practices are followed whenever work is performed by consultants on State highways, work products and services should be performed as described in Exhibit 13-EX-28, Utilities Scope of Work (SOW). The recommended SOW establishes requirements necessary for consultants to complete the required service or product and establishes minimum acceptable standards. To ensure minimum standards are followed, districts shall monitor LPAs in accordance with procedures outlined in the Local Programs Chapter of this manual. As stated therein, district functional units have responsibility to provide input, review, supervision, and contract administration.

13.12.02.03 Use of State Forms

The Department's standard forms shall be used as a consistent approach with all Owners in the utility relocation process. In addition, Owners have become familiar with the forms and understand and accept their usage. It is mandatory, therefore, that all outside entities performing work on State highways use these standard forms.

For local streets and roads projects, the Forms and Exhibits are intended to be guides and may be used by the LPA as desired. Approved local forms are available in Chapter 14 of the Local Assistance Procedures Manual.

13.12.02.04 Project Completion

The LPA shall transfer all project and utility files to the Utility Coordinator upon completion of their work or their consultant's work and not later than overall completion of the construction project. The information in the files should include at a minimum:

- Completed Utility Diary.
- All correspondence between the LPA, Owners, design engineers, consultants, and the State.
- All documents executed between the LPA, Owners, design engineers, consultants, and the State.
- All project design plans and survey data.
- Utility facility As-Builts, where available.

All files are to be in a neat and orderly condition upon the Utility Coordinator's acceptance.

13.12.03.00 Federal Aid Local Streets and Roads Projects

FHWA places overall responsibility on the State for all right of way work performed on federal aid projects. Federal regulations allow the State to use an LPA for R/W work performed. The State must monitor the LPA's activity for compliance with State and federal laws and regulations. In addition, the State is responsible to fully inform LPAs of their responsibilities in connection with federal aid projects. The State must ensure every LPA receives all current regulations and procedural instructions affecting R/W activity and must provide guidance and advice on R/W matters. Each district should have a R/W LPA Coordinator or a Utility Coordinator who is responsible for liaison and consultation with the LPA and for providing the FHWA Specific Authorization on R/W Utility matters on behalf of FHWA. See the Local Programs Chapter of this Manual for procedures on dealing with local streets and roads projects.

13.12.03.01 Review Procedures

Most utility facilities within local streets and roads are located under a franchise agreement that requires all facility adjustments caused by the project to be accomplished at the Owner's expense. As a result, there are limited utility relocation costs to be reimbursed, and FHWA's primary concern lies with ensuring that required utility adjustments are properly planned and coordinated with construction. This requires timely issuance of a Notice that clearly states how the utilities will be adjusted to allow conflict-free construction.

If the Owner possesses a right superior or prior to that of the LPA, the normal rules of liability determination with appropriate agreements and audits shall apply. (See Section 13.04.00.00.)

The Utility Coordinator is responsible to perform a full review of the LPA utility reimbursement in the same manner as the District Utility Reviewer now uses on district federal-aid projects.

13.12.04.00 Private Developer Funded State Highway Improvement Projects

The Utility Coordinator's responsibility for private developer funded State Highway Improvement Projects is to ensure standard clauses are used in the Highway Improvement Agreement and to review and recommend approval of the developer's Encroachment Permit application.

This type of project uses the State's Encroachment Permit for projects under $1 million and the Highway Improvement Agreement on permit projects of $1 million or more that are funded entirely from private sources. These Highway Improvement Agreements are similar to Cooperative Agreements in form, context, and legal commitment. District Encroachment Permits initiates the Agreements with input from R/W. For standard clauses to be used in the Highway Improvement Agreement, see the Local Programs Chapter of this Manual.

Often, these projects require the developer to acquire additional right of way that is subsequently conveyed to the State to become part of the State highway system. For this reason, it is important that the Utility Coordinator ensures that all utility adjustments meet the State's requirements.

Since no governmental funding is involved in these projects, the Federal Uniform Act and the State Eminent Domain Law do not apply to any private-developer-initiated and privately funded project. In accordance with statutory and judicial law, the developer shall pay for all utility adjustments required to accommodate a private-developer-sponsored project.

13.12.05.00 Cooperative Agreement Reviews

Project Development, Traffic, etc., may enter into Cooperative Agreements with LPAs for a variety of projects, and these Cooperative Agreements must circulate through R/W Utilities for review and comment. Cooperative projects often involve cost sharing that benefits both parties. The Utility Coordinator must review each Cooperative Agreement for disposition of utility relocations. Some critical items to be covered are:

- The terms of the Cooperative Agreement shall establish the LPA's responsibility for the cost of protection, relocation, or removal of utility facilities located within the State highway right of way. Only those facilities that meet State's encroachment policy shall be allowed to remain.

- The LPA responsible for project design shall assume responsibility for identification and location of all utility facilities within the area of project construction and shall assume responsibility for payment of identification and location costs pursuant to applicable Positive Location Agreements with Utility Owners. All utility facilities not relocated or removed in advance of construction shall be identified on the project plans and specifications.

- All underground high and low risk utility facilities shall be handled in accordance with the State's "Policy on High and Low Risk Underground Facilities Within Highway Rights of Way." (For a copy of this policy, refer to Appendix LL of the Project Development Procedures Manual.)

- HQ Legal has determined that a specific delegation must be made to the LPA in order to authorize them to execute the Notice to Owner. In the absence of the delegation, the Utility Coordinator must execute it. The benefit to the district of retaining execution authority is that this facilitates the oversight process.

For standard clauses to be used for Cooperative Agreements, see the Local Programs Chapter of this Manual.

13.12.05.01 Work Under Cooperative Agreement

When reviewing the Cooperative Agreement for right of way activities, regardless if the LPA or the State performs the work, all Federal and State laws and regulations, policies, practices, agreements, and procedures shall be followed. If the State performs the work, the LPA shall be advised immediately of any cost changes that may be significantly higher than earlier project estimates or result from amended Utility Agreements.

13.12.05.02 Cooperative Agreement Billings

When utility relocation cost sharing is involved, the Utility Coordinator shall take steps necessary to ensure the LPA is billed for their share of the estimated costs, as stipulated in the Cooperative Agreement. The LPA shall be billed when all known relocations have been determined, but prior to R/W Certification. The State must receive all funds for the LPA's share of the estimated relocation costs prior to award of the State's construction contract.

Procedures for billing LPAs are as follows:

- Determine the estimate of cost for utility relocation work.
- Send a memorandum to Accounting requesting billing of the LPA. (13-EX-30)
- Retain a copy of the memorandum in the R/W Utility File.

13.12.05.03 Cooperative Agreement Final Bills

The Utility Coordinator is responsible to ensure that LPAs are billed for their share of utility relocation costs pursuant to the Cooperative Agreement. A final accounting should take place as soon as all relocations are complete and all costs have been determined. The LPA's share shall be calculated from the final billings obtained from the Owners. If the LPA owes more than the amount previously billed, the LPA shall be billed the difference. If the LPA was overbilled, the LPA shall be refunded the difference immediately.

The Utility Coordinator shall send a memorandum to Accounting requesting billing or refund. The memorandum to Accounting must show previous amounts billed and collected.

13.13.00.00 - NON-PROJECT RELATED RESPONSIBILITIES

13.13.01.00 General

The Utility Coordinator is responsible for taking appropriate action on policies emanating from within Right of Way and other Department programs, offices, and branches that involve utilities.

13.13.02.00 Excess Land

The purpose of the R/W Utilities review of a proposed excess land sale is to identify utility easements that should be conveyed or reserved prior to sale. The review should include the steps in Table 13.13-1 entitled "Excess Land Review."

Table 13.13-1

EXCESS LAND REVIEW	
Step	**Action**
1	Identify and complete easement obligations still outstanding as a condition of a relocation.
2	Identify easements for future relocation needs for projects in the current STIP.
3	Identify existing facilities on the property where the Owner may need to acquire an easement from the State.
4	Transmit a copy of the excess land property map to the potentially affected Owners asking for: • Identification of facilities on the property. • Size and type of facility on property. • Owner's rights of occupancy on the property. • Owner's interest in purchasing property rights from the State. • Owner's response within 30 days.
5	Review Owner's response and provide Excess Land with the findings: • If no obligations are pending, return to Excess Land with "No objections to sale." • If the State's obligations are still pending, request Excess Land to prepare and issue a Director's Easement Deed (DED) to the Owner or to insert a clause in the deed of the property to be sold reserving an easement to the Owner. The Utility Coordinator must provide Excess Land with a plan showing the easement width, location with ties, size and/or type of facility to occupy the easement, and a copy of the Utility Agreement containing the State's obligation for the DED or reservation, as appropriate. • If the Owner wishes to acquire property rights, the Utility Coordinator should furnish Excess Land with the information listed above. • If the Utility Owner does not have a vested or prior right, the Excess Land Agent will request an appraisal and offer the Utility Owner the opportunity to purchase an easement for their facility. The easement reservation will be done in the same manner as shown above. • If the Utility Owner does not wish to purchase the easement, the Excess Land Agent will request the Utility Owner to relocate their facilities outside the surplus parcel.
6	The Utility Coordinator should retain a copy of all correspondence and deeds in the R/W Utility File.

13.13.03.00 Vacations and Relinquishments

- **Vacation** - A vacation is CTC action by which the public right of use is removed from a State highway right of way. Whenever utility facilities are within the area to be vacated, the district advises the Owners and determines whether they wish utility reservations as provided in S&H Code Sections 8340 and 8341. The Utility Coordinator must establish a procedure with the District's R/W Engineer to ensure that right of way on which utilities are located is not vacated without appropriate reservations or a JUA/CCUA. Prior rights are not necessary: if the owner requests a reservation, it shall be provided.

- **Relinquishments** - The Utility Coordinator is responsible to review any area to be relinquished and determine if all JUA/CCUAs have been issued to the Owners. The Utility Coordinator shall make arrangements to be notified of all proposed relinquishments and shall check R/W Utility files for outstanding JUA/CCUAs. If any are incomplete, the Utility Coordinator must complete them prior to relinquishment.

13.13.04.00 Airspace Leases

Airspace leases may require investigation prior to execution of the lease. Both parties to the lease should be aware of existing utility facilities and the liability for relocation if necessary. The Utility Coordinator will not initiate action on airspace leases until requested.

13.13.04.01 Airspace Lease Not Allowed for Utility Facilities

Since State franchise laws do not allow the renting of freeway airspace for utility facility use, all utility use of freeways is covered by Encroachment Permit rules and regulations only.

13.13.05.00 Encroachment Permits

All utility facilities must be installed in accordance with the Department's "Encroachment Permits Manual." Facilities shall be installed in accordance with PUC General Orders 95, 112-D, 128, and others, if the Utility Owner is regulated by the CPUC, as may be applicable, in a manner that does not impede the maintenance and integrity of the highway. Facilities shall be installed as close as possible to the highway right of way line, and utility construction activities shall be performed in accordance with prescribed Encroachment Permit requirements.

Longitudinal utility placements shall be located as near the highway right of way line as possible. The Owner shall design the utility placement so as to eliminate or minimize installation of appurtenant facilities such as, but not limited to, stub poles, anchors, and down guys, which are placed closer to the traveled way than the facilities they support. Underground facilities shall be installed in compliance with PUC General Order Nos. 112-D and 128, if a CPUC regulated company, and in accordance with the Department's "Policy on High and Low Risk Underground Facilities Within Highway Rights of Way" (Exhibit 13-EX-3) and the Department's "Encroachment Permits Manual."

Owners are entitled to an Encroachment Permit for such reasonable crossings of any freeway as may be required for proper discharge of the Owner's service to the public. Law provides that reasonable discretion must be exercised in acting on applications from Owners for permits to occupy freeways. Interests of both the traveling public and the consumers of public utility services must be considered.

<u>13.13.05.01</u> <u>Review of Encroachment Permits</u>

Utility Coordinators are to review all utility Encroachment Permit applications. These applications should be logged in and out by date and number since definite time limits for review and issuance of permits have been established by law.

- **Encroachment Permits** - Master Contracts between the State and some Owners contain conditions providing that when an Owner initially installs new facilities within the right of way of an existing freeway or frontage road by encroachment permit, the owner will pay in its entirety that portion of the cost associated with any future rearrangements of the facilities. These contracts further provide that where the facilities are initially installed before the highway became a freeway, the cost for rearrangement shall be shared. Any betterment, such as an expansion of capacity, installed following designation of the highway as a freeway shall be covered by an encroachment permit, and that portion of the relocation costs associated with the betterment shall be the Owner's liability. Whenever new facilities are installed in an Owner's prior right area and are installed consistent with the granting document, whether installed before or after the freeway designation, subsequent relocation costs shall be the State's liability.

  Note: The Utility Coordinator may encounter some encroachment permits which are stamped "Freeway Permits." Disregard the stamp and handle as an encroachment permit.

- **For Record Purposes Only Permits** - In those cases where the Owner has, or is entitled to, a JUA/CCUA, the Encroachment Permit shall be stamped or typed with the words, "FOR RECORD PURPOSES ONLY." Care must be exercised to determine that the use proposed by the Owner granted in the JUA/CCUA does not exceed the rights granted in the Owner's original document.

  Example 1: The Owner proposes to install a "buried telephone cable" within the JUA/CCUA area that is limited to "four circuits of open wire;" the permit would not be stamped "Freeway Permit" as the new buried cable is not consistent with the rights covered in the JUA/CCUA.

  Example 2: The Owner proposes to install larger conductors going from "60KV" to "115KV" and the JUA/CCUA is for the "transmission of electrical energy;" the permit would be stamped "FOR RECORD PURPOSES ONLY" as the new 115KV conductors are consistent with the rights covered under the JUA/CCUA.

- **Permits for New Longitudinally Installed Facilities Within Freeways** - The statutory right conferred by S&H Code Section 703 for publicly owned sewers, fire hydrants, and streetlights can be waived under the provisions of Civil Code Section 3513. The following provision should be included in all Encroachment Permits issued for <u>new</u> longitudinal encroachments of this type to be installed in an existing freeway:

  > "(Name of persons or entity waiving right), with full knowledge of the provisions and its rights thereunder, expressly waives all right whatsoever under Section 703 of the Streets and Highways Code, which provides that publicly owned sewers in any freeway shall be relocated when necessary at the expense of the Department."

13.13.06.00 Utility Franchise Reviews

Pursuant to S&H Code Section 682, all cities and counties have the right to grant franchises within the right of way of a conventional State highway subject to the conditions and limitations provided in Sections 682 through 695. The district shall take steps to establish liaison with all city councils and county boards of supervisors within the district so the district will receive notice of all pending applications for utility franchises coming before each city council and county board of supervisors. It is the district's responsibility to determine whether the requested franchise will affect any existing or contemplated State highway or freeway.

13.13.06.01 District Review of Franchise Applications

If the requested franchise is to be situated in or serve in an area in which there are no State highways or freeways, whether existing or contemplated, the district shall, without referral to Headquarters R/W, advise the city or county that the Department has no objection to granting the requested franchise. The district, in each case, shall forward a copy of the related correspondence to Headquarters R/W.

13.13.06.02 Headquarters R/W Review of Franchise Applications

Where the requested franchise is to be situated in or serve an area in which State highways or freeways are located or contemplated, the franchise shall be submitted for Headquarters R/W and Legal review. The district must furnish the following information along with the proposed franchise:

- The name of the Utility Owner requesting the franchise.
- A copy of the proposed franchise and applicable ordinance.
- The date of the public hearing.

Initially, Headquarters R/W will communicate directly with local representatives of the governmental unit concerned. Copies of correspondence will be sent to the affected district. Headquarters R/W will advise the district, in writing, of action or disposition to be taken. The district will then handle the matter on the local level with the municipality.

13.14.00.00 - FEDERAL AID PROCEDURES

13.14.01.00 General

Utility relocations on projects with federal participation are generally processed in the same manner and with the same forms as State-only financed projects. The only difference is that FHWA Authorization to Proceed (E-76) and FHWA Specific Authorization (Form RW 13-15) must both be obtained before commencement of any work to qualify for FHWA reimbursement of relocation costs.

It is not intended that this section cover all the detailed requirements for Federal-aid reimbursement of State costs. The Utility Coordinator should review the Code of Federal Regulations (CFR), in particular 23 CFR 645 and the additional instructions contained in FHWA's "Program Guide Utility Relocation and Accommodation on Federal-Aid Highway Projects" at: http://www.fhwa.dot.gov/reports/utilguid/index.htm.

13.14.02.00 FHWA Alternate Procedure

In accordance with 23 CFR 645.119, the State has been granted authority under the Alternate Procedure process to act in the relative position of FHWA for reviewing and approving arrangements, fees, estimates, plans, agreements, and other related matters required by the CFR as prerequisites for authorizing a utility to proceed with and complete the work.

The State must obtain Federal Authorization to Proceed (E-76) for the project authorizing the use of the Alternate Procedure and listing every utility company for which Federal-aid reimbursement will be sought, with an estimate of the cost of the relocation, before the State may issue a Specific Authorization under the Alternate Procedure process.

Issuance of FHWA Specific Authorization has been delegated to the Regions/Districts except those listed in the following manual section (refer to Section 13.01.02.01).

13.14.02.01 Nondelegated Relocations

In accordance with 23 CFR 645(b), the FHWA retains approval of relocations under the following four circumstances:

- Utility relocations and adjustments of major transfer, production, and storage facilities such as generating plants, power feed stations, pumping stations, and reservoirs.

- Advance installation of new utility facilities, within the proposed right of way prior to the right of way being purchased or under the State's control to provide for installation of the new facilities in a manner that will meet requirements of the planned project.

- Utility relocations entirely or partly on right of way FHWA has authorized for acquisition under the hardship and protection provisions of 23 CFR 712.

- Utility relocations when the State and the Owner cannot reach agreement on their separate responsibilities.

Approval of these items must be requested directly from the FHWA through HQ R/W. See Section 13.14.07.00 below.

13.14.03.00 Federal Authorization to Proceed (E-76)

FHWA authorization to proceed with utility relocation work must be obtained prior to requesting the Owner to prepare a relocation plan and estimate for all projects proposed for Federal-aid reimbursement. Authorization is obtained by submittal and approval of Form E-76. P&M normally processes all E-76s, but the Utility Coordinator is responsible to provide accurate utility information and ensure the Alternate Procedure is requested.

FHWA must authorize the State to proceed with utility relocations on a project-by-project/owner-by-owner basis before a Specific Authorization to relocate any Owner's facilities may be issued. Any facility relocation or acquisition of replacement right of way the Owner does prior to approval is not Federal-aid reimbursable.

13.14.04.00 FHWA Specific Authorization to Proceed

The Specific Authorization must be issued before any physical relocation work is commenced or Owner-contracted engineering services are authorized. The Specific Authorization (Form RW 13-15) affirms the need for relocation is justified, liability for the cost is proper, and the Owner's plans and estimate are reasonable for accomplishing the necessary relocation.

When the utility relocation work is to be performed by our highway contractor, and is part of the PS&E, the "RELOCATION COST ESTIMATE" item in the FHWA Specific Authorization (Form RW 13-15) must include a line for Phase 4 (Construction Funding) and show the amount authorized.

The following statement must be added to the "Remarks" section of the Specific Authorization:

> "The proposed adjustment of utility facilities to be performed by the highway contractor is approved. Payment for the utility adjustment will be vouchered through the construction program, therefore, the authorization date for this work will be the date that FHWA approves the construction project.
>
> "This memorandum must be attached to the District Certification."

13.14.05.00 Changes After FHWA Specific Authorization Is Issued

Major changes, such as changing from Owner-accomplished work to Owner-contracted-out work, or additional work not shown on the original authorization, will require a supplemental authorization in the same form as the original request (Form RW 13-15). Major changes or additions are not eligible for Federal-aid reimbursement unless authorized.

Minor changes, additions, and deletions do not need supplemental approval; however, to be included under the original authorization, they must be documented by memorandum in the Utility File. The documentation must include a description of the change and revised maps and estimates. Refer to Section 13.06.03.05 - Revised Notices.

See Section 13.09.03.00 for discovered work and emergencies.

13.14.06.00 FHWA Approval of Nondelegated Relocations

Headquarters R/W obtains FHWA approval of nondelegated relocations (see Section 13.14.02.00) via transmittal of the ROI package, with attachments, to FHWA. The district is advised of approval of the nondelegated relocations by an endorsement on the FHWA Specific Authorization. Any exception to approval is noted in the Specific Authorization, and the district is required to adhere to all exceptions.

13.14.07.00 FHWA Approval of Utility Agreements

Utility Agreements on Federal-aid projects also require FHWA's approval. Upon execution of the Agreement by the Owner and the Region/District, the Utility Reviewer prepares and approves the FHWA Approval of Utility Agreement (Form RW 13-15) on FHWA's behalf.

13.14.08.00 Special Federal Reimbursement Procedures

Department procedures have been designed to provide a uniform approach to all transactions regardless of whether or not there is federal funding in the project. This reduces procedural complexity and ensures a more consistent process with Owners. Special rules affect Federal-aid reimbursement and approval requirements and the Utility Coordinator must be aware of these to minimize loss of federal funds where applicable.

13.14.08.01 Nonreimbursable Costs

Federal reimbursement of State costs is limited to the more restrictive requirement of either State law or Federal regulation. If State law, e.g., payment of interest, is more liberal, reimbursement is limited to the Federal standard. If State law, e.g., required depreciation credits (see 13.04.05.06), is stricter, State rules must be followed. Each element of cost or credit must be individually reviewed and decided. Fortunately, there are only a couple of items, as discussed below, where the Federal rule is more restrictive and therefore controlling for reimbursement.

- **Interest During Construction** - FHWA regulations prohibit payment of interest on funds used during construction or borrowed by the Owner (a.k.a. AFUDC). State law recognizes interest during construction as a valid charge to the job, with some restrictions. Interest during construction shall be deleted from the voucher for FHWA reimbursement (coded as nonreimbursable). Audits will make the final determination of acceptability on the audit certificate.

- **Additional Ducts** - There is a Statewide understanding with telephone Owners to allow spare ducts under certain conditions (see Section 13.04.07.09). FHWA will reimburse only for the number of ducts required to convert existing aerial facilities to underground facilities, plus one spare duct. The cost of nonparticipating ducts must be set out in the billing, with final cost determination identified during the audit process and excluded in the Federal voucher.

13.14.08.02 Nonreimbursable Costs - Work Completed Prior to Authorization

The following are ineligible for Federal-aid reimbursement:

- All costs incurred prior to FHWA Authorization to Proceed (approved E-76).

- Utility relocation engineering done by a consulting engineer completed in advance of FHWA Specific Authorization.

- Relocation work done by newly identified Owners covered by Notices issued subsequent to the R/W Certification date.

13.14.08.03 Service Disconnects and Removals

Ordered utility service disconnects and removal of meters and meter set assemblies should be handled as right of way clearance items as this qualifies the associated costs for Federal-aid reimbursement. Payments to Owners should be coded with the appropriate object code for a federal-aid reimbursable demolition or clearance cost.

Federal regulations prohibit reimbursement for the cost of removing facilities under normal utility relocations unless salvage credits are received by FHWA for the removed facilities (see Section 13.04.07.09).

13.14.08.04 Owner Retention of Records

Section 23 CFR 645.117(i)(3) requires that the Owner retain all records and accounts relating to reimbursed relocation costs for a period of three years from date of final payment to Owner. This requirement exists for State-only funded projects as well.

13.14.09.00 Owner's Consulting Engineer Agreements

The Owner's employees normally do utility relocation engineering. When a Utility Owner is not adequately staffed to pursue the necessary preliminary engineering work for the utility relocation, a consultant may perform the required engineering if the Owner and the consultant agree in writing on the services to be provided and the fees and arrangements for the services, and if the fees charged are not based on a percentage of the cost of relocation.

When a consultant is used to provide relocation engineering services, the district ensures the Owner's consultant contract is administered in accordance with 23 CFR 172 and 48 CFR 31. The consultant selection process should closely follow the State's own consulting engineer selection process.

The Owner's continuing contractor may be used where the district has determined it is cost effective to do so and verified that the contract between the Owner and the contractor is in writing and that similar work is regularly performed for the Owner under the contract at reasonable costs.

If the amount to be paid under the consultant agreement exceeds $100,000, the agreement must be submitted to Audits for preaward evaluation.

All consultant agreements should:

- identify the maximum fee to be paid under the agreement,
- include a fee schedule,
- provide for inspection by the State of all books and records,
- require the three-year retention of those books and records,
- contain a description of the work to be performed, and
- include the following clause:

> "The Contractor agrees that the Contract Cost Principles and Procedures, 48 Code of Federal Regulations, Chapter 1, Part 31 shall be used to determine the allowability of individual items of cost. Any costs for which payment has been made to Contractor that are determined by subsequent Caltrans audit to be unallowable under these regulations, are subject to repayment by Contractor to State."

13.14.09.01 Nonapplicability of Federal EEO and Wage Rate Laws

FHWA has advised the State that federal laws relating to equal employment opportunities, wage rate requirements, and other similar requirements for recipients of federal aid do not apply to Owner-let contracts. This exception does not relieve the Owner of meeting federal laws that would apply irrespective of whether federal assistance is involved.

CHAPTER 13

Utility Relocations
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FORMS

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

Space above this line for Recorder's Use

JOINT USE AGREEMENT

DISTRICT	COUNTY	ROUTE	POST MILE	JUA NO.

THIS AGREEMENT, entered into this ________ day of _______________ , 20 ______, by and between

____

, hereinafter called "Owner," and the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "State."

WITNESSETH

WHEREAS, Owner is in possession of certain rights of way and easements, hereinafter referred to as "Owner's easement," and described as follows:

and

WHEREAS, State has acquired certain lands for highway purposes in the vicinity of

____

, County of ________________ on State Road ______________, hereinafter referred to as "highway right of way," which said highway right of way is subject to Owner's easement; and

WHEREAS, Owner's facilities on said highway right of way will interfere with or obstruct the construction, reconstruction, maintenance or use of said highway, and State desires to eliminate such interference or obstruction.

NOW, THEREFORE, Owner and State hereby mutually agree as follows:

1. The location of Owner's easement so far as it now lies within said highway right of way be and it hereby is changed to the strip of land within said highway right of way hereinafter referred to as "new location," described as follows:

2. Owner will rearrange, relocate or reconstruct within said new location any of its facilities now installed pursuant to Owner's easement within said highway right of way and Owner does hereby surrender and quitclaim to the State all of Owner's right, title and interest under and by virtue of Owner's easement in the old location within said highway right of way and not included in said new location. Owner hereby consents to the construction, reconstruction, maintenance or use by State of a highway over, along and upon Owner's easement both in the old location and in the new location within said highway right of way upon and subject to the terms and conditions herein contained.

3. State acknowledges Owner's title to Owner's easement in said new location and priority of Owner's title over the title of State therein. Owner has and reserves the right and easement to use, in common with the public's use of said highway, said new location for all of the purposes for which Owner's easement was acquired, without need for any further permit or permission from State. Except in emergencies, Owner shall give reasonable notice to State before performing any work on Owner's facilities in said new location where such work will be performed in, on or over the traveled way or improved shoulders of said highway or will obstruct traffic. In all cases, Owner shall make adequate provision for the protection of the traveling public.

4.

5. In the event that the future use of said highway right of way shall at any time or times necessitate a rearrangement, relocation, reconstruction or removal of any of Owner's facilities then existing in said new location the State shall notify Owner in writing of such necessity and agree to reimburse Owner on demand for its costs incurred in complying with such notice. Owner will provide State with plans of its proposed rearrangement and an estimate of the cost thereof and, upon approval of such plans by State, Owner will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. Owner shall make adequate provisions for the protection of the traveling public. No further permit or permission from State for such rearrangement shall be required and State will (1) enter into a Joint Use Agreement on the same terms and conditions as are herein set forth covering any such subsequent relocation of Owner's facilities within said highway right of way, (2) provide executed document(s) granting to Owner good and sufficient easement outside of the highway right of way if necessary to replace Owner's easement or any part thereof, and (3) reimburse Owner for any costs which it may be required to expend to acquire such easement, provided it is mutually agreed in writing that Owner shall acquire such easement.

6. Except as expressly set forth herein, this Agreement shall not in any way alter, modify or terminate any provision of Owner's easement. Both State and Owner shall use said new location in such a manner as not to interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which Owner or State may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either State or Owner in such a manner as to cause an unreasonable interference with the use of said new location by the other party.

7. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their respective officials thereunto duly authorized.

RECOMMENDED FOR APPROVAL:

____

Name:
Title:

If Required:

____

Name:
Title:

OWNER

By ______________________________

Name:
Title:

By ______________________________

Name:
Title:

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Director of Transportation

By ______________________________

Attorney in Fact

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

Space above this line for Recorder's Use

CONSENT TO COMMON USE AGREEMENT

DISTRICT	COUNTY	ROUTE	POST MILE	DOCUMENT NO.

THIS AGREEMENT, entered into this ________ day of ________________ , 20 ______, by and between

____

, hereinafter called "Owner," and the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "State."

WITNESSETH

WHEREAS, Owner is in possession of certain rights of way and easements, hereinafter referred to as "Owner's easement," and described as follows:

and

WHEREAS, State has acquired certain lands for highway purposes in the vicinity of

____

, County of __________________ on State Road _______________, hereinafter referred to as "highway right of way," which said highway right of way is subject to Owner's easement; and

WHEREAS, the highway right of way occupies a portion of Owner's easement and is subject to said easement which said portion is hereinafter referred to as "area of common use," and is described as follows:

NOW, THEREFORE, Owner and State hereby mutually agree as follows:

1. Owner hereby consents to the construction, reconstruction, maintenance or use by State of a highway over, along and upon Owner's easement in the area of common use upon and subject to the terms and conditions herein contained.

2. State acknowledges Owner's title to Owner's easement in said area of common use and the priority of Owner's title over the title of State therein. Owner has and reserves the right and easement to use, in common with the public's use of said highway, said area of common use for all of the purposes for which Owner's easement was acquired, without need for any further permit or permission from State. Except in emergencies, Owner shall give reasonable notice to State before performing any work on Owner's facilities in said area of common use where such work will be performed in, on or over the traveled way or improved shoulders of said highway or will obstruct traffic. In all cases, Owner shall make adequate provision for the protection of the traveling public.

3.

4. In the event that the future use of said highway shall at any time or times necessitate a rearrangement, relocation, reconstruction or removal of any of Owner's facilities then existing in said area of common use the State shall notify Owner in writing of such necessity and agree to reimburse Owner on demand for its costs incurred in complying with such notice. Owner will provide State with plans of its proposed rearrangement and an estimate of the cost thereof and, upon approval of such plans by State, Owner will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. Owner shall make adequate provisions for the protection of the traveling public. No further permit or permission from State for such rearrangement shall be required and if such rearrangement shall require the relocation of any of Owner's facilities outside of said area of common use, State will (1) enter into the standard form of Joint Use Agreement covering the new location of Owner's easement within the highway right of way, (2) provide executed document(s) granting to Owner good and sufficient easement outside of the highway right of way if necessary to replace Owner's easement or any part thereof, and (3) reimburse Owner for any costs it may be required to expend to acquire such easement, provided it is mutually agreed in writing that Owner shall acquire such easement.

5. Except as expressly set forth herein, this Agreement shall not in any way alter, modify or terminate any provision of Owner's easement. Both State and Owner shall use said new location in such a manner as not to interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which Owner or State may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either State or Owner in such a manner as to cause an unreasonable interference with the use of said new location by the other party.

6. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their respective officials thereunto duly authorized.

RECOMMENDED FOR APPROVAL:

____

Name:
Title:

If Required:

____

Name:
Title:

OWNER

By ______________________________________

Name:
Title:

By ______________________________________

Name:
Title:

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Director of Transportation

By ______________________________________

Attorney in Fact

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

REPORT OF INVESTIGATION

RW 13-3 (REV 3/2010)

DISTRICT	COUNTY	ROUTE	POST MILE	EXPENDITURE AUTHORIZATION

UTILITY FILE NO.	FEDERAL AID NO.	UTILITY OWNER	UTILITY FACILITY

This Report of Investigation is submitted for review and approval. The following support documents are attached: Approval of FHWA Specific Authorization is ☐ is not ☐ requested.

- ☐ A copy of the Utility Relocation Plan as described in Sections 13.05.03.00 and 13.05.03.01 of the R/W Manual.
- ☐ A copy of the owner's liability claim letter.
- ☐ A copy of the owner's estimate of cost.
- ☐ A copy of the proposed Utility Agreement.
- ☐ A copy of the proposed Notice to Owner.
- ☐ A copy of the owner's prior rights claim supporting documentation.

1. PROJECT LOCATION AND DESCRIPTION:

2. LIABILITY DATA:

A. PROJECT IS A:

Freeway ☐

Conventional Highway ☐

Other ☐

B. DATES:

Route adoption: ____________________

Freeway resolution: ____________________

Appraisal map: ____________________

Installation of Existing facilities: ____________________

____

____

C. UTILITY OWNER IS: Public ☐ Private ☐

REPORT OF INVESTIGATION (Cont.)

RW 13-3 (REV 3/2010)

D. EXISTING UTILITY FACILITY IS LOCATED:

		Yes	No
1)	In existing State Highway right of way?	☐	☐
2)	On other public way, i.e., city street?	☐	☐
3)	On private property?	☐	☐
4)	Intersecting installation?	☐	☐
5)	Longitudinal installation?	☐	☐

E. UTILITY OWNER'S AUTHORITY FOR INSTALLATION:

1)	Fee-owned land	☐
2)	Recorded easement	☐
3)	Unrecorded easement	☐
4)	Prescriptive right	☐
5)	JUA or CCUA	☐
6)	Franchise	☐
7)	State permit	☐
8)	County permit	☐
9)	City permit	☐
10)	Other (describe below)	☐

	Yes	No	
F.	☐	☐	Is the owner's authority for installation based on a deed [item E.1), 2), 3), or 5) above]?

If **YES**, the preparer of this Report of Investigation asserts that to the best of their ability:

Yes	No	
☐	☐	The deed has been read.
☐	☐	The description has been accurately plotted and is clearly shown on the attached plan.
☐	☐	The title has been investigated and that:
☐	☐	The grantor was the owner as of the date on the deed.
☐	☐	The owner's facilities are located within the area described in the deed.
☐	☐	The public agency has prior rights to the area described in the deed or recorded map to which the State will be the successor in interest. If **YES**, show the date the public acquired their rights and explain the nature of those rights here or in the narrative.

REPORT OF INVESTIGATION (Cont.)
RW 13-3 (REV 3/2010)

Yes No

G. ☐ ☐ Are there contractual obligations contained in the documents checked in item E. above that require the owner to relocate, or are there special conditions in the owner's authority for installation?

If **YES**, explain here or in narrative:

H. LIABILITY RECOMMENDATION IS BASED ON (check all that apply):

☐ Section ___________ of the Streets and Highways Code

☐ Section ___________ of the Master Contract, dated ___________

☐ Water Code Section 7034

☐ Water Code Section 7035

☐ Prior and superior rights of the Utility Owner

☐ JUA or CCUA

☐ Other, explain:

I. LIABILITY APPORTIONMENT:

State _______% Utility Owner _______% Explain apportionments:

3. RELOCATION PLAN DETAILS:

A. IT IS ANTICIPATED THE UTILITY WORK WILL BE COMPLETED BY:

________________________ (date).

B. ENCROACHMENTS:

☐ There will be no encroachments within the project area.

☐ There are encroachments **and**:

Yes No

☐ ☐ All new or existing encroachments comply with current Caltrans Policy.

☐ If **NO**, a copy of the letter approving the exception to the encroachment policy is attached.

☐ ☐ The State's standard Encroachment Permit will be or has been issued. If **NO**, explain in narrative.

REPORT OF INVESTIGATION (Cont.)

RW 13-3 (REV 3/2010)

C. LUMP SUM:

Yes No

☐ ☐ The lump sum payment method will be used.

☐ If **YES**, a detailed and itemized estimate is attached.

D. THIS RELOCATION WILL BE FUNDED WITH:

Yes No

☐ ☐ State Funds Only.

☐ ☐ Federal participation in the funding and it is our determination that State payment standards are more restrictive.

☐ ☐ Local Public Agency Funds.

4. THE WORK WILL BE PERFORMED BY: (check those which apply)

☐ **The utility owner's forces:** The District has determined this is cost-effective and has verified the owner is qualified to perform the work in a satisfactory manner with its own personnel and equipment.

☐ **The utility owner's continuing contractor:** The District has determined this is cost-effective and verified the contract between the owner and the contractor is in writing and that similar work is regularly performed for the owner under the contract at reasonable costs.

☐ **Competitive bid contract:** The owner is not adequately staffed or equipped to perform the work with its own forces. The District will verify that the utility owner will award the contract for the work to the lowest qualified responsible bidder based on an appropriate solicitation.

☐ **State's highway contractor:** The utility work is to be included in State's highway construction contract. The district has determined this is the most cost-effective method.

5. REVIEW OF ESTIMATE:

Depreciation: $ ______________________ ☐ None*

Salvage: $ ______________________ ☐ None*

* **NOTE:** The State is not entitled to a credit allowance on publicly owned sewers per 705 S&H code

6. BETTERMENT:

☐ There is no betterment. * If none, state why below.

☐ Betterment in the amount of $ ____________________ has been identified for:

REPORT OF INVESTIGATION (Cont.)
RW 13-3 (REV 3/2010)

7. CERTIFICATION:

Yes	No	
☐	☐	The project engineer has certified that the relocation plan will clear the project.
☐	☐	The District Utility Coordinator has reviewed the proposed relocation and has determined it is a cost-effective plan to functionally restore the utility owner's operating facilities that existed prior to the State's highway project.

8. ATTACH A NARRATIVE DISCUSSION OF THE PROPOSED UTILITY WORK TO THIS REPORT WHICH INCLUDES:

A. Description of existing utility facility and its location.
B. Discussion of owner's authority for installation of the existing utility facility.
C. Description and justification of proposed relocation plan.
D. Property rights needed.
E. Any non standard aspects of the relocation, documents, etc.

9. THE ESTIMATED COST TO THE STATE IS AS FOLLOWS:

Consisting of Design funds: $ ____________________

Consisting of Construction funds: $ ____________________

Consisting of Right of Way funds: $ ____________________

Total: $ ____________________

Prepared By: ______________________________ UTILITY COORDINATOR ____________ DATE

Approved By: ______________________________ DISTRICT UTILITY COORDINATOR ____________ DATE

If Required: ______________________________ ____________ DATE

Approved By: ______________________________ DELEGATED DISTRICT REPRESENTATIVE ____________ DATE

or

Approved By: ______________________________ UTILITY REVIEWER, HEADQUARTERS R/W ____________ DATE

INSTRUCTIONS FOR PREPARING THE REPORT OF INVESTIGATION

FILE REFERENCE:

Show the district, county, route, post mile (PM), expenditure authorization (EA), utility file number as shown in the RUMS computer system, federal aid number if there is federal aid for the utility work (if there is no federal aid, then show N/A), utility owner's name as shown in the RUMS computer system, and the type of utility facility involved.

TRANSMITTAL SECTION:

Check each item transmitted with the Report.

1. THE PROJECT LOCATION AND DESCRIPTION:

   Show the work description and the location of the State's construction project as it appears in the PYPSCAN computer system or the STATUS OF PROJECTS.

2. LIABILITY DATA:

   A. Check the selection for freeway if the highway is designated as part of the freeway and expressway system and is currently access controlled or proposed for control. Check conventional highway if there is no access control. Check other for any other project and explain in the narrative.

   B. Show the date the route was adopted by the CTC or its predecessor.

      Show the CTC resolution date for all access controlled projects.

      Show the date the first appraisal map was prepared for property to be acquired by the State for this project.

      Show the dates the facilities were installed. If there is more data than can be conveniently entered here, enter "See Narrative" and include the installation dates in the narrative.

   C. Check whether the utility owner is either a public or private entity.

   D. Check either yes or no for each line.

   E. Check each space that applies. If clarification is needed, explain in the space provided or in the narrative.

   F. Check either yes or no for each item.

   G. Check either yes or no. If yes, and more space is needed, explain in the narrative.

   H. Check and complete all that apply.

   I. Show the percentage of liability the Utility Coordinator is recommending. Explain how you arrived at prorated liabilities, if applicable, and explain any other liability determinations. If the space provided is insufficient, include the required explanation in the narrative.

3. RELOCATION PLAN DETAILS:

   A. Enter the estimated date the proposed relocation work will be completed.

   B. Select the appropriate statement, and if needed, check either yes or no for each subsequent item. Please note under some circumstances additional explanation and documentation will be required as noted on the form.

   C. Check either yes or no. If yes is checked, provide the additional documentation noted on the form.

   D. Check either yes or no for each item.

4. THE WORK WILL BE PERFORMED BY:

   Check all that apply.

5. REVIEW OF ESTIMATE:

   Enter estimated amounts to be credited to the State for depreciation and salvage. If there will be none, check the appropriate box and provide a short explanation in the space provided.

6. BETTERMENT:

   Check the appropriate box. If there will be betterment, enter the estimated cost and describe the nature of the betterment.

7. CERTIFICATION:

   Check either yes or no for each statement.

8. NARRATIVE:

   A narrative discussion of the relocation is a required part of the Report of Investigation. It should cover thoroughly all aspects of the utility conflict, liability, construction and proposed relocation. The narrative should explain in detail how the utility coordinator arrived at the conclusions and recommendations contained in the report.

   It should include a description of the existing and proposed facilities, whether or not facilities will be installed in coordination with the State's construction and a discussion of any property rights (easements, JUA, CCUA, etc.) that may be needed.

9. THE ESTIMATED COST TO THE STATE IS AS FOLLOWS:

   Fill in the estimated dollar amounts, as shown on the utility agreement, the State is liable for.

THE SIGNATURE BLOCK:

The Utility Coordinator, District Utility Coordinator, and the authorized delegated representative in the District for those Districts with delegation or the Headquarters R/W Utility Reviewer for non delegated Districts must sign the Report of Investigation prior to issuing the applicable Notice to Owner.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

NOTICE TO OWNER

RW 13-4 (REV 1/2009)

NOTICE TO OWNER

District	County	Route	Post Mile	E.A.
FEDERAL AID NUMBER				
OWNER'S FILE NUMBER				
DATE		FREEWAY ☐ YES ☐ NO		

Number ____________

To:

Because of the State Highway construction project:

Which affects your facilities:

You are hereby ordered to:

Your work schedule shall be as follows:

Notify ______________________ **at telephone number** _______________ , _______ **hours prior to initial start of work, and** _____ **hours prior to subsequent restart when your work schedule is interrupted.**

Liability for the cost of the work is:

DISTRICT DIRECTOR

DISTRICT DIVISION CHIEF

By ____________________________

DISTRICT UTILITY COORDINATOR

CC: Resident Engineer
Permits
R/W

THIS NOTICE DOES NOT CONSTITUTE A PERMIT. OBTAIN AN ENCROACHMENT PERMIT BEFORE STARTING WORK.

INSTRUCTIONS FOR PREPARING

NOTICE TO OWNER AND REVISED NOTICE TO OWNER

1. THE NOTICE TO OWNER NUMBER:

   The "Number_______ " is to be assigned by the District Utility Coordinator. The number assigned must never be duplicated on another Notice to Owner. The number assigned to Notices are for the same purpose as for acquisition parcel numbers, that is to identify the specific transaction.

2. REFERENCE BLOCK:

   A. The "District" for which the project is being built;

   B. The "County" in which the project is being built;

   C. The "Route" on which the project is being built;

   D. The "Post Mile" limits of the project;

   E. The "E.A." (expenditure authorization) of the project (use design phase E.A. of the project);

   F. The "Federal Aid Number," taken from the E-76, for the Right of Way Utilities portion of the project. If there is no Federal Aid, then N/A should be inserted.

   G. The "Owner's File" number should be shown (use owner's plan number) if available.

   H. The "Date" is the date the Notice to Owner is to be sent to the owner.

   I. Check the box which indicates if the project is for the construction of a Freeway as identified in S&HC Section 253.

3. MAILING ADDRESS:

   The "To" is the utility owner, i.e., Pacific Gas and Electric Company, AT&T, City of, County of, etc. The Notice **should not** be addressed to an individual.

4. PROJECT DESCRIPTION:

   Insert project description following the statement "Because of the State Highway construction project:". The project description can be found in the "Status Of Projects." The project description can also be found on the Department's automated systems, PMCS, and PYPSCAN. Since the project description frequently contains Departmental "shorthand" and acronyms, editing will be needed to make the description clear to the general public.

5. UTILITY FACILITIES DESCRIPTION:

   Describe the facilities being impacted following the statement "Which affects your facilities." The description should briefly describe the owner's facilities, i.e., gas, electric, telephone, water, etc., facility. The description should also include the type and size of the facility. It is always best to have a statement which is all inclusive, i.e., "existing water facilities within the limits of the State's proposed construction project."

6. ORDERED WORK DESCRIPTION:

Describe ordered work to be done following the statement "You are hereby ordered to." The description should briefly describe the work necessary to eliminate construction conflicts with the project that the owner is ordered by the State to be done. The described work must be definite as in referring to the date of a specific plan that was accepted by the Project Engineer to eliminate identified conflicts with planned construction. General phraseology such as "to eliminate all conflicts with planned construction" is not acceptable as it does not identify the specific work to be done for which the State may be obligated to reimburse the owner.

7. WORK SCHEDULE:

Describe the work schedule to be followed by the Owner following the statement "Your work schedule shall be as follows:". The description must give specific dates as to when the owner's work must be completed. When the work is to be accomplished in coordination with the State's highway construction, the schedule must set forth the coordination schedule, as provided for in the "Specials" of the State's PS&E. Separate schedules are to be given to each owner which prescribes the agreed-to coordinated sequence for multiple owner facilities being relocated to joint pole or joint trench situations. When necessary, the work schedule may be shown as an attachment to the Notice to Owner.

8. NOTIFICATION:

The Notice to Owner shall specify the name of an individual and telephone number to be notified when the owner plans to start work. The person can be the Utility Coordinator, or any person designated by the Utility Coordinator. Normally, the State requires 72 hours notification from the owner prior to initial start of work, and 24 hours notification for subsequent starts when their work has been interrupted.

9. LIABILITY DESCRIPTION:

The liability description is a completion of the sentence "Liability for the cost of the work is:". The description shall specifically set forth whether the State or the owner will bear the cost of the work and the reason therefore. Typical statements to be used are found in Section 13.07.03.02, Liability For Work.

Under limited circumstances where it is imperative that the relocation work be commenced before a specific liability determination can be made, the Notice to Owner may be issued with the statement "liability undetermined" or "liability per Master Contract dated __________" provided the criteria noted in Section 13.04.08.00, et seq., can be met. Prior approval for this is required from the Owner and Headquarters R/W.

10. SIGNATURE BLOCK:

The signature block is to be filled out and signed by the appropriately authorized person.

THE REVISED NOTICE TO OWNER will additionally require the REVISION number, the DATE of the revision and must be acknowledged by the Owner on the signature line provided.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

REVISED NOTICE TO OWNER

RW 13-4R (REV 01/2009)

NOTICE TO OWNER

Number ____________

District	County	Route	Post Mile	E.A.
FEDERAL AID NUMBER				
OWNER'S FILE				
DATE		FREEWAY ☐ YES ☐ NO		

REVISION DATED ____________	This revision is acknowledged and agreed to by the Owner referred to herein.	By: ____________________

To:

Because of the State Highway construction project:

Which affects your facilities:

You are hereby ordered to:

Your work schedule shall be as follows:

Notify ______________________ at telephone number _______________ , ______ hours prior to initial start of work, and _____ hours prior to subsequent restart when your work schedule is interrupted.

Liability for the cost of the work is:

DISTRICT DIRECTOR

DISTRICT DIVISION CHIEF

By ______________________________

DISTRICT UTILITY COORDINATOR

CC: Resident Engineer
Permits
R/W

THIS NOTICE DOES NOT CONSTITUTE A PERMIT. OBTAIN AN ENCROACHMENT PERMIT BEFORE STARTING WORK.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

UTILITY AGREEMENT

RW 13-5 (REV 6/2012)

DISTRICT	COUNTY	ROUTE	POST MILE	PROJECT ID

FEDERAL AID NUMBER	OWNER'S FILE NUMBER

FEDERAL PARTICIPATION

On the Project ☐ YES ☐ NO On the Utilities ☐ YES ☐ NO

Owner Payee Data No. ________________ or Form STD 204 is attached. ☐

UTILITY AGREEMENT NO. ______________ DATE ______________

The State of California, acting by and through the Department of Transportation, hereinafter called "STATE," proposes to

and

NAME: ____

ADDRESS: ____

hereinafter called "OWNER," owns and maintains

within the limits of STATE's project which requires

to accommodate STATE's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

UTILITY AGREEMENT NO.

II. LIABILITY FOR WORK

III. PERFORMANCE OF WORK

Use of out-of-state personnel, (or personnel requiring lodging and meal per diem expenses) will not be allowed without prior written authorization by state's representative. Requests for such authorization must be contained in OWNER's estimate of actual and necessary relocation costs. Accounting Form FA 1301 is to be completed and submitted for all non-State personnel travel per diem. OWNER shall include an explanation why local employee or contract labor is not considered adequate for the relocation work proposed. Per diem expenses shall not exceed the per diem expense amounts allowed under the State's Department of Personnel Administration travel expense guidelines.

IV. PAYMENT FOR WORK

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills not to exceed the amount of this Agreement may be made under the terms of this Agreement. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I above. If the STATE has not received a final bill within 360 days after notification of completion of Owner's work described in Section I of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements, if required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this Agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement, shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and or Federal auditors. OWNER agrees to comply with Contract Cost Principles and procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Part 645 and/or18 CFR, Chapter 1, Part 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

UTILITY AGREEMENT NO.

V. GENERAL CONDITIONS

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

By ______________________ ________ Date
Name ______________________
Title ______________________

OWNER:

By ______________________ ________ Date
Name ______________________
Title ______________________

APPROVAL RECOMMENDED:

By ______________________ ________ Date
Name ______________________
Title ______________________

By ______________________ ________ Date
Name ______________________
Title ______________________

THIS AGREEMENT SHALL NOT BE EXECUTED BY THE STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION UNTIL FUNDS ARE CERTIFIED.

UTILITY AGREEMENT (Cont.)

RW 13-5 (REV 6/2012)

UTILITY AGREEMENT NO.

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT TO COMPLETE UNSHADED FIELDS:

										UTILITY COMPLETES:		
T CODE	DOCUMENT NUMBER	SUFFIX	DIST	UNIT	CHG DIST	PROJECT ID	PHASE	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT
	UA											
	UA											

PROJECT ID FUNDING VERIFIED:		REVIEW / REQUEST FUNDING:	
Sign:>		Sign:>	
Print:>		Print:>	
R/W Planning and Management	Date	Utility Coordinator	Date

THE ESTIMATED COST TO THE STATE FOR ITS SHARE OF THE ABOVE-DESCRIBED WORK IS $________.

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
Planning and Management				Date
ITEM	CHAP	STAT	FY	AMOUNT

FUND TYPE	PROJECT ID	AMOUNT
Design Funds		$
Construction Funds		$
R/W Funds		$

Distribution: 2 originals to R/W Accounting
1 original to Utility Owner
1 original to Utility File

INSTRUCTIONS FOR PREPARING THE UTILITY AGREEMENT

1. THE UTILITY AGREEMENT NO. __________ :

   The UTILITY AGREEMENT NO. ___________ is the same number assigned to the corresponding Notice to Owner, except the State Controller requires that the Utility Agreement number be preceded by the two-digit District number, a dash, the prefix "UT," and another dash, e.g.,

   UTILITY AGREEMENT NO. 01-UT-12345

   The number assigned must never be duplicated on another Utility Agreement.

2. THE DATE:

   The DATE is hand written in by the utility coordinator after the Agreement is executed. This date is the same date as the last signature of the person who has the authority to bind the agreement.

3. THE REFERENCE BLOCK:

   A. The "District" for which the project is being built;

   B. The "County" in which the project is being built;

   C. The "Route" on which the project is being built;

   D. The "Post Mile" will be the post mile limits of the project;

   E. The "Project ID" of the project;

   F. The "Federal Aid Number," taken from the E-76, for the Right of Way Utilities portion of the project. If there is no Federal Aid, then N/A should be inserted.

   G. The "Owner's File" number should be shown (usually the owner's plan number).

   H. "Federal Participation" Check "Yes" or "No"

   I. "Owner Payee Data Number" Add existing number or add form STD 204 and check the box.

4. THE OPENING PARAGRAPH:

   A. Describes briefly the work to be done and the proposed project's limits;

   B. Identifies the owner, this area requires both the name and the address of owner.

   C. Identifies which of the owner's facilities are affected by the Utility Agreement; and

   D. Indicates what must be done to the owner's facilities to accommodate the State's project.

5. STANDARD CLAUSES:

   See Section 13.07.00.00 of the Right of Way Manual.

   Several standard clauses are made mandatory in sections III and IV.

6. THE ESTIMATED COST:

The estimated cost to the State for its share of the work (on the back page) is normally taken from the owner's estimate as supplied by them.

Occasionally, the State performs work for the owner, even though the owner is liable for the costs. The estimated cost to the State can be reworded to the estimated cost to the Owner when necessary.

7. FUND TYPE BLOCK:

There are basically only three Project IDs that can be charged to on Utility Agreements. They are:

A. Design Funds Project ID ___________ $ ___________ :

The design funds Project ID (Phase 1) is used primarily for design purposes. Phase 1 funds are paid for by Project Development.

B. Construction Funds Project ID ___________ $ ___________ :

The construction funds Project ID (Phase 4 or 5) is used primarily for work being performed by the State's highway contractor and paid by Construction.

C. R/W Funds Project ID ___________ $ ___________ :

The Right of Way capital funds Project ID (Phase 9) is used primarily for positive location (potholing), relocation, removal, abandonment, etc., of the owner's facilities for work performed by them or their contractor. Environmental clearance and project report approval shall be obtained prior to encumbering any Phase 9 funds.

8. THE SIGNATURE BLOCK:

The signature block is to be filled out and signed by the appropriate authorized and/or delegated persons. It is the District Utility Coordinator's responsibility to know what duties have been delegated.

9. THE CERTIFICATION OF FUNDS BLOCK:

Planning & Management fills out the certification of funds block, certifying that funds are available for expenditure.

10. NONSTANDARD CLAUSES:

In the preparation of Utility Agreements, it may be necessary to prepare clauses other than the standard clauses listed. Prior approval from the HQ R/W shall be obtained any time a nonstandard clause is used.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

RIGHT OF WAY UTILITY PAYMENT REQUEST AND CODING INSTRUCTIONS

RW 13-6 (REV. 6/2012)

(THIS IS AN ELECTRONIC R/W ACCTG. FORM AND IS NOT TO BE REVISED)

TO: 1) R/W PLANNING AND MANAGEMENT

2) R/W ACCOUNTING BRANCH

FROM: R/W DISTRICT _________ UTILITIES

FEDERAL PROJECT NO:
E-76 APPROVAL DATE:
UTILITY AGREEMENT NO:
AGREEMENT APPROVAL DATE:
UTILITY OWNER:
POSITIVE LOCATION SERVICE CONTRACT NO:

PAYMENT FOR INVOICE(S) ATTACHED:
INVOICE NO(S) ____________________

____

____

CHECK/WARRANT MADE PAYABLE TO:

____

____

____

____

VCUST#:

☐ **UTILITY AGREEMENTS:**

- ☐ PARTIAL PAYMENT
- ☐ PAYMENT FALLS WITHIN 25% SUPPLEMENTAL
- ☐ PAYMENT COVERED BY AMENDMENT
- ☐ ADVANCE
  Note to ACS: Code 'N' (ineligible) for payment.
- ☐ FINAL PAYMENT

☐ **POSITIVE LOCATION (POTHOLING):**

- ☐ PAYMENT
- ☐ PARTIAL PAYMENT

☐ **OTHER** ____________________

CHECK AMOUNT $ ____________________

FOR ISSUING CHECK/WARRANT:

Mail by: ____________________
Date

PREPARED BY UTILITY COORDINATOR/CONTRACT MANAGER:

Sign: ____________________ Date: ____________________

Print: ____________________ Telephone: ____________________

REVIEWED BY UTILITY COORDINATOR SUPERVISOR:

Sign: ____________________ Date: ____________________

Print: ____________________ Telephone: ____________________

RIGHT OF WAY UTILITY TO COMPLETE UNSHADED FIELDS AND R/W P&M TO VERIFY CODES

CT DOCUMENT	EVENT TYPE	UNIT	PROJECT ID	PHASE	REPORTING CODE	OBJ CODE	N	SUB OBJ	BFY	AMOUNT
	C501				9	054				
	C501				9	054				
	C501				9	054				
	C501				9	054				

PLANNING & MANAGEMENT APPROVAL:

Sign: ____________________ Date: ____________________

Print: ____________________ Telephone: ____________________

ACCOUNTING NOTE: All data must be entered exactly as shown. Verify coding prior to entry into TRAMS. If any change is necessary, contact R/W P&M who will fax a revised copy to R/W Accounting for payment.

Distribution: Original + 1 copy - R/W Accounting; 1 copy - District P&M; 1 copy - Utility File

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

CHECKLIST FOR FINAL UTILITY INVOICE

RW-13-7 (REV. 1/2009)

District	County	Route	Post Mile	E.A.
Utility No.:				
Federal Aid No.:		Agreement Date:		
Utility Owner:				
Utility Facility:				

1. Is this a Federal aid project? ☐ YES ☐ NO

   A. If yes, FHWA Specific Authorization Approved date: ______________________

   B. If yes, FHWA Utility Agreement approval date: ______________________

2. Is owner's bill in agreement with Utility Agreement? ☐ YES ☐ NO

3. Credits:

   A. Depreciation ☐ YES ☐ NO ☐ N/A

   B. Salvage ☐ YES ☐ NO ☐ N/A

   C. Betterment ☐ YES ☐ NO ☐ N/A

4. Is there a credit for the owner's share of the easement cost shown? ☐ YES ☐ NO ☐ N/A

   A. If no, the owner must be billed. ☐ YES ☐ NO ☐ N/A

   B. If yes, has the DED been prepared? ☐ YES ☐ NO ☐ N/A

   C. If yes, has the DED been recorded? ☐ YES ☐ NO ☐ N/A

   D. Recording date ______________

5. Has the JUA/CCUA been prepared? ☐ YES ☐ NO ☐ N/A

   A. If no, the JUA/CCUA must be prepared.

   B. If yes, has the JUA/CCUA been recorded? ☐ YES ☐ NO ☐ N/A

   C. Recording date ______________

Checked by: ______________________________ DATE: ______________

Senior Right of Way agent

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

Space above this line for Recorder's Use

JOINT USE AGREEMENT-SOUTHERN CALIFORNIA EDISON COMPANY

DISTRICT	COUNTY	ROUTE	POST MILE	DOCUMENT NO.

THIS AGREEMENT, entered into this ________ day of ________________ , 20 ______, by and between SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, hereinafter called "Company," and the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "State."

WITNESSETH

WHEREAS, Company is in possession of certain rights of way and easements, hereinafter referred to as "Company easement," and described as follows:

and

WHEREAS, State has acquired certain lands for highway purposes in the vicinity of ____________________, County of ____________________ on State Road ______________, hereinafter referred to as "highway right of way," which said highway right of way is subject to Company's easement; and

WHEREAS, the Company's facilities on said highway right of way will interfere with or obstruct the construction, reconstruction, maintenance or use of said highway, and State desires to eliminate such interference or obstruction.

NOW, THEREFORE, Company and State hereby mutually agree as follows:

1. The location of Company's easement so far as it now lies within the said highway right of way be, and it hereby is, changed to the strip of land within said highway right of way, hereinafter referred to as "new location," described as follows:

2. Under and by virtue of Utilities Agreement No. ______, dated __________, executed by the parties hereto, Company has heretofore rearranged, relocated or reconstructed or will rearrange, relocate or reconstruct within said new location, any of its facilities heretofore or now installed pursuant to Company's easement within said highway right of way, and Company does hereby surrender and quitclaim to State all of Company's rights, title and interest under and by virtue of Company's easement in the old location within said highway right of way and not included in said new location. Company hereby consents to the construction, reconstruction, maintenance or use by State of a highway over, along and upon Company's easement both in the old location and in the new location within said highway right of way upon and subject to the terms and conditions herein contained.

3. State acknowledges Company's title to Company's easement in said new location and priority of Company's title over the title of State therein. Company has and reserves the right and easement to use, in common with the public's use of said highway, said new location for all the purposes for which Company's easement was acquired, without need for any further permit or permission from State. Except in emergencies, Company shall give reasonable notice to State before performing any work on Company's facilities in said new location where such work will be performed in, on or over the traveled way or improved shoulders of said highway or will obstruct traffic. In all cases, Company shall make adequate provision for the protection of the traveling public.

4.

5. In the event that the future use of said highway right of way shall at any time or times necessitate a rearrangement, relocation, reconstruction or removal of any of Company's facilities then existing in said area of common use the State shall notify Company in writing of such necessity and agree to reimburse Company on demand for its costs incurred in complying with such notice, Company will provide State with plans of its proposed rearrangement and an estimate of the cost thereof and, upon approval of such plans by State, Company will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. Company shall make adequate provisions for the protection of the traveling public. No further permit or permission from State for such rearrangement shall be required and State will (1) enter into a Joint Use Agreement on the same terms and conditions as are herein set forth covering any subsequent relocation of Company's facilities within said highway right of way, (2) provide executed document(s) granting to Company a good and sufficient easement outside of the highway right of way if necessary to replace Company's easement or any part thereof, and (3) reimburse Company for any costs which it may be required to expend to acquire such easement, provided it is mutually agreed in writing that Company shall acquire such easement.

6. State agrees to reimburse Company for any loss it may suffer because of any lack of or defect in State's title to said new location or any subsequent location within said highway right of way, or in the title to any easement provided by State outside of said highway right of way, to which Company relocates its facilities pursuant to Paragraph 5 hereof, and State agrees that if Company is ever required to relocate its facilities because of any such lack or of defect in title, State shall reimburse Company for the cost of relocating its facilities and any other reasonable cost arising therefrom, such as, but not limited to, costs to acquire any right of way required for such relocation. State shall not reimburse Company for any loss caused by Company's own fault or negligence.

7. Except as expressly set forth herein, this Agreement shall not in any way alter, modify or terminate any provision of Company's easement. Both State and Company shall use said new location in such a manner as not to interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which Company or State may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either State or Company in such a manner as to cause an unreasonable interference with the use of said new location by the other party. Insofar as it may legally do so, the State agrees that Company's facilities shall not be damaged by reason of the construction, reconstruction or maintenance of said highway by the State or its contractors, and that, if necessary, State will protect Company's facilities against any such damage.

8. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties.

J.U.A. NO. ______________________

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their respective officials thereunto duly authorized.

RECOMMENDED FOR APPROVAL:

By: ______________________________

Name:

Title:

SOUTHERN CALIFORNIA EDISON COMPANY

By: ______________________________

Name:

Title:

By: ______________________________

Name:

Title:

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Director of Transportation

By: ______________________________

Attorney in Fact

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION Space above this line for Recorder's Use

CONSENT TO COMMON USE AGREEMENT-SOUTHERN CALIFORNIA EDISON COMPANY

DISTRICT	COUNTY	ROUTE	POST MILE	DOCUMENT NO.

THIS AGREEMENT, entered into this ________ day of ________________ , 20 ______, by and between SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, hereinafter called "Company," and the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "State."

WITNESSETH

WHEREAS, Company is in possession of certain rights of way and easements, hereinafter referred to as "Company's easement," and described as follows:

and

WHEREAS, State has acquired certain lands for highway purposes in the vicinity of ______________________, County of __________________ on State Road ______________, hereinafter referred to as "highway right of way"; and

WHEREAS, the highway right of way occupies a portion of Company's easement and is subject to said easement which said portion is hereinafter referred to as "area of common use," and is described as follows:

NOW, THEREFORE, Company and State hereby mutually agree as follows:

1. Company hereby consents to the construction, reconstruction, maintenance or use by State of a highway over, along and upon Company's easement in the area of common use upon and subject to the terms and conditions herein contained.

2. State acknowledges Company's title to Company's easement in said area of common use and the priority of Company's title over the title of State therein. Company has and reserves the right and easement to use, in common with the public's use of said highway, said area of common use for all of the purposes for which Company's easement was acquired, without need for any further permit or permission from State. Except in emergencies, Company shall give reasonable notice to State before performing any work on Company's facilities in said area of common use where such work will be performed in, on or over the traveled way or improved shoulders of said highway or will obstruct traffic. In all cases, Company shall make adequate provision for the protection of the traveling public.

3.

4. In the event that the future use of said highway shall at any time or times necessitate a rearrangement, relocation, reconstruction or removal of any of Company's facilities then existing in said area of common use the State shall notify Company in writing of such necessity and agree to reimburse Company on demand for its costs incurred in complying with such notice, Company will provide State with plans of its proposed rearrangement and an estimate of the cost thereof and, upon approval of such plans by State, Company will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. Company shall make adequate provisions for the protection of the traveling public. No further permit or permission from State for such rearrangement shall be required and if such rearrangement shall require the relocation of any of Company's facilities outside of said area of common use, State will (1) enter into the standard form of Joint Use Agreement covering the new location of Company's easement within the highway right of way, (2) provide executed document(s) granting to Company a good and sufficient easement outside of the highway right of way if necessary to replace Company's easement or any part thereof, and (3) reimburse Company for any costs which it may be required to expend to acquire such easement, provided it is mutually agreed in writing that Company shall acquire such easement.

5. State agrees to reimburse Company for any loss it may suffer because of any lack of or defect in State's title to any subsequent location within said highway right of way, or in the title to any easement provided by State outside of said highway right of way, to which Company relocates its facilities pursuant to Paragraph 4 hereof, and State agrees that if Company is ever required to relocate its facilities because of any such lack of or defect in title, State shall reimburse Company for the cost of relocating its facilities and any other reasonable cost arising therefrom, such as, but not limited to, costs to acquire any right of way required for such relocation. State shall not reimburse Company for any loss caused by Company's own fault or negligence.

6. Except as expressly set forth herein, this Agreement shall not in any way alter, modify or terminate any provision of Company's easement. Both State and Company shall use said area of common use in such a manner as not to interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which Company or State may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either State or Company in such a manner as to cause an unreasonable interference with the use of said area of common use by the other party. Insofar as it may legally do so, the State agrees that Company's facilities shall not be damaged by reason of the construction, reconstruction or maintenance of said highway by the State or its contractors, and that, if necessary, State will protect Company's facilities against any such damage.

7. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties.

C.C.U.A. NO. ______________________

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their respective officials thereunto duly authorized.

RECOMMENDED FOR APPROVAL:

By: ______________________________

Name:

Title:

SOUTHERN CALIFORNIA EDISON COMPANY

By: ______________________________

Name:

Title:

By: ______________________________

Name:

Title:

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Director of Transportation

By: ______________________________

Attorney in Fact

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STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

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JOINT USE AGREEMENT - CENTRAL VALLEY PROJECT

Subject to provisions of the contract between the United States and the State of California, dated October 12, 1956 and entitled "Contract and Grants of Easements Covering Crossings of State of California Highway Facilities and Features of Central Valley Project"

hereby (grants without warranty of title) (consents to) a right of perpetual joint use (to) ______________________
(by) ____ , in a common area described as follows:

(Insert description of common area as provided in Section 3 of the contract)

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

For a crossing of (<u>indicate facilities</u>) of grantee and (<u>facilities of other party</u>) of grantor located at approximate

____

____

Dated: ______________________________

Grantor: ______________________________

(Acknowledgment optional with grantee)

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

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JOINT USE AGREEMENT - CENTRAL VALLEY PROJECT

Subject to provisions of the contract between the United States and the State of California, dated October 9, 1963 and entitled "Contract Covering Transverse Crossings of Parties' Respective Facilities" and the conditions set forth below, the State of California hereby grants, without warranty of title, or consents to the right of joint use to the United States of America, in a common area described as follows:

For a transverse crossing of ______________________________ of grantee and ______________________________ of grantor located at ______________________________.

GENERAL PROVISIONS

1. United States shall assume the cost of accommodating States' facilities existing or presently planned to be constructed within a five-year period from date of execution of this Joint Use Agreement, which accommodation is necessary by reason of the construction, operation or maintenance of facilities of United States in the joint use area.

2. Should State desire any betterment of its existing facilities, State shall defray any additional cost of such betterment. For the purposes of this agreement, "betterment" is defined as an increase in the capacity or utility of State's facilities.

3. United States shall submit to State its plans for such crossing and method of installation thereof, and obtain State's prior approval therefor, which approval shall not be unreasonably withheld.

4. United States shall, within State's highway rights of way, comply with all access control and surface use restrictions promulgated by the State Highway Engineer.

5. United States shall maintain, repair and replace its facilities located in the area of joint use at its sole expense.

6. United States in exercising any of its rights in the joint use area shall make adequate provisions for the protection of the traveling public and provide such barricades and safety devices as are required on State's highway construction projects.

7. All work by United States shall be planned and carried out so that there will be, to the extent reasonably practical, a minimum inconvenience to the traveling public.

8. All work by United states shall conform to recognized standards of construction and shall be subject to inspection by State.

9. Except in emergencies, United States shall give reasonable notice to State before performing any work in the joint use area where such work will be performed in, on, or under the traveled way or improved shoulders of the highway or will obstruct traffic.

10. After United States' compliance with Paragraph 1 hereinabove, each party may thereafter alter or improve its facilities within the joint use area, provided, however, that the moving party shall first assume the cost of accommodating the other party's facilities in the joint use area that are affected by the proposed alteration or improvement of its facilities. Neither party shall perform any alteration or improvement of its facilities within such joint use area until such party shall have submitted to the other party plans therefor and shall obtain the other party's approval therefor, which approval shall not be unreasonably withheld.

11. No facilities other than those of United States shall be permitted in the area of joint use other than by permit issued by State.

12. Each party shall at all times exercise its respective rights within the area of joint use so as not to unreasonably interfere with the rights of the other party.

13. The provisions of this contract shall inure to the benefit of and be binding upon the successors, assigns or transferees of the United States, provided however, if any successor, assign or transferee is a nonfederal agency, then in that event should future use of State highway rights of way by State at any time or times necessitate reconstruction, relocation, modification or alteration of successors, assigns or transferees' facilities then existing in the area of common use or joint use, then such successors, assigns or transferees of the United States shall perform such reconstruction, relocation, modification or alteration of their facilities at no expense to the State.

The provisions of this contract shall inure to the benefit of and be binding upon the successors, assigns or transferees of the State of California.

THE UNITED STATES OF AMERICA

By ______________________________

THE STATE OF CALIFORNIA

By ______________________________

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION Space above this line for Recorder's Use

JOINT USE AGREEMENT - BUREAU OF RECLAMATION (BUREAU-OWNED LAND)

Subject to provisions of the contract between the United States and the State of California, dated October 9, 1963 and entitled "Contract Covering Transverse Crossings of Parties' Respective Facilities" and the conditions set forth below, the United States of America hereby grants, without warranty of title, or consents to the right of joint use to The State of California, in a common area described as follows:

For a transverse crossing of ________________________________ of grantee and ________________________________ of grantor located at ________________________________.

GENERAL PROVISIONS

1. State shall assume the cost of accommodating United States' facilities existing or presently planned to be constructed within a five-year period from date of execution of this Joint Use Agreement, which accommodation is necessary by reason of the construction, operation or maintenance of facilities of State's highway facilities in the joint use area.

2. Should United States desire any betterment of its existing facilities, United States shall defray any additional cost of such betterment. For the purpose of this agreement, "betterment" is defined as an increase in the capacity or utility of United States' facilities.

3. State shall submit to United States its plans for such crossing and method of installation thereof, and obtain United States' prior approval therefor, which approval shall not be unreasonably withheld.

4. State shall maintain, repair and replace its facilities located in the area of joint use at its sole expense.

5. State in exercising any of its rights in the joint use area shall make adequate provisions for the protection of the traveling public and provide such barricades and safety devices as are required on States' highway construction projects.

6. All work by State shall be planned and carried out so that there will be no interference with the flow of water conveyed by irrigation facilities of United States.

7. All work by State shall conform to recognized standards of construction and shall be subject to inspection and approval by United States.

8. Except in emergencies, State shall give reasonable notice to United States before performing any work in the joint use area where such work will be performed in or on any facility of United States.

9. After State's compliance with Paragraph 1 hereinabove, each party may thereafter alter or improve its facilities within the joint use area, provided, however, that the moving party shall first assume the cost of accommodating the other party's facilities in the joint use area that are affected by the proposed alteration or improvement of its facilities. Provided further, that neither party shall perform any alteration or improvement of its facilities within such joint use area until such party shall have submitted to the other party plans therefor and shall obtain the other party's approval therefor, which approval shall not be unreasonably withheld.

10. No facilities other than those of State shall be permitted in the area of joint use other than by permit issued by United States.

11. Should State desire to transfer control, operation, possession or maintenance of any of its facilities within the joint use area, such transfer shall be subject to the approval of United States which approval will not be unreasonably withheld.

12. Each party shall at all times exercise its respective rights within the area of joint use so as not to unreasonably interfere with the rights of the other party.

THE UNITED STATES OF AMERICA	THE STATE OF CALIFORNIA
By ______________________	By ______________________

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

Space above this line for Recorder's Use

CERTIFICATE OF COMMON USE
DEPARTMENT OF WATER RESOURCES CERTIFICATE OF COMMON USE (WATER RESOURCES-OWNED LAND)

THIS AGREEMENT, entered into this _________ day of ________________ , 20 _____, by and between the DEPARTMENT OF WATER RESOURCES, hereinafter called "Water Resources," and the STATE OF CALIFORNIA, acting by and through the DEPARTMENT OF TRANSPORTATION, hereinafter called "Highways."

WITNESSETH:

WHEREAS, Water Resources is the owners in possession of certain real property, hereinafter referred to as "Water Resources' right of way," and described as follows:

and

WHEREAS, Highways has acquired certain lands for highway purposes in the vicinity of ____________________ ____________________________________, County of ____________________________________, on State Road ____________________________, hereinafter referred to as "Highway," which said lands traverse a portion of Water Resources' right of way, hereinafter referred to as "area of common use," and described as follows:

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, Water Resources and Highways do hereby mutually agree as follows:

1. Water Resources hereby consents to the construction, reconstruction, maintenance or use of by Highways of a highway over, along and upon Water Resources' right of way in the area of common use.

2. Water Resources shall comply with the access control and surface use restrictions as promulgated by the State Highway Engineer.

3. Highways acknowledges Water Resources' title in Water Resources' right of way in said area of common use and the priority of Water Resources' title over the title of Highways therein.

4. In the event that the future use of Water Resources' facilities shall at any time or times necessitate rearrangement, relocation, or reconstruction of any of Highways' facilities then existing in said area of common use, Water Resources shall notify Highways in writing of such necessity and Highways agrees to promptly proceed to effect such rearrangement, relocation or reconstruction of its facilities within the area of common use at no cost to Water Resources.

5. Highways shall pay the cost of any construction, rearrangement, modification, alteration or relocation of Water Resources' facilities in the area of common use when such construction, rearrangement, modification, alteration or relocation is attributable to Highways' facilities being located within Water Resources' right of way. Highways shall pay the entire cost of replacement of any siphon, flume or other structures constructed by Water Resources when such construction was attributable to Highways' facilities being within Water Resources' right of way. Water Resources shall pay the cost of minor repair and maintenance of such siphon, flume or other structure.

6. Highways shall submit to Water Resources for construction, reconstruction, modification or alteration, by Highways, of its facilities in the area of common use, which approval shall not be unreasonably withheld.

7. Highways shall maintain, repair and replace its facilities located in the area of common use at its sole expense.

8. Highways, when working within Water Resources' right of way shall comply with the following provisions:

   (a) Except in emergencies, Highways shall give reasonable notice to Water Resources before performing any work in the area of common use, where such work will be performed in or on any facilities of Water Resources. In all cases, Highways shall make adequate provision for the protection of such facilities as is required by Water Resources.

   (b) All work shall be planned and carried out so that there will be minimum inconvenience to the users of the water conveyed by such facilities of Water Resources.

   (c) All work shall conform to recognized standards of construction and shall be subject to inspection by Water Resources.

9. Except as expressly set forth herein, this Agreement shall not in any way alter, modify or terminate any portion of Water Resources' title to its right of way. Both Water Resources and Highways shall use said area of common use in such a manner as not to unreasonably interfere with the rights of the other.

10. No rights of Highways pursuant to or under this Agreement shall or can be assigned or otherwise transferred except upon the express written consent of Water Resources, and the assumption in writing by the proposed assignee or transferee of the obligations of Highways contained herein.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate by their respective officers thereunto duly authorized.

RECOMMENDED FOR APPROVAL:

By: ______________________________

Name:

Title:

DEPARTMENT OF WATER RESOURCES

By: ______________________________

Name:

Title:

By: ______________________________

Name:

Title:

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Director of Transportation

By: ______________________________

Attorney in Fact

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

Space above this line for Recorder's Use

CERTIFICATE OF COMMON USE
DEPARTMENT OF WATER RESOURCES CERTIFICATE OF COMMON USE (STATE-OWNED LAND)

THIS AGREEMENT, entered into this ________ day of ________________ , 20 ______, by and between the STATE OF CALIFORNIA, acting by and through the DEPARTMENT OF TRANSPORTATION, hereinafter called "Highways," and the DEPARTMENT OF WATER RESOURCES, hereinafter called "Water Resources."

WITNESSETH:

WHEREAS, Highways is the owners in possession of certain real property, hereinafter referred to as "Highways' right of way," and described as follows:

and

WHEREAS, Water Resources has acquired certain lands for its water projects in the vicinity of ________________ ____ , County of ____ ,

hereinafter referred to as "water facility," which said water facility will traverse a portion of Highways' right of way, hereinafter referred to as "area of common use," and described as follows:

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, Highways and Water Resources do hereby mutually agree as follows:

1. Highways hereby consents to the construction, reconstruction, maintenance or use, by Water Resources, of its facilities across Highways' right of way in the area of common use.

2. Water Resources shall comply with the access control and surface use restrictions as promulgated by the State Highway Engineer.

3. Water Resources acknowledges Highways' title in Highways' right of way in said area of common use and the priority of Highways' title over the title of Water Resources therein.

4. In the event that the future use of highway shall at any time or times necessitate rearrangement, relocation, or reconstruction of any of Water Resources' facilities then existing in said area of common use, Highways shall notify Water Resources in writing of such necessity and Water Resources agrees to promptly proceed to effect such rearrangement, relocation or reconstruction of its facilities within the area of common use at no cost to Highways.

5. Water Resources shall pay the cost of any construction, rearrangement, modification, alteration or relocation of Highways' facilities in the area of common use when such construction, rearrangement, modification, alteration or relocation is attributable to Water Resources' facilities being located within Highways' right of way. Water Resources shall pay the entire cost of replacement of any bridge or other structure constructed by Highways when such construction was attributable to Water Resources' facilities being within Highways' right of way. Highways shall pay the cost of minor repair and maintenance of such bridge or other structure.

6. Water Resources shall submit to Highways for approval, construction, all plans and specifications of any proposed construction, reconstruction, modification or alteration, by Water Resources of its facilities in the area of common use, which approval shall not be unreasonably withheld.

7. Water Resources shall maintain, repair and replace its facilities located in the area of common use at its sole expense.

8. Water Resources, when working within Highways' right of way shall comply with the following provisions:

    (a) Except in emergencies, Water Resources shall give reasonable notice to Highways before performing any work in the area of common use, where such work will be performed in or on the traveled way or improved shoulders of the highway, or will obstruct traffic.

    (b) In all cases, Water Resources shall make adequate provision for the protection of the traveling public and provide such barricades and safety devices as are required on State highway construction projects.

    (c) All work shall be planned and carried out so that there will be minimum inconvenience to the traveling public.

    (d) All work shall conform to recognized standards of construction and shall be subject to inspection by Highways.

9. Except as expressly set forth herein, this Agreement shall not in any way alter, modify or terminate any portion of Highways' title to its right of way. Both Water Resources and Highways shall use said area of common use in such a manner as not to unreasonably interfere with the rights of the other.

10. No rights of Water Resources pursuant to or under this Agreement shall or can be assigned or otherwise transferred except upon the express written consent of Highways, and the assumption in writing by the proposed assignee or transferee of the obligations of Water Resources contained herein.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate by their respective officers thereunto duly authorized.

RECOMMENDED FOR APPROVAL:

By: ________________________________

Name:

Title:

DEPARTMENT OF WATER RESOURCES

By: ________________________________

Name:

Title:

By: ________________________________

Name:

Title:

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Director of Transportation

By: ________________________________

Attorney in Fact

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

FHWA SPECIFIC AUTHORIZATION

RW 13-15 (REV. 9/2010)

State of California **Business, Transportation and Housing Agency**

Memorandum

TO: ____________________

DISTRICT DIVISION CHIEF
Right of Way

DATE: ____________________

FILE NO. ____________________

ATTENTION: ____________________
Utility Coordinator

FROM: **DEPARTMENT OF TRANSPORTATION**

SUBJECT: ☐ FHWA SPECIFIC AUTHORIZATION TO RELOCATE UTILITIES

☐ FHWA APPROVAL OF UTILITY AGREEMENT

OWNER'S NAME: ____________________

PROJECT DESCRIPTION:

NOTICE NUMBER: ____________________

UA NUMBER: ____________________

E-76 ALT PROC APPROVED: ____________________

STATUS CERT DATE: ____________________

RELOCATION COST ESTIMATE: $ ____________________

EA: ____________________

DESCRIPTION OF RELOCATION WORK:

REMARKS:

☐ THE UTILITY RELOCATION WORK AUTHORIZED COMPLIES WITH THE PROCEDURES IN 23 CFR 645.

☐ THE UTILITY AGREEMENT APPROVED COMPLIES WITH THE PROCEDURES IN 23 CFR 645.

EFFECTIVE DATE: ____________________

BY: ____________________
Name:
Title:

cc: Accounts Receivables
HQ RW Utilities
Budgets

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

REPORT OF INVESTIGATION APPROVAL GUIDE

RW 13-16 (REV 3/2010)

DISTRICT	COUNTY	ROUTE	EA
FILE	AMOUNT	DATE APPROVED	
LIABILITY	STATE: %	OWNER: %	

YES NO

☐ ☐ Is the Report of Investigation complete and accurate, including a narrative discussion of the conflicts, owner's rights, and relocation plan?

☐ ☐ Does the Owners Claim letter include copies of owner's prior rights documentation?

☐ ☐ Is the estimate complete and fully detailed, including breakdown of labor, equipment, engineering, overhead, material, right of way, etc., in compliance with Section 13.05.01.01 and Exhibit 13-21?

☐ ☐ Has credit been given for depreciation, salvage, and all betterment not necessitated by the requirements of the project?

☐ ☐ Has the estimate been reviewed in accordance with current review and pre award audit policies?

☐ ☐ Has the project engineer certified that the planned relocation will clear the right of way?

☐ ☐ Does the Utility Agreement contain all needed clauses and are they unmodified standard clauses?

Does the Notice include:

☐ ☐ A detailed schedule for accomplishing the work?

☐ ☐ Precise reference to the plan which delineates the work to be done?

Do the plans:

☐ ☐ Meet all of the requirements of Section 13.05.01.02?

☐ ☐ Accurately show the existing, temporary, and new facility?

☐ ☐ Have an accurate plot of all public and private rights of way, easements, prescriptive claim lines, etc.?

☐ ☐ The file was fully documented prior to approval.

☐ ☐ The Liability approved is based on confirmed prior rights and conforms to Department policy.

Will Federal reimbursement be sought for this relocation?

☐ YES: ☐ Has the FHWA GUIDE FOR REVIEW OF UTILITY AGREEMENTS (RW 13-17) been completed?

☐ Does the approved relocation fully comply with the provisions of 23 CFR 645?

☐ The FHWA Specific Authorization has been completed.

☐ If the relocation will be performed by the State's contractor, the contractor's clause and the amount of phase 4 funding are included in the FHWA Specific Authorization.

☐ NO

NAME	TITLE	DATE

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

FHWA GUIDE FOR REVIEW OF UTILITY AGREEMENTS

RW 13-17 (REV 3/2010)

FEDERAL PROJECT:	STATE PROJECT:
E-76 ALTERNATE PROCEDURE APPROVAL DATE:	AGREEMENT NUMBER:

YES NO

☐ ☐ Is the utility relocation necessary because of the highway project?

☐ ☐ Is there a determination by the District as to whose standards are most restrictive?

☐ ☐ Does the agreement incorporate 23 CFR 645 by reference?

☐ ☐ Does the agreement include a schedule for accomplishing the work?

Do the plans accompanying the agreement clearly show:

- ☐ ☐ The existing, temporary, and new facility?
- ☐ ☐ The centerline of the highway and right-of-way lines?
- ☐ ☐ Does the proposed highway facility as shown on the utilities plan correspond with the latest project plans approved by the FHWA?

☐ ☐ Does the agreement show the basis of the State's authority to pay for the relocation?

☐ ☐ Does the agreement provide for an acceptable method of developing relocation costs?

☐ ☐ Is the estimate sufficiently complete, including breakdown of labor, equipment, engineering, overhead, material, right of way, etc.?

☐ ☐ Are all participating and non participating items of cost properly identified in the estimate?

☐ ☐ Has credit been given for depreciation, salvage, and all betterment not necessitated by the requirements of the project?

☐ ☐ Is the work to be done by contract?

☐ Yes ☐ No **IF YES,** has the District determined that the use of a contractor is in the best interest of the state, OR that the company is not adequately staffed or equipped to perform the relocation?

Was the contract method was used to perform this work?

☐ Yes ☐ No **IF YES,** has the District determined that it was in accordance with established procedures?

Was the preliminary engineering performed by a consultant?

☐ Yes ☐ No **IF YES,** has the District determined that the use of a consultant has been approved in accordance with established procedures?

Does the utility to be relocated occupy federal land?

☐ Yes ☐ No **IF YES,** has the District submitted the required statement citing the legal basis of the utility's compensable interest?

Is removal without relocation involved?

☐ Yes ☐ No **IF YES,** has sufficient information been furnished to support reimbursement?

NAME	TITLE	DATE

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

PRESCRIPTIVE RIGHTS CHECKLIST

RW 13-18 (REV 3/2010)

DIST	CO	RTE	EA	FILE

YES NO

☐ ☐ 1. The property has been held in ADVERSE POSSESSION. This is important - see note below.

☐ ☐ 2. The property has been held continuously for 5 years or more.

☐ ☐ 3. The Utility Owner has submitted a claim letter in the format prescribed by 13-EX-19.

☐ ☐ 4. The property was held by the Federal, State, County, or Municipal Government during the period used to develop the prescriptive claim.

If 1, 2, or 3 above is answered NO, or 4 is answered YES, prescriptive cannot be claimed.

ADVERSE POSSESSION: Prescriptive requires adverse use, which is use with the knowledge of the owner and without permission. If the Utility Owner's facility is installed with the permission of the property owner, but without a document, we will consider the installation to be in place under a license or permit.

In some cases, the Utility Owner may take the position that they will not execute our standard prescriptive letter because of the "adverse use" statement. They contend that their facility is in place with the servient owner's permission, and it is therefore not an adverse use. When we receive a claim where the Utility Owner takes this position, it must be returned with a statement that they do have a supportable prescriptive claim and request that they state what prior and superior right (if any) they wish to claim and document.

The party claiming a prescriptive easement has the burden of proving all essential elements.

Mere passage over the subject property is not sufficient to establish a prescriptive title.

The claim can be established under multiple ownership of the easement. For instance, the five-year-occupancy requirement will be met when utility company "A" occupies the easement area for two years and then sells to company "B", who holds it for three years: a total of five years.

After a prescriptive claim has been established, a JUA or CCUA may be issued to document the prescriptive right claim. However, the JUA/CCUA must meet the criteria specified in Utility Manual Section 13.11.02.05.

Please contact your HQ R/W Utilities Senior in unusual cases or if you have questions.

NAME	TITLE	DATE

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

WATER CODE CHECKLIST

RW 13-19 (REV 1/2009)

DISTRICT	COUNTY	ROUTE	EA	FILE

APPLICATION OF THE WATER CODE IS COMPLEX.
THIS CHECKLIST IS JUST A GUIDELINE AND REMINDER.
YOU MUST STUDY THE CODE.
SIMPLY COMPLETING THIS CHECKLIST WILL NOT SUFFICE.

- ☐ Owner does not have fee or easement
- ☐ Claim must be in writing
- ☐ Only applies to transverse crossings
- ☐ 7034 and 7035 cannot both apply to the same crossing
- ☐ Not originally installed under Caltrans permit

NOTE: No evidence of a prior right is a must. If the owner has a documented prior right, 7034 and 7035 do not apply.

☐ 7034

- ☐ The bridge or conduit was constructed in a permanent manner
- ☐ By encroachment permit or otherwise
- ☐ The facility has been brought up to county standards
- ☐ The county has accepted the facility:
  - ☐ Formal acceptance
  - ☐ Informal acceptance

The structure of facilities which fall under this code shall be the responsibility of the State for maintenance, repair, replacement, or relocation. This does not include the usual acts of operational maintenance, including removal of silt.

☐ 7035

- ☐ No written records exist showing the highway existed prior to the conduit.
- ☐ A diligent search has been made.
- ☐ This section does not apply to any conduit that falls under the provisions of 7034.

In many cases only part of the facility crossing the highway will fall under the Water Code. Any portion that falls outside the right of way of the original county road will be the responsibility of the water district. In these cases, the cost must be apportioned.

We cannot recognize a prior right without a document showing a grant.

We do not normally charge depreciation because an open ditch is considered to last forever.

Under the Water Code, the facility has been deemed ours for repair or replacement by statute, but the owner is responsible for normal maintenance. A JUA or CCUA will not be issued for rights under either section of the Water Code, as the Code itself provides for the maintenance of the facility and confirms the rights and responsibilities of the State and the Owner. See Utility Manual Section 13.04.06.01.

Water Code 7034 will not apply if the subject highway was a state highway when the facility was installed.

Water Code 7034 will not apply where the highway in question was never a county road (virgin routes).

Water Code 7035 is written to favor the water districts. If we cannot prove that we were there first, we are liable for the cost of the relocation under 7035. The burden of proof is on us.

Please contact your HQ R/W Utilities Senior in unusual cases or if you have questions.

SENIOR R/W AGENT, DISTRICT UTILITIES COORDINATOR

WATER CODE CHECKLIST (Cont.)

RW 13-19 (REV 1/2009)

WATER CODE SECTIONS 7030 TO 7036

7030: As used in this chapter, "conduit" includes canal, ditch, culvert, pipeline, flume, or other appliance for conducting water.

7031: As used in this chapter, except in Section 7034, "highway" includes both state and county highways as defined by or identified in the Streets and Highways Code.

7031.5: As used in this chapter, "bridge" means a structure constructed to allow the conducting of water underneath by canal, ditch, flume, or other uncovered appliance for conducting water.

7032: No conduit shall be laid, constructed, or maintained so as to obstruct any highway.

7033: Every person or public district or agency who or which initially constructs, or improves for his or its own benefit, any conduit crossing or running along any pre existing highway, shall construct or improve such conduit in accordance with standards established by the county or State as the case may be, and at the expense of the person so constructing or improving such conduit.

7034: Bridges or conduits heretofore or hereafter constructed in a permanent manner, whether by encroachment permit or otherwise, which cross county highways and which have been constructed or brought up to county standards, and have been accepted, either formally or informally by appropriate action, shall, after such acceptance, and regardless of who constructed them, be the sole responsibility of the county, so far as maintenance, repair, improvement for the benefit of the county, reconstruction or replacement of such bridges and conduits are concerned. If any such county highways become state highways, the State shall succeed to the foregoing obligations of the county.

The amendment of this section made at the 1963 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the pre existing law.

7035: Whenever any conduit for conducting water crosses a highway and no written records exist showing that the highway rights-of-way existed prior to the conduit rights-of-way, it shall be conclusively presumed that the conduit was in place and lawfully maintained prior to the highway and such conduit shall be repaired, improved for the benefit of the public agency having jurisdiction over such highway, and replaced, if necessary, by the public agency having jurisdiction over such highway, provided that usual acts of maintenance of the conduit, such as cleaning the conduit of dirt or silt, shall be performed by and at the expense of the person using the conduit.

This section shall not apply to any conduit as to which Section 7034 is applicable.

7036: Any public district or private utility and any county may enter into a contract agreeing to pay and apportion between them the costs of locating, removing, repairing, or relocating any facilities owned or to be owned by either party on the roads or other property of the other in such proportion and upon such terms as the governing boards of the parties shall determine to be equitable.

This section shall not supersede the provisions of this chapter.

CHAPTER 13

Utility Relocations
Table of Contents

EXHIBITS

1. AASHTO's A Guide for Accommodating Utilities within Highway Right-of-Way
2. AASHTO's A Policy on the Accommodation of Utilities Within Freeway Right-of-Way
3. Code of Federal Regulations (Title 23)
4. FHWA's Program Guide: Utility Adjustments and Accommodation on Federal-Aid Highway Projects
5. Statutes Relating to CALTRANS
6. Right of Way Manual
7. Encroachment Permits Manual
8. Local Assistance Procedures Manual
9. Project Development Procedures Manual
10. Cooperative Agreement Manual
11. Highway Design Manual
12. Standard Specifications
13. Drafting and Plans Manual
14. Construction Manual
15. Public Utilities Commission General Order 128, "Rules for Construction of Underground Electric Supply and Communication Systems"
16. Public Utilities Commission General Order 95, "Rules for Overhead Electric Line Construction"
17. MSA Code Instructions

Right of Way Utility File Diary

PROJECT AND CONTACT INFORMATION			
District-County-Route-Post Mile:	**EA**	**Ut. File No.**	
Project Description:			
Utility Coordinator:	**Date File Opened:**		
Project Manager:	**Telephone:**		
Project Engineer:	**Telephone:**		
Utility Company:	**Contact:**	**Telephone:**	
FEDERAL E-76 AND MILESTONE DATES			
E-76 No.	**Alternate Procedure Approval Date:**		
13-15 Specific Authorization Date:	**13-15 Approval of UA Date:**		
PID Date:	**PA-ED Date:**	**P&E Date:**	
RW Cert. Date:	**RTL Date:**	**CCA Date:**	
LIABILITY INFORMATION			
Verification Sent:	**Verification Received:**		
Claim Letter/Conflict Map Sent:	**Relocation Plans Received:**	**Approved:** ☐ **Yes** ☐ **No**	
Approval Date:	**By PE:**	**Liability % State/Owner _____ / _____**	
ROI Liability Approved - Date:	**NTO Sent:**	**Revised NTO:**	
Utility Agreement: ☐ **Yes** ☐ **No - Date:**	**Amended Agreement:**		
Billing Received:	**13-6 Submitted:**	**Partial OR Final**	
Partial $__________	**Partial $__________**	**Partial $__________**	**Partial $__________**
Partial $__________	**Partial $__________**	**Partial $__________**	**Final $__________**
Audit Requested: ☐ **Yes** ☐ **No**	**Date:**	**Approved:** ☐ **Yes** ☐ **No**	**Waived:** ☐ **Yes** ☐ **No**
ENCROACHMENT PERMIT AND PROPERTY RIGHTS			
NUR EP Submitted: ☐ **Yes** ☐ **No**	**By State via NTO:** ☐ **Yes** ☐ **No**	**By Utility Company:** ☐ **Yes** ☐ **No**	
Date Issued:	**Date Sent to Owner:**	**Rider:**	
Date Relocation Began:	**Date Completed:**		
Easement Needed: ☐ **Yes** ☐ **No**	**JUA:** ☐ **Yes** ☐ **No**	**CCUA:** ☐ **Yes** ☐ **No**	
County Recorded:	**Date Recorded:**	**Date File Closed:**	
POTHOLING			
Potholing Request/Maps Received Date:	**Task Order No.**		
Name of Potholing Contractor:	**Telephone:**		
Task Order Sent:	**No. of Holes Ordered:**	**NTO Sent:**	
Traffic Control Required: ☐ **Yes** ☐ **No**	**Lane Closure:** ☐ **Yes** ☐ **No**		
Date Potholing Started:	**Date Completed:**		
Billing Received and Processed Date:	**Amount:**	**Date Paid:**	

Right of Way Utility File Diary

Date	Agent	Narrative Data

R/W UTILITY ESTIMATE WORKSHEET AND R/W DATA SHEET INSTRUCTIONS

(Form #)

Date ________________________
Post Mile ________________________
Expenditure Authorization ________________________

Description of Project:

____
____
____
____

Estimate for: ☐ Preliminary Route Estimate (Alternate No. __________________)
☐ R/W Data Sheet (Preferred Alternate)

Evidence of Utilities:

☐ Gas ☐ Electric ☐ Telephone ☐ Cable TV ☐ Water ☐ Public Drainage/Irrigation
☐ Sewer ☐ Fiber Optics ☐ Other (Explain in "Remarks")

Anticipated Utility Relocations:

☐ Gas ☐ Electric ☐ Telephone ☐ Cable TV ☐ Water ☐ Public Drainage/Irrigation
☐ Sewer ☐ Fiber Optics ☐ Other (Explain in "Remarks")

Estimated Cost of Utility Relocations:

___________	L.F. of Gas Line	@ $___________/L.F.	=	$___________
___________	L.F. of UG Electric Line	@ $___________/L.F.	=	$___________
___________	L.F. of UG Telephone Line	@ $___________/L.F.	=	$___________
___________	Wood Poles (Telephone)	@ $___________/Pole	=	$___________
___________	Wood Poles (Electric)	@ $___________/Pole	=	$___________
___________	Joint Poles	@ $___________/Pole	=	$___________
___________	Steel Poles	@ $___________/Pole	=	$___________
___________	Steel Towers	@ $___________/Tower	=	$___________
___________	L.F. of Water Line	@ $___________/L.F.	=	$___________
___________	Fire Hydrants	@ $___________/F.H.	=	$___________
___________	L.F. of Sewer Line	@ $___________/L.F.	=	$___________
___________	L.F. of Fiber Optics Line	@ $___________/L.F.	=	$___________
___________	Other (Explain)	@ $___________/	=	$___________
	TOTAL ESTIMATE (State's Share)		=	$___________

Remarks:

____
____
____
____

INSTRUCTIONS FOR PREPARING THE UTILITIES PORTION OF THE RIGHT OF WAY DATA SHEET

(Fill in all blank spaces and explain where necessary.)

The Right of Way Data Sheet (R/W Data Sheet) is prepared by R/W P&M with assistance from the District Utility Coordinator. The District Utility Coordinator must provide the following information to R/W P&M:

Item 1. Right of Way Cost Estimate: (Capital)

B. Utility Relocation (State Share)

Current Value (Future Use)	Escalation Rate	Escalated Value
$(2a.)	(2b.)%	$(2c.)

2a. Enter the total estimated dollar amount which the State will need to pay the affected utility owners for relocation of their facilities. Estimates can be obtained from the owners or the Utility Coordinator’s best guess. The estimate must be as accurate as possible, but should always be based on the most probable “worst case” and “highest cost” assumptions.

2b. Enter the escalation rate as a percentage. The escalation rate is the expected yearly average increase in utility relocation costs to the year of utility construction completion. Escalation rates can be obtained from construction and building cost indices, past trends in utility relocation projects, etc.

2c. Enter the total dollar amount using 2a. escalated to the year of utility construction completion by 2b., i.e.:

$100,000.00	(Current relocation costs--2a.)
x 1.05	(Escalation rate of 5%--2b.)
$105,000.00	(Escalated Value--2c.)

Item 3. Parcel Data: (Support)

Utilities

U4-1 _____ = The total number of expected owner expense involvements.

-2 _____ = The total number of expected State expense involvements; conventional highway (no access control) and no Federal aid for the project.

-3 _____ = The total number of expected State expense involvements; freeway (access control) and no Federal aid for the project.

-4 _____ = The total number of expected State expense involvements; conventional highway or freeway and Federal aid for the project.

U5-7 _____ = The total number of expected utility verifications, which will not result in involvements.

-8 _____ = The total number of expected utility verifications, anticipating 50% of the verifications will have involvements and 50% will not.

-9 _____ = The total number of expected utility verifications, which will result in involvements.

NOTE: The sum of the U4s must equal the sum of 1/2 of the U5-8s and all of the U5-9s.

Item 7. Are utility facilities or rights of way affected?
☐ Yes ☐ No (If "Yes," explain.)

Use this section to explain all known or possible utility conflicts, any easements that may be required for utility relocations, field meeting comments, etc. If there are no utility facilities anticipated, mention: "Utility relocations are not anticipated. However, utility verifications will be required." (Check "Yes" above in this instance.)

NOTE: The comments mentioned above must be reflected in the number of involvements in U4s and U5s in "Item 3., Parcel Data."

Item 14. Indicate the anticipated Right of Way schedule and lead time requirements. (Discuss if the District proposes less than formula lead time and/or if significant pressures for project advancement are anticipated.)

This section is used to discuss the total amount of months you need to complete your work (lead time). A minimum of 6 months is required for all projects where verifications are needed. If relocations are involved, it is best to request at least 9 months; for tower or other complex relocations, 18 months are needed. (Utility owners can tell you long lead time materials.)

NOTE: It is always a good idea to remind the project engineer that lead time starts for relocation of utilities when they supply adequate plans for requesting relocation plans from utility owners.

Item 15. Is it anticipated that all Right of Way work will be performed by CALTRANS staff?
☐ Yes ☐ No (If "No," discuss.)

*Evaluations prepared by:

Utilities: Name ___________________________________ Date ____________________

*The Utility Coordinator must sign and date the R/W Data Sheet.

NOTE: Return the R/W Data Sheet to R/W P&M via the District Utility Coordinator for input into PMCS and forwarding to the project engineer.

The "Utility Information Sheet," as shown below, is available as a Microsoft Word template. The file name is "Utilitysheet.dot" and it is located under "Preliminary Investigations (PI)" at the Division of Engineering Services Web site. The URL is: http://www.dot.ca.gov/hq/esc/pi/

STATE OF CALIFORNIA•DEPARTMENT OF TRANSPORTATION ENGINEERING SERVICES, DEPARTMENT OF STRUCTURES DESIGN **UTILITY INFORMATION SHEET** CSP REV (03/01)	UTILITY NO:	DISTRICT:	COUNTY:	ROUTE:	KPM (Kilo-postmile):
	INTERSTATE NO:	CHARGE NO:		E.W.A. NO.:	

NOTE:

Added information may be placed below under additional information. Select appropriate row letter (Column (2)) and Column number for identification.

Column (18) needs to be specified.

Rows "P" to "U" (Column (1)) to be used for other utilities; for example, communication, petroleum, etc.

If Columns (9), (14), & (15) are used, indicate under additional information who will pay for the relocation, i.e., % State, % Utility Company.

*Usual procedure, Columns 10, 11, and 13.

TYPE OF UTILITY		NAME OF UTILITY	CARRIER PIPE DUCTS (GIVE SIZE AND TYPE)	SIZE OF CASING OR DIMENSIONS OF CONDUIT (DIMENSIONS AT BELL END OF PIPE OR CONDUIT)	SIZE OF OPENINGS REQUIRED THROUGH BENT CAPS AND ABUTMENTS (RECTANGULAR W x H, ROUND ϕ)	LOCATION OF OPENINGS (USE S, NE, ETC. OF ℄ OF STREET)	MANHOLES REQUIRED WITH CRAWL SPACE THROUGH DIAPHRAGMS (CRAWL SPACE MIN. 670 mm x 670 mm NET)	MANHOLE FRAME AND COVER TO BE FURNISHED AND INSTALLED BY STATE CONTRACTOR	MANHOLE FRAME AND COVER TO BE FURNISHED BY UTILITY COMPANY & INSTALLED BY STATE CONTRACTOR	HANGER HARDWARE TO BE FURNISHED BY UTILITY COMPANY & INSTALLED BY STATE CONTRACTOR	UTILITY SUPPORTS TO BE FURNISHED & INSTALLED BY: U = UTILITY COMPANY, S = STATE CONTRACTOR	CASING AND / OR CARRIER PIPE FURNISHED AND INSTALLED BY UTILITY COMPANY	CASING AND / OR CARRIER PIPE FURNISHED AND INSTALLED BY STATE CONTRACTOR	CASING TO BE FURNISHED BY UTILITY COMPANY AND INSTALLED BY STATE CONTRACTOR	ULTIMATE WEIGHT PER FOOT (WEIGHT OF CARRIER, CASING, CONTENTS & SUPPORTS)	MAXIMUM PRESSURE OR VOLTAGE	ON STRUCTURE SPECIFY:	OFF STRUCTURE SPECIFY:	OTHER:
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10*)	(11*)	(12)	(13*)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
NUTURAL GAS	A					m ℄													
	B					m ℄													
POWER	C					m ℄													
	D					m ℄													
	E					m ℄													
TELEPHONE	F					m ℄													
	G					m ℄													
	H					m ℄													
SEWER	J					m ℄													
	K					m ℄													
WATER	L					m ℄													
	M					m ℄													
	N					m ℄													
	P					m ℄													
	R					m ℄													
	S					m ℄													
	T					m ℄													
	U					m ℄													

LETTER	NO:	ADDITIONAL INFORMATION	LETTER	NO:	ADDITIONAL DATA	UTILITY INFORMATION	
						BRIDGE NAME:	BRIDGE NUMBER:
						DATE:	R/W UTILITY ENGINEER:

UTILITIES ON STRUCTURES INFORMATION LETTER TO OWNER

(Form #)

Date ________________________
Utility Number ________________________
Post Mile ________________________
Expenditure Authorization ________________________

The State is developing plans for [constructing a] [improving the existing] [freeway] [conventional highway] on Route __________. Proposed construction will include [DESCRIBE THE PROJECT] ____
____
____.

You have previously indicated that you propose to include some of your facilities within/on planned structures. Our Project Development staff needs information concerning your facilities and your planned relocation so it may be considered during our design and if acceptable will be included in the construction contract plans. Please fill out the attached Structure Information Sheet and delineate on the State's preliminary plan your desired location of your facilities and return to me, along with the above-mentioned information, prior to ____________________.

The following guidelines limit utility placement in or on structures. These guidelines apply to normal installations whereby utilities are installed in a box girder cell, suspended between girders (I- or T-girder structure types), or in the sidewalk slab.

1. The maximum allowable utility size depends on structural constraints of the structure. Any utility or its casing with a diameter exceeding 19.69 inches may not be acceptable. Utilities of this size must be analyzed by Caltrans on a case-by-case basis.

2. The maximum diameter conduit allowed in sidewalks is 3.94 inches.

3. The maximum voltage allowed in an electrical line is 69 kV.

4. The maximum operating water pressure of a 19.69-inch diameter carrier line is 690 kPa.

5. The maximum diameter volatile gas carrier line allowed is 15.75 inches.

6. Volatile fluids, gases, and high voltage lines shall not occupy the same cell or area between girders with any other utilities or with each other.

Please keep in mind that the following options are available when designing facilities for expected seismic movement through the structure:

1. Design for an expected minimum horizontal or vertical displacement of 2.4 inches on existing structures. For new structures, design the facilities for an expected movement of 23.62 inches.

2. Provide an event actuated device that will automatically shut off the utility line.

3. Provide a device that will detect a break in the utility line (and casing) and automatically shut off the utility line.

4. Locate the utility line off the structure.

This project is currently scheduled for construction about ______________________________. If you have any questions, please call me at ( ) __________. Your cooperation is appreciated.

Sincerely,

Utility Coordinator
Right of Way Utilities

c: ____________________, Project Development

[Attachment]

RELOCATION CLAIM LETTER TO OWNER

County Route ________________________
Utility Number ________________________
Post Mile ________________________
Expenditure Authorization ________________________

Date

Address

Dear __________:

Enclosed are two sets of the State's preliminary plans covering the proposed [freeway] [conventional highway] construction project on Route __________. Proposed construction will include [DESCRIBE THE PROJECT] ____.

Your [Company's] [City's] [County's] [District's] [Authority's] _____________ facilities are within the project and may be affected by planned construction. These plans are for your use in (1) verifying your existing facilities as shown on the plans, (2) completing your relocation plans, (3) identifying related easement requirements, (4) developing your claim of liability, and (5) preparing your estimate of cost for the project.

[This is a freeway and all rights of access will be restricted. If the State is liable for any portion of your relocation costs, and if any of your plans will be prepared by a consulting engineer, a copy of the proposed agreement with your consultant must be forwarded to this office as soon as possible. Employment of a consultant for a fee based on a percentage of the relocation cost is not acceptable. If desired, an example of a typical consultant agreement, along with the Certification of Consultant, will be furnished upon your request.]

If easements are required to relocate your facilities, please delineate your needs on the plans. This information is needed as soon as possible so your replacement easements can be acquired by the State along with other lands required for this project. You may submit your easement requirements ahead of your overall relocation plans.

Please submit the following information for review prior to ____________________ so a Notice to Owner, Encroachment Permit, and if necessary, a Utility Agreement can be prepared:

1. Six sets of your relocation plans with related easement requirements, and any changes to the existing facilities as shown on the State's preliminary plans.

2. The approximate number of working days you need to complete your relocation work per your plans, including any construction windows you may need.

3. The date your existing facilities were installed.

4. Your occupancy rights for installation:

   A. Fee-owned land
   B. Easement (recorded)
   C. Easement (unrecorded)
   D. Prescriptive right
   E. JUA or CCUA
   F. Franchise
   G. State Permit
   H. County Permit
   I. City Permit
   J. Other (Explain)

Please provide a copy of your documentation to support your occupancy rights claim for A, B, C, D, or E above.

5. An itemized estimate of cost which includes a breakout for labor, material, transportation, equipment, and administrative overhead. If you will be requesting a lump-sum Utility Agreement, provide an itemized estimate which includes a detailed breakdown of the above-mentioned items.

6. Your work will be performed by:

   A. Own forces
   B. Continuing contractor
   C. Competitive bid contract

7. Your liability claim:

   State _____% Owner _____%

This project is currently scheduled for construction ____________________. Based on the same schedule, the Notice to Owner to relocate your facilities will be issued on or before ______________.

If technical design information is needed, you may call our Project Engineer, ____________________, telephone ( ) __________. Should you have any other questions, please call me at ( ) __________. Your cooperation is appreciated.

Sincerely,

Utility Coordinator
Right of Way Utilities

c: ____________________, Project Development

Enclosures

Date ____________________
Utility Number ____________________
Post Mile ____________________
Expenditure Authorization ____________________

The State is developing plans for [constructing a] [improving the existing] [freeway] [conventional highway] on Route __________. Proposed construction will include [DESCRIBE THE PROJECT] ____
____
____.

Our Project Development staff needs information regarding your existing utility facilities. The facilities will be considered in design and will be brought to the attention of our contractor through inclusion in the construction contract plans.

[Attached] [Enclosed] are two sets of the State's geometric base maps (base maps) showing the limits of the project. Please verify your existing facilities, deleting any that have been removed or abandoned and delineating any not shown. Please list what is carried by the facility (gas, electricity, water, etc.) and give ties, depth of cover, size, [voltage] [pressure], and any other information that might affect the design of the [freeway] [conventional highway]. Return a set of base maps to me prior to ____________________. A print of your construction plans, if available for the area, will be satisfactory in lieu of plotting facilities on our base maps. If necessary, at a later date plans will be sent to you for preparing your relocation plans.

[This is a freeway and rights of ingress and egress will be restricted. If any of your plans will be prepared by a consulting engineer, a copy of the proposed Agreement with the consultant must be forwarded to this office as soon as possible for transmittal to the Federal Highway Administration (FHWA) for approval. Employment of a consultant for a fee based on a percentage of the relocation cost will not be approved by the FHWA. If desired, an example of a typical Agreement, along with the Certification of Consultant, can be furnished upon request.]

If easements are required to relocate your facilities, please delineate on your base maps. This information is needed as soon as possible so your easements can be acquired by the State along with other lands required for this project. If possible, provide us with your easement requirements prior to submitting your plans to us.

[Since there is a bridge structure involved, we need to know if you plan to go through the structure. If you do, please fill out the attached Structure Information Sheet and delineate on the State's preliminary plan your desired location of your facilities and return to me, along with the above-mentioned information, prior to ____________________.]

The following guidelines limit utility placement in or on our bridges. These guidelines apply to normal installations whereby utilities are installed in a box girder cell, suspended between girders (I- or T-girder structure types), or in the sidewalk slab.

1. The maximum allowable utility size depends on structural constraints of the bridge. Any utility or its casing with a diameter exceeding 19.69 inches may not be acceptable. Utilities of this size must be analyzed by Structures on a case-by-case basis.

2. The maximum diameter conduit allowed in sidewalks is 3.94 inches.

3. The maximum voltage allowed in an electrical line is 69 kV.

4. The maximum operating water pressure of a 19.69-inch diameter carrier line is 690 kPa.

5. The maximum volatile gas carrier line allowed is 15.75 inches.

6. Volatile fluids, gases, and high voltage lines shall not occupy the same cell or area between girders with any other utilities or with each other.

Please keep in mind that the following options are available when designing your facilities for expected seismic movement through the structure:

1. For existing structures, design for an expected minimum horizontal or vertical displacement of 2.4 inches. For new structures, design the facilities for an expected movement of 23.62 inches.

2. Provide an event-actuated device that will automatically shut off the utility line.

3. Provide a device that will detect a break in the utility line (and casing) and automatically shut off the utility line.

4. Locate the utility line off the bridge.

This project is currently scheduled for construction about ______________________________. If you have any questions, please call me at (   ) __________. Your cooperation is appreciated.

Sincerely,

Utility Coordinator
Right of Way Utilities

c: ____________________, Project Development

[Attachments] [Enclosures]

Date ____________________
Utility Number ____________________
Post Mile ____________________
Expenditure Authorization ____________________

The State has completed the development of plans for [constructing a] [improving the existing] [freeway] [conventional highway] on State Route __________. The State’s planned construction will include [DESCRIBE THE PROJECT] ____.

Our Project Development staff has determined there are no identified conflicts at this time between your facilities and the State’s proposed construction project. Unless this changes, you will not be contacted again regarding this project. The project is currently scheduled for construction about ______________________________.

If you would like to go over our plans or discuss the project with our Project Engineer, please contact me at ( ) __________. Your cooperation is appreciated.

Sincerely,

Utility Coordinator
Right of Way Utilities

c: ____________________, Project Development

LETTER TO OWNER REQUESTING POSITIVE LOCATION

(Form #)

Date	________________________
Utility Number	________________________
Post Mile	________________________
Expenditure Authorization	________________________

Enclosed are two sets of the State's preliminary plans covering the proposed [freeway] [conventional highway] construction project on State Route __________. The State's planned construction will include [DESCRIBE THE PROJECT] ____.

Your [Company's] [City's] [County's] [District's] [Authority's] _____________ facilities are within the project's area and may be affected by planned construction. These plans are for your use in determining your claim of liability and estimate of cost for positive location of your facilities, at the location(s) shown highlighted on the plans.

Please submit the following information to me prior to ____________________ so a Notice to Owner, Encroachment Permit, and if necessary, a Utility Agreement can be prepared:

1. The date your existing facilities were installed.

2. Your occupancy rights for installation:

   A. Fee-owned land
   B. Easement (recorded)
   C. Easement (unrecorded)
   D. Prescriptive right
   E. JUA or CCUA
   F. Franchise
   G. State Permit
   H. County Permit
   I. City Permit
   J. Other (Explain)

   Provide a copy of your documentation to support your occupancy rights claim for A., B., C., D., or E. above.

3. Your itemized estimate of cost which should include a breakout for labor, material, transportation, equipment, and administrative overhead. If you will be requesting a lump-sum Utility Agreement, provide an itemized estimate which includes a detailed breakdown of the above-mentioned items.

4. Your work will be performed by:

   A. Own forces
   B. Continuing contractor
   C. Competitive bid contract

5. Your liability claim:

   State _____% Owner _____%

This project is currently scheduled for construction ____________________. If you have any questions, please call me at ( ) __________. Your cooperation is appreciated.

Sincerely,

Utility Coordinator
Right of Way Utilities

c: ____________________, Project Development

Enclosures

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

NOTICE TO OWNER TRANSMITTAL LETTER

(Form #)

EXHIBIT
13-EX-13 (REV 4/2009)

Date	______________________
Utility Number	______________________
Post Mile	______________________
Expenditure Authorization	______________________

The enclosed Notice to Owner No. __________ dated __________ covers the [positive location] [relocation] [removal] [abandonment] of your facilities in order to accommodate the State's [freeway] [conventional highway] construction project on State Route __________. The State's proposed construction will include [DESCRIBE THE PROJECT] ____.

The requirements of this Notice to Owner are based on [State's] [your] Plan No. __________ dated __________ (attached as revised in red by this office), which have been previously discussed with you. (Also enclosed are three originals of a Utility Agreement covering the work to be done at State's expense. If the Agreement is satisfactory, please date and have the originals signed by the proper officials and return two to this office for execution. Keep the third copy for your file. A jointly executed Agreement will be returned to you.)

The State's Encroachment Permit is also attached, allowing your [Company] [County] [City] [District] [Authority] to work within the State's project limits.

This project is currently scheduled for construction ______________________________. Please schedule your work to have it completed as specified in the Notice to Owner. Please advise __________, telephone ( ) __________, two days in advance of your commencement of work within the State Highway rights of way.

If you have any questions, please call me at ( ) __________. Your cooperation is appreciated.

Sincerely,

District Utility Coordinator
Right of Way Utilities

Enclosures

c: ____________________, Project Development
____________________, Construction

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

R/W DATA SHEET UPDATE MEMO

(Form #)

EXHIBIT
13-EX-14 (REV 4/2009)

To: 1. R/W Planning and Management

Date: ____________________

2. R/W Utilities

_____-_____-_____ PM _____ / _____
EA: ____________________________

From: (NAME)______________________
District Utility Coordinator
Right of Way Utilities

Subject: R/W Utilities Budget Update

Please update Utilities budget information for the above-mentioned project as follows:

1. Workloads:

U4: 1 _____ U5: 7 _____

2 _____ 8 _____

3 _____ 9 _____

4 _____

2. R/W Utility Capital Funding (total amount):

FY __________ $ _______________

FY __________ $ _______________

FY __________ $ _______________

3. Schedules:

Early Design before PA&ED ____________________

Utility Maps to Right of Way ___ / ___ / _____

Recommended R/W Utility Lead Time: _____ months

4. Remarks:

____
____
____
____
____

CONSENT TO CONDEMNATION FOR EXCHANGE PURPOSES
PURSUANT TO SECTION 1240.320
CODE OF CIVIL PROCEDURE

Pursuant to the provisions of Section 1240.320 of the Code of Civil Procedure, Pacific Gas and Electric Company, a public utility corporation authorized to exercise the power of eminent domain, consents to the condemnation by the Department of Transportation, State of California, of easements, rights of way, or other real property to be exchanged with Pacific Gas and Electric Company for interests in real property owned by Pacific Gas and Electric Company and devoted to a public utility purpose to be taken for State highway purposes.

Condemnation of such easements, rights of way, or other real property shall be in the name of the People of the State of California pursuant to authorizing resolutions of the California Highway Commission and the easements, rights of way, or other real property condemned shall be conveyed to Pacific Gas and Electric Company in exchange for the interests in real property to be taken for State highway purposes.

Executed on February 3, 1977 at San Francisco, California.

PACIFIC GAS AND
ELECTRIC COMPANY

By John C. Morrissey
Its Vice President and General Counsel

Southern California Edison Company

P.O. BOX 410
100 LONG BEACH BLVD.
LONG BEACH, CALIFORNIA 90801

C.J. LOWERISON, JR.
MANAGER
OF
RIGHT OF WAY AND LAND

State of California
Business and Transportation Agency
Department of Transportation
1120 N Street
Sacramento, California 95814

October 7, 1980

Attention: Mr. Joseph L. Atteberry
R/W Agent - Right of Way

Gentlemen:

SUBJECT: Consent to Substitute Condemnation

Pursuant to the provisions of Section 1240.320 of the Code of Civil Procedure, Southern California Edison Company, a public utility corporation authorized to exercise the power of eminent domain, consents to the condemnation by the Department of Transportation, State of California, of easements, rights of way, or other real property to be exchanged for interest in real property owned by Southern California Edison Company and devoted to a public utility purpose to be taken for State highway purposes; upon the condition that the Department of Transportation receive the Southern California Edison Company's written approval of the form of complaint in eminent domain to be used by the Department of Transportation and of the location of the easement, rights of way or other real property prior to condemnation.

Condemnation of such easements, rights of way, or other real property shall be in the name of the People of the State of California pursuant to authorizing resolutions of the California Highway Commission; and the easements, rights of way, or other real property condemned shall be conveyed to Southern California Edison Company in exchange for the interests in real property to be taken for State highway purposes.

Very truly yours,

cc: Mr. C. B. Apablasa

CONSENT TO SUBSTITUTE CONDEMNATION

Pursuant to the provisions of Section 1240.320 of the Code of Civil Procedure, The Pacific Telephone and Telegraph Company, a public utility corporation authorized to exercise the power of eminent domain, consents to the condemnation by the Department of Transportation, State of California, of easements, rights of way, or other real property to be exchanged for interest in real property owned by The Pacific Telephone and Telegraph Company and devoted to a public utility purpose to be taken for State highway purposes; upon the condition that the Department of Transportation receive The Pacific Telephone and Telegraph Company's written approval of the location of the easement, rights of way or other real property prior to condemnation.

Condemnation of such easements, rights of way, or other real property shall be in the name of the People of the State of California pursuant to authorizing resolutions of the California Highway Commission; and the easements, rights of way, or other real property condemned shall be conveyed to The Pacific Telephone and Telegraph Company in exchange for the interests in real property to be taken for State highway purposes.

Executed on April 22, 1977 at San Francisco.

By ______________________
Vice President

CONSENT TO SUBSTITUTE CONDEMNATION - SOUTHERN CALIFORNIA GAS COMPANY

(Form #)

Pursuant to the provisions of Section 1240.320 of the Code of Civil Procedure, Southern California Gas Company, a public utility corporation authorized to exercise the power of eminent domain, consents to the condemnation by the Department of Transportation, State of California, of easements, rights of way, or other real property to be exchanged for interest in real property owned by Southern California Gas Company and devoted to a public utility purpose to be taken for State highway pruposes; upon the condition that the Department of Transportation receive the Southern California Gas Company's written approval of the location of the easement, rights of way or other real property prior to condemnation.

Condemnation of such easements, rights of way, or other real property shall be in the name of the People of the State of California pursuant to authorizing resolutions of the California Highway Commission; and the easements, rights of way, or other real property condemned shall be conveyed to Southern California Gas Company in exchange for the interests in real property to be taken for State highway purposes.

Executed on May 26, 1977 at Los Angeles, California.

SOUTHERN CALIFORNIA GAS COMPANY

By Manager of Engineering

By Secretary

Pursuant to the provisions of Section 1240.320 of the Code of Civil Procedure, General Telephone Company, a public utility corporation authorized to exercise the power of eminent domain, consents to the condemnation by the Department of Transportation, State of California, of easements, rights of way, or other real property to be exchanged for interest in real property owned by General Telephone Company and devoted to a public utility purpose to be taken for State highway pruposes; upon the condition that the Department of Transportation receive the General Telephone Company's written approval of the location of the easement, rights of way or other real property prior to condemnation.

Condemnation of such easements, rights of way, or other real property shall be in the name of the People of the State of California pursuant to authorizing resolutions of the California Highway Commission; and the easements, rights of way, or other real property condemned shall be conveyed to General Telephone Company in exchange for the interests in real property to be taken for State highway purposes.

Executed on May 12, 1977 at Huntington Beach.

GENERAL TELEPHONE COMPANY

By ______________________________

JACK B. MULKEY - RIGHT OF WAY AGENT

12-ORA-5 PM 31.4/32.7
Expenditure Authorization: 246811
Federal Aid No.: IR-005-2(723)
Owner's File No.: 5678

UTILITY AGREEMENT NO. 12173

WHEREAS, the State of California, acting by and through the Department of Transportation, hereinafter called State, has issued Notice to Owner No. 7777 dated April 4, 1999, attached hereto, to Acme Utility Company, hereinafter called Owner, which Notice to Owner sets forth the terms and conditions pursuant to which Owner has been ordered to relocate certain Owner's facilities to clear the State's proposed freeway project on Route 5 in Santa Ana from 0.2 mile south of Fourth Street to Seventeenth Street, and;

WHEREAS, the reconstruction of the State's freeway project necessitates the relocation of Owner's utility facilities, and;

WHEREAS, State, in order to clear the right of way for the freeway construction, has ordered Owner to relocate the portions of its facilities within said Notice to Owner, hereafter called Owner's facilities, and;

WHEREAS, Owner claims it has rights that are prior and superior to those of State and refuses to relocate Owner's facilities as ordered and claims that State must pay the relocation costs for those facilities covered by the prior right hereafter "prior right" facilities, said right described in attached Notice to Owner, and;

WHEREAS, in accordance with Section 706 of the Streets and Highways Code, State may, without prejudice to its rights, or that of Owner, advance the costs of removal or relocation, and upon advancement by State of said costs, Owner shall remove or relocate Owner's facilities as stated in the attached Notice to Owner so as not to delay the freeway construction, and;

WHEREAS, State and Owner disagree on the issue of which is liable for the portion of the required relocation work known as the prior right facilities, State and Owner agree that, in order to expedite the freeway project, State shall deposit with Owner, in accordance with Section 706 of the Streets and Highways Code, 100% of the estimated relocation cost of $200,000.00, and Owner agrees to do the relocation work as set forth in Notice to Owner No. 7777, dated April 4, 1999.

Utility Agreement No. 7777

NOW THEREFORE, it is agreed between State and Owner as follows:

1. Within 30 days of State's execution of this Agreement, State shall advance Owner 100% of the estimated cost of relocation, which advance shall be $200,000.00.

2. Owner shall relocate Owner's facilities in accordance with Notice to Owner No. 7777, dated April 4, 1999.

3. Owner shall place the advance in a separate interest-bearing account pending final resolution of liability, and shall pay State all accrued interest, if Owner is ultimately found liable for relocation costs.

4. In signing this Agreement, neither State nor Owner diminishes its position, waives any of its rights or accepts liability.

5. State and Owner reserve the right to have such liability resolved by future negotiations or by an action in a court of competent jurisdiction pursuant to the provisions of Section 706 of the Streets and Highways Code.

6. Owner agrees to perform the herein-described work with its own forces or by the Owner's contractor and to provide and furnish all necessary labor, materials, tools and equipment required therefore, and to prosecute said work diligently to completion.

7. It is understood and agreed that the State will not pay for any betterment or increase in capacity of Owner's facilities in the new location and that Owner shall give credit to the State for all accrued depreciation on the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by Owner.

8. Owner shall submit a Notice of Completion to the State within 30 days of the completion of the work described herein.

9. It is understood that said highway is a Federal Aid Highway and, accordingly, 23 CFR 645 is hereby incorporated into this Agreement by reference; provided, however, that the provisions of any agreements entered into between the State and Owner pursuant to State law for apportioning the obligations and costs to be borne by each, or the use of accounting procedures prescribed by the applicable Federal or State regulatory body and approved by the Federal Highway Administration, shall govern in lieu of the requirements of said 23 CFR 645.

Utility Agreement No. 7777

THE ESTIMATED COST FOR THE ABOVE DESCRIBED WORK IS $200,000.00.

R/W Funds EA	246819	$	200,000.00
Construction Funds EA	___________	$	____________

IN WITNESS WHEREOF, the parties hereto have executed this Utilities Agreement this _______________ day of ____________________, 20_____.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

OWNER

By ____
District Division Chief, Right of Way Date

By ____
Name/Title Date

APPROVAL RECOMMENDED:

By ____
District Office Chief, Right of Way Date

By ____
Utility Coordinator Date

All Freeway Master Contracts are online at: www.dot.ca.gov

or Onramp for Caltrans Intranet.

PRESCRIPTIVE RIGHTS CLAIM LETTER

(Form #)

To: Utility Coordinator

The _________________(Utility Owner's Name)_________________ claims a prescriptive right for its existing ___________________________(Describe the Existing Facility)___________________________, located at ___________________________(Describe the Location)___________________________.

Said facility(ies) [was] [were] originally installed as an adverse use on private property with knowledge of the owner of the property and without a right of way, permit, lease, or license and [has] [have] been continuously maintained in the same location for __________ years since the original installation. This being in excess of the statutory requirement of five years, and as the facility(ies) [does] [do] not now occupy private property pursuant to any right of way, permit, lease, license or other permission, the _________________(Utility Owner's Name)_________________ claims the right to continue maintenance of the facility involved under a prescriptive right which has been established.

(Signed by the Utility Owner's Official)

COMPANY NAME
Company Address
City, ST 00000

To: State of California
Department of Transportation
District XX

EA ____________________
Contact ____________________
Phone ____________________
Plan No. ____________________

Under UTILITY AGREEMENT No. _________________________, the following is an estimate of costs to remove and relocate utilities at ____________________________________.

Estimated Cost - Summary

Estimated Work (from page 2)			
Engineering			
Construction			
Material			
Transportation and Equipment			
Estimated Work Total			
Contracted Out (from page 3)			
Engineering			
Construction			
Material			
Transportation and Equipment			
Contracted Out Total			
Credits			
Betterment	-		
Depreciation	-		
Salvage	-		
Total Credits		-	
Indirect Overhead (Explain basis on a separate sheet**)**			
Estimated Total Cost			
Bill to State [Total Estimated Cost x _______%]			

NOTES:

(1) The cost categories are not limited to those shown and may vary according to the nature of the relocation project.

(2) Cost breakdown of plant betterment should be noted on Page 2 or detailed on a separate work sheet.

(3) 23 CFR 645.113 requires an estimate to be sufficiently informative to provide a clear description of the work.

STANDARD ESTIMATE/LUMP-SUM ESTIMATE FORMAT (Cont.)
(Form #)

COMPANY NAME
Company Address
City, ST 00000

To: State of California
Department of Transportation
District XX

EA ____________________
Contact ____________________
Phone ____________________
Plan No. ____________________

Estimated Cost - Labor

Labor Description	Hours	Rate/Hour	Amount	Total
Engineering				
Total: Engineering				
Construction				
Total: Construction				
Other				
Total Estimated Labor Cost				

Estimated Cost - Materials Breakdown

Item Description	Quantity & Unit		Cost/Unit	Total
(a) Subtotal: Materials				
(b) Supply Expense				
(c) Subtotal: [(a) + (b)]				
(d) Joint Pole (+/-)				
(e) Other				
Total Estimated Materials Cost [(c) + (d) + (e)]				

Estimated Cost - Transportation and Equipment

Item Description	Quantity & Unit		Cost/Unit	Total
Total Estimated Transportation and Equipment Cost				

STANDARD ESTIMATE/LUMP-SUM ESTIMATE FORMAT (Cont.)

(Form #)

COMPANY NAME
Company Address
City, ST 00000

To: State of California
Department of Transportation
District XX

EA ____________________
Contact ____________________
Phone ____________________
Plan No. ____________________

Estimated Cost – Contracted Out Labor

Labor Description	Hours	Rate/Hour	Amount	Total
Engineering				
Total: Engineering				
Construction				
Total: Construction				
Other				
Total Estimated Labor Cost				

Estimated Cost – Contracted Out Materials Breakdown

Item Description	Quantity & Unit		Cost/Unit	Total
(a) Subtotal: Materials				
(b) Supply Expense				
(c) Subtotal: [(a) + (b)]				
(d) Joint Pole (+/-)				
(e) Other				
Total Estimated Materials Cost [(c) + (d) + (e)]				

Estimated Cost – Contracted Out Transportation and Equipment

Item Description	Quantity & Unit		Cost/Unit	Total
Total Estimated Transportation and Equipment Cost				

FLAT SUM BILLING RATES

OUTSIDE PLANT CONSTRUCTION / ENGINEERING COSTS PER HOUR

	1991	1992	1993	1994
Construction labor rate;				
C,X,M,R Codes	$69.33	$72.60	$76.44	$80.48
Engineering labor rate;				
C,X,M,R Codes	$87.70	$91.78	$96.70	$101.80
Estimating / Posting;				
C,X,M,R Codes	$75.97	$79.54	$83.83	$88.27
U/G Inspector;				
C,X,M,R Codes	$69.33	$72.60	$76.44	$80.48
Cutover - Inst. / Maint.;				
C,X,M,R Codes	$56.16	$58.81	$61.97	$65.25
Assignment;				
C,X,M,R	$49.16	$51.48	$54.25	$57.13

NOTES:

1. These rates are to be used for Flat Sum Billing only.
2. Construction rates are identified on the JCES01 as FLAT.
3. Engineering, Inspection, Cutover, Estimating, Posting, and Assignment values are not machine generated, they are added as a separate W.O.L. item.
4. Engineering costs do not include Estimating or posting.

ATTACHMENT I

ESTIMATED COST

SUMMARY

FLAT SUM BILLING CAL-TRANS

STATE #____

JOB #______________________________ CWBO #__________________________

____

	% BILL	CWO IND.	AMOUNT
a)			
b)			
c)			
d)			

TOTAL COST TO STATE ....(a + b + c + d)... $____________________

PREPARED BY __________________________ DATE_______________________

TITLE________________________________ TELEPHONE #__________________

APPROVED BY __________________________ DATE_______________________

TITLE _______________________________ TELEPHONE #__________________

ATTACHMENT II

ESTIMATED COST

FLAT SUM BILLING - CAL TRANS

ENGINEER________________JOB#________________CWBO#________________

STATE#________________CWO IND.________________% BILL________________

LABOR

CONSTRUCTION ____________

ENGINEERING ____________

ESTIMATING/POSTING ____________

OTHER ____________

CONTRACT LABOR ____________

a) TOTAL ESTIMATED LABOR $____________

MATERIAL

b) TOTAL ESTIMATED MATERIAL $____________

c) TOTAL ESTIMATED LABOR & MATERIAL (a + b) $____________

CREDITS

DEPRECIATION ____________

SALVAGE ____________

"B" JUNK ____________

PLANT BETTERMENT ____________

d) TOTAL ESTIMATED CREDITS $____________

e) TOTAL ESTIMATED COST (c - d) $____________

BILL TO STATE (e x________%) $____________

PREPARED BY ____________ DATE ____________ APPROVED BY ____________ DATE ____________

TITLE ____________ TELEPHONE # ____________ TITLE ____________ TELEPHONE # ____________

ATTACHMENT III

DATE____________

ESTIMATED COST
LABOR BREAKDOWN
FLAT SUM BILLING - CAL TRANS

ENGINEER ____________ JOB # ____________ CWBO # ____________

STATE # ____________ CWO IND ____________ % BILL ____________

CONSTRUCTION - ARC_______________________

R/C			HRS		RATE/HR
______	______	X	________	=	________
______	______	X	________	=	________
______	______	X	________	=	________
______	______	X	________	=	________
______	______	X	________	=	________

TOTAL CONSTRUCTION
$______________

ENGINEERING - ARC_______________(Facility, BIC, fielding, etc.)

R/C			HRS		RATE/HR
______	______	X	________	=	________
______	______	X	________	=	________
______	______	X	________	=	________
______	______	X	________	=	________
______	______	X	________	=	________

TOTAL ENGINEERING $______________

ESTIMATING / POSTING - ARC_________________

R/C			HRS		RATE/HR
______	______	X	________	=	________
______	______	X	________	=	________
		X		=	

TOTAL EST'G / POST'G $______________

OTHER - ARC______________ (Cutover, UG Inspector, ROW, CO, etc.)

R/C			HRS		RATE/HR
______	______	X	________	=	________
______	______	X	________	=	________

TOTAL OTHER $______________

CONTRACT - ARC______________

R/C			HRS		RATE/HR
______	______	X	________	=	________
______	______	X	________	=	________

TOTAL CONTRACT $______________

ATTACHMENT IV

DATE_____________

ESTIMATED COST
MATERIAL BREAKDOWN
FLAT SUM BILLING - CAL TRANS

ENGINEER___________JOB #______________CWBO #__________
STATE #______________CWO IND._________% BILL___________

____

CONSTRUCTION ARC__________________

R/C	QTY & DESCRIPTION	UNIT PRICE		
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________
____	__________	_______	=	________

a) TOTAL ABOVE MATERIAL $_____________(a

b) MISC. MATERIAL...........(a x 10%) $_____________(b

c) MATERIAL SUB TOTAL.......(a + b) $_____________(c

d) SUPPLY EXPENSE...........(c x 15%) $_____________(d

e) SUB TOTAL MATERIAL & SUPPLY EXP...(c + d) $_____________(e

f) JOINT POLE.................(+ / -) $_____________(f

g) OTHER $_____________(g

h) TOTAL ESTIMATED MATERIAL....(e + f + g) $_____________(h

EXECUTED UTILITY AGREEMENT TRANSMITTAL LETTER

(Form #)

Date: ______________________
_____-_____-_____ PM _____ / _____
EA: _____________________________
Federal Aid No.: ___________________

Attached is your copy of the jointly executed (Amended) Utility Agreement No. __________ dated ____________________, which provides that your [Company] [City] [County] [District] will be reimbursed for (a portion of) the cost incurred for the [positive location] [relocation] [removal] [abandonment] of your facilities to accommodate the State's [freeway] [conventional highway] construction project on Route __________.

[Within 180 days of the completion of your work, please submit six copies of your detailed and itemized bill on your letterhead, being sure to include the following:

1. Starting and completion dates of your work.

2. Credits for salvage, betterment, and depreciation.

3. Credits for any progress payments already made.]

This Agreement was transmitted to this office with your letter dated ____________________, your File No. __________.

Your construction work within the limits of the State's project should be completed by ____________________. If you have any questions, call me at ( ) __________. Your cooperation is appreciated.

Sincerely,

Utility Coordinator

Attachment

AMENDMENT TO UTILITY AGREEMENT EXAMPLE

(Form #)

District	County	Route	Post Mile	EA

Federal Aid No.: ____

Owner's File: ____

FEDERAL PARTICIPATION: On the Project ☐ Yes ☐ No

On the Utilities ☐ Yes ☐ No

FIRST (SECOND, ETC.) AMENDMENT TO UTILITY AGREEMENT NO. __________

WHEREAS, the State of California, acting by and through its Department of Transportation, hereinafter called STATE, and ______________________________, hereinafter called OWNER, have entered into that certain Utility Agreement No. __________, dated ____________________, which Agreement sets forth the terms and conditions pursuant to which OWNER has _____(describe what the Owner has done to the type of facility affected)_____ to accommodate STATE's construction on Route __________, Project No. __________; and,

WHEREAS, in the performance of said work, increased costs over and above those estimated at the time of the execution of said Agreement were incurred due to the fact that ___(describe why costs were more than originally estimated)___; and,

WHEREAS, it has been determined that, since final costs have overrun the amount shown in said Agreement by __________%, and when the increased cost exceeds by 25% the estimated amount set forth in said Agreement, said Agreement shall be amended to show the increased cost of the work to the STATE; and,

WHEREAS, the estimated cost to the STATE of the work to be performed under said Agreement was $__________, and by reason of the increased costs referred to above, the amended estimated cost to the STATE is $__________.

NOW, THEREFORE, it is agreed between the parties as follows:

1. The estimated cost to the STATE of $__________ as set forth in said Agreement is hereby amended to read $__________.

2. All other terms and conditions of said Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this _____(First, Second, etc.)_____ Amendment to Utility Agreement No. __________ this _____ day of _______________, _____.

STATE

By ____
Senior Right of Way Agent Date

OWNER

By ____
Name/Title Date

APPROVAL RECOMMENDED:

By ____
Utility Coordinator Date

By ____
Utility Coordinator Date

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT TO COMPLETE UNSHADED FIELDS:										**UTILITY COMPLETES:**		
T CODE	DOCUMENT NUMBER	SUF FIX	DIST	UNIT	CHG DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	**FA**	**OBJ CODE**	**DOLLAR AMOUNT**
	UA											
	UA											

EA FUNDING VERIFIED:

Sign> ______________________________

Print> ______________________________
R/W Planning and Management Date

REVIEW/REQUEST FUNDING:

Sign> ______________________________

Print> ______________________________
Utility Coordinator Date

Distribution: 2 originals to R/W Accounting
1 original to Utility Owner
1 original to File

Date: ______________________
_____-_____-_____ PM _____ / _____
EA: ______________________________
Federal Aid No.: ___________________

SPECIAL AGREEMENT NO. __________

WHEREAS, the State of California, acting by and through its Department of Transportation, hereinafter called STATE, requested ________________________________, hereinafter called OWNER, to prepare plans for the relocation of _____(describe facility)_____ to accommodate the proposed construction project of _____(describe the project)_____; and,

WHEREAS, the cost of relocating said facilities was to be _____(describe what the liability was)_____; and,

WHEREAS, the STATE's proposed construction project has been indefinitely deferred and OWNER was requested to cease work on the relocation plans; and,

WHEREAS, the OWNER has incurred engineering costs in the estimated amount of $__________ and the STATE wishes to reimburse the OWNER for said costs.

NOW, THEREFORE, it is agreed as follows:

1. The STATE will reimburse the OWNER for the actual cost of the herein described work within 90 days after receipt of OWNER's itemized bill in quintuplicate, signed by a responsible official of OWNER's organization, compiled on the basis of the actual cost and expense _____(finish the paragraph with the appropriate clause as follows)_____ [incurred and charged or allocated to said work in accordance with the uniform system of accounts prescribed for OWNER by the California Public Utilities Commission or Federal Communications Commission, whichever is applicable]. [The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles.]

2. Detailed records from which the billing is compiled shall be retained by the OWNER for a period of four years from the date of the final bill and will be available for verification by STATE and Federal auditors.

3. [In the event the Owner would have had any liability, use the following clause.] In the event the proposed construction project is reactivated, the OWNER shall credit the STATE its (pro rata) share, as determined in accordance with _____(describe the liability)_____, of the cost of that portion of the preliminary engineering work that can be utilized for the proposed construction project.

4. The estimated cost to the STATE is $__________.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of _______________, _____.

STATE		OWNER	
By ______________________		By ______________________	
Senior Right of Way Agent	Date	Name/Title	Date

APPROVAL RECOMMENDED:

By ______________________		By ______________________	
Utility Coordinator	Date	Utility Coordinator	Date

Date ____________________
County ____________________
Route ____________________
Post Mile ____________________
Expenditure Authorization ____________________
Federal Aid No. ____________________

Subject: R/W Utilities Certification

Project Description:

____
____
____
____
____
____
____.

SECTION I - STATUS OF REQUIRED UTILITY RELOCATION(S):

A. None Required

(or)

B. All utility work has been completed. Arrangements have been made with the owners of facilities listed in Section II (on next page) that will remain within the right of way of the project, so that adequate control of the right of way will be achieved.

(or)

C. All utility work will be completed by a stated date prior to award of the contract. Arrangements have been made with the owners of facilities as listed in Section II (on next page) that remain within the right of way of the project, so that adequate control of the right of way will be achieved.

(or)

D. All necessary arrangements have been made for the completion of remaining utility work required to be coordinated with project construction as listed in Section II (on next page). Arrangements have also been made with the owners of facilities shown in Section II (on next page), which are not impacted by the project and which will remain within the right of way of the project, so that adequate control of the right of way will be achieved. Our contract special provisions provide for their coordination.

(or)

E. Utility facilities which are not in physical conflict with the proposed project construction, but have been determined to be a fixed object in conflict with CURE requirements, are identified by an asterisk in “CURE Conflict” column in Section II (on next page). (See Section 13.03.04.02.)

R/W UTILITY CERTIFICATION (Cont.)
(Form #)

SECTION II - LISTING OF ALL UTILITY OWNERS (This section must be completed for every certification.):

A. The following is a listing of utility owners and type of facility located within the project right of way. Those in conflict with the project are identified by Notice Number, etc.

Utility Owner	Type Facility	Notice Number	Notice Date	Liability (Owner / State)	CURE Conflict	Relocation Schedule
						Actual Date (or) Concurrent with Construction (or) Bid Item

B. For utility work to be done as a bid item, provide the following information. Include a copy of the FHWA Specific Authorization for each bid item (if applicable).

Bid Item Number	Type Facility	Liability (Owner / State)	Federal Aid (Yes / No)

District Utility Coordinator
Right of Way Utilities

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

EXHIBIT
13-EX-27 (REV 4/2009)

TYPICAL UTILITY OWNER INVOICE FORMAT

(Form #)

(A typical bill)

BILLING COMPANY NAME

Address

To: State of California
Department of Transportation
District _____

Invoice No. ____________________
Invoice Date ____________________
Contact ____________________
Telephone ____________________

Under UTILITY AGREEMENT No. ____________________, the following are the construction costs to remove and relocate utilities at ______________________________.

Work Order No. ____________________
Date Work Began ____________________
Date Work Completed ____________________

Itemized Statement of Costs

Cost Description	Quantity	Unit	Amount	Total
Materials:				
Poles				
Cables				
Etc.				
Miscellaneous materials costs				
Supply expense				
Total: Materials Cost				
Labor:				
Straight time				
Overtime				
Payroll tax				
Total: Labor Cost				
Other Costs:				
Vehicle expense				
Equipment rental				
Employee expense				
Miscellaneous expense				
Total: Other Costs				
Other Direct Costs:				
Joint Pole Costs				
Contract Work				
Total: Other Direct Costs				
Subtotal: All Direct Costs				
Indirect Overhead				
Credits:				
Salvage value				
Allowance for depreciation				
Joint pole				
Betterments				
Less: Total Credits				-
Total Costs				
STATE SHARE (%)				

* Note: The cost descriptions are not limited to those shown and will vary according to actual work performed.

UTILITY RELOCATION

SCOPE OF WORK (SOW)

1. WORK TO BE DONE

Within the Scope of Work (SOW) discussed herein, the Consultant is considered the party performing or causing the work to be done, the Contract Administrator is the local public agency (LPA) initiating the project, and the Contract Overviewer is the State of California, Department of Transportation (CALTRANS).

The Consultant shall be responsible for coordinating work for the identification, protection, adjustment, relocation or removal of utility facilities to clear construction projects, including both physical conflicts and policy violations in accordance with State and Federal laws and regulations as well as CALTRANS policies, procedures, standards, and practices.

Guidelines and direction for accomplishing this work can be found in the CALTRANS Right of Way Manual.

The Consultant shall act as a liaison between the LPA and the utility owners in all contract matters. The Consultant will work directly with and be responsible to the LPA in following this SOW.

CALTRANS will offer assistance and direction to the LPA and/or Consultant and provide oversight of the project to ensure that State and Federal laws and regulations as well as CALTRANS policies, procedures, standards, and practices are followed.

Utility relocation work will generally fall within the following eight phases:

A. Planning Phase.

B. Design Phase.

C. Liability Determination Phase.

D. Certification Phase.

E. Construction Phase.

F. Payment Phase.

G. Property Rights Conveyances.

H. File Closure.

2. CONSULTANT DUTIES

Written agreements between CALTRANS and the LPA define the roles and responsibilities of CALTRANS and the LPA. The purpose of the forthcoming duty descriptions is to provide a guideline for work to be performed by each party of the agreement. Terms of the agreement may alter work to be performed, therefore all agreements must be reviewed and compared to this SOW, and the SOW changes where appropriate.

The Consultant shall maintain files for all projects. Files shall contain all information discovered and documents prepared during all phases of work. Files shall be available for the LPA's and CALTRANS' review upon reasonable notice.

Following is a general discussion of typical duties the Consultant shall perform during the eight phases of work.

A. Planning Phase:

1) Route Estimating:

During the environmental document process, requests for utility relocation estimates on transportation routes may be needed. The Consultant shall perform the following duties:

a) Field review each route.

b) Identify each type of utility facility and prepare a relocation cost estimate for each utility.

c) Prepare a total relocation cost estimate for each route.

d) Identify utility owner long lead time materials for each route.

e) Consult with the requesting party for possible modification of the route(s) when appropriate.

f) Transmit the above information to the requesting party and to CALTRANS.

2) Draft Project Report Review:

When the Draft Project Report is prepared by the project engineer, the Consultant shall review all aspects of the project prior to approval of the report. If discrepancies are found in the report that were not evident at the time of the route estimate(s), the Consultant shall thoroughly explain the discrepancies and prepare a new revised estimate as outlined in A.1) above.

B. Design Phase:

Upon approval of the Project Report, the Consultant shall perform the following duties:

1) Verify existing utility facilities in order to identify utility/project conflicts so they may be cleared for project construction and to meet requirements of Government Code Section 4215.

a) Send preliminary design plans to utility owners who have existing facilities within the project limits for identification and verification of their facilities.

b) When received, transmit the utility owner's verifications to the project engineer for inclusion in the contract plans.

c) Identify "policy" conflicts and high and low risk facilities in accordance with the Manual on High and Low Risk Underground Facilities within Highway Rights of Way (High and Low Risk Manual).

d) After the project engineer has determined that any utility owner's facilities are not in conflict with the proposed construction project, notify the owner of such.

2) Pothole existing facilities, when needed, for identification and determination as to "physical" and "policy" conflicts affecting the proposed construction project in accordance with the High and Low Risk Manual.

a) Send utility occupation plans to affected utility owners showing pothole locations, requesting their claim of liability and estimate of cost for pothole work.

b) Upon receipt of the owner's claim and estimate, prepare the "Liability Package," which consists of a Report of Investigation, Notice to Owner, Utility Agreement (if needed) and a Notice to Owner Transmittal Letter. Submit the "Liability Package" to CALTRANS for review and processing.

c) Upon approval of the "Liability Package," and CALTRANS has sent the Notice to Owner, the Consultant shall:

(1) Follow up to ensure potholing is done in accordance with the Notice to Owner.

(2) Arrange for facilities to be potholed to be surveyed by a licensed surveyor in accordance with the High and Low Risk Manual.

(3) Transmit survey information to the project engineer for review of "physical" conflicts and inclusion in the contract plans.

(4) Identify "policy" conflicts.

d) If it has been determined there are no conflicts with the proposed construction project, notify the utility owner of such.

e) Arrange a meeting, if required, between all affected utility owners that require relocation of their facilities and the project engineer to discuss needed relocations.

f) If Federal aid is involved for utility relocation work, prepare and process the FHWA Approval to Proceed (E-76) and transmit to the LPA for processing.

C. Liability Determination Phase:

After relocation of utility facilities has been determined, the Consultant shall request relocation plans from the affected owners.

1) Send sufficient preliminary construction plans (conflict plans) to affected owners, requesting their relocation plans, claim of liability and estimate of cost.

2) Upon receipt of the owner's plans, claim and estimate, send the plans to the project engineer for review and approval and inclusion in the contract plans. Review the plans, claim and estimate in accordance with CALTRANS standards, practices, procedures, and policies.

   a) Review utility conflicts with the LPA to determine if project plans can be modified to eliminate or minimize utility relocation. Consideration shall be given to impacts on the utility as well as the highway.

   b) Check each utility owner's relocation plan against others to be sure relocations will not conflict with one another.

   c) Provide utility owners with all design revisions and finalized design plans.

3) Prepare high and low risk policy exceptions in accordance with the High and Low Risk Manual as well as encroachment exceptions in accordance with the CALTRANS Encroachment Policy and the procedure for getting exceptions approved, when needed.

4) Coordinate with Structures via the project engineer for accommodation of utilities in structures, when appropriate.

5) When the utility owner uses a design consultant, obtain the consultant agreement and review in accordance with CALTRANS requirements for consultant agreements. After review, send to CALTRANS for further review and approval.

6) Upon approval from the project engineer of the relocation plans:

   a) Coordinate with the LPA and the project engineer for any utility owner easement requirements.

   b) Once needed easements, if any, have been acquired, prepare the "Liability Package" and submit to CALTRANS for review and processing.

7) Coordinate with the project engineer for any needed "Special Provisions" required for utility owner coordinated work.

D. Certification Phase:

Upon liability approval, the Consultant shall:

1) Follow up to ensure relocation work is performed in accordance with the Notice to Owner.

2) Coordinate with Construction for inspection of utility owner's work in accordance with the Construction Manual.

3) Prepare a Right of Way Utilities Certification after all requirements of the Right of Way Certification for utility requirements have been met and send to the LPA and CALTRANS for review and approval.

4) Review the Construction Contract PS&E for any required "Special Provisions" needed for utility relocation work.

E. Construction Phase:

After all Notice to Owners have been sent, the Consultant shall ensure that the Construction Utility Inspector is aware that any "discovered" or "wasted" work is handled in a timely manner, and that liability determination for this work is only determined by CALTRANS. The Consultant shall process this work as discussed in the Liability Determination Phase above.

F. Payment Phase:

It is essential to the efficient operation of the transportation program that funds encumbered under Utility Agreements be paid as soon as possible. Accordingly, within a reasonable time after completion of the utility owner's work for which reimbursement is due and a bill has not been received, the Consultant shall make a written request to the owner to submit their final bill. When the bill is received, the Consultant shall:

1) Check the bill for consistency with the Utility Agreement, the construction plans, and the owner's relocation plans and estimate of cost.

2) If the bill is acceptable, process the bill for payment to CALTRANS. If the bill is not acceptable, advise CALTRANS of such prior to resolving with the owner.

G. Property Rights Conveyances:

The Consultant shall prepare and process all required Joint Use Agreements, Consent to Common Use Agreements, and Director's Easement Deeds through CALTRANS.

H. File Closure:

1) The LPA or Consultant, at the completion of the construction project, or sooner if required by CALTRANS, shall transfer all project and utility files to CALTRANS. Information in the files shall include, but not be limited to the following:

   a) A Utility Diary.

   b) All correspondence and documents between the LPA, utility owners, design/project engineers, Consultants, CALTRANS, etc.

   c) All project design plans, utility owner plans (including "As Builts"), and survey data.

2) All files shall be in a neat and orderly condition before transference to and acceptance by CALTRANS.

3. MATERIALS AND INFORMATION TO BE PROVIDED BY THE LPA TO THE CONSULTANT

A. Project Report.

B. Preliminary and final design plans and changes as they occur.

C. Project scheduling.

D. Various required forms - Notice to Owner, Utility Agreement, Report of Investigation, Joint Use Agreement, Consent to Common Use Agreement, Director's Easement Deeds, and other forms as required.

4. MATERIALS AND INFORMATION TO BE PROVIDED BY THE CONSULTANT TO THE LPA

   A. Utility owner preliminary relocation plans.

   B. Survey data required for potholing.

   C. High and low risk utility facility determinations.

   D. Project files for all material and information accumulated during the contract.

5. APPLICABLE REGULATIONS AND GUIDELINES

   Guidelines and procedures for utility relocation work are discussed, in general, under Section 2, CONSULTANT DUTIES, of this SOW. The Consultant shall follow all applicable State and Federal laws, regulations, guidelines, policies, procedures, standards and practices, including, but not limited to the following:

   A. CALTRANS Right of Way Manual.

   B. CALTRANS Manual on High and Low Risk Underground Facilities within Highway Rights of Way.

   C. CALTRANS Manual of Policy, Procedures, Rules and Regulations For Use In Issuing Encroachment Permits On State Highways.

   D. CALTRANS Construction Manual, Chapter II, Contract Administration, Section 2-80 - Utilities.

   E. AASHTO's A Guide for Accommodating Utilities within Highway Right-of-Way.

   F. AASHTO's A Policy on the Accommodation of Utilities Within Freeway Right-of-Way.

   G. 23 Code of Federal Regulations, Chapter 1, Part 645 (23 CFR 645).

   H. California Law.

   I. Freeway Master Contracts.

6. MONITORING, REVIEW AND APPROVAL PROCEDURES

   The LPA and/or CALTRANS shall have the right during any phase of the Consultant's work, or as requested by the Consultant, to monitor and review the progress and/or processes of the Consultant.

   The Consultant shall provide a monthly status of utility relocation progress to the LPA.

   All information, files, plans, estimates, and documents produced by the Consultant shall be subject to the acceptance and approval of the LPA and/or CALTRANS.

   Ownership of drawings, tracings and master copies of documents, survey notes, and studies shall remain the property of the LPA and shall be submitted to CALTRANS after completion of the construction project.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

PHASE 4 CONSTRUCTION UTILITY AGREEMENT - BILLING MEMO TO ACCOUNTING (ESTIMATE)

(Form #)

EXHIBIT
13-EX-29 (REV 4/2009)

To: ACCOUNTS RECEIVABLE, MS 33
1820 Alhambra Boulevard
Sacramento, CA 95816

Date: _____________________

_____-_____-_____ PM _____ / _____
EA: ______________________________
Federal Aid No.: ___________________

From: (NAME)_______________________
Utility Coordinator
Right of Way Utilities

Subject: (Progress) (Final) Billing Pursuant to Utility Agreement No. __________________________

Pursuant to the above-mentioned Utility Agreement, the agency is obligated to pay for their share of utility relocation costs. Please bill them for an advance deposit to cover their estimated utility cost of $_______________.

Please send a copy of the bill for our file and advise us the date when the bill was paid.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

EXHIBIT
13-EX-30 (REV 4/2009)

COOPERATIVE AGREEMENT BILLING/REFUND MEMO TO ACCOUNTING

(Form #)

To:

Date: ____________________

_____-_____-_____ PM _____ / _____
EA: ____________________________
Federal Aid No.: __________________

From: (NAME)______________________
Utility Coordinator
Right of Way Utilities

Subject: Final (Billing) (Refund) Pursuant to Cooperative Agreement No. _________________________

Pursuant to the above-mentioned Cooperative Agreement, the (local agency) (is) (are) obligated to pay for their share of utility relocation costs. (Please bill them for the final cost of $_______________) (Please refund them $_______________) based on the following:

UT No.	Utility Owner	Amount Previously Received	Amount Due
		$	$

Total Amount Due (State) (Local Agency): $____________________

(Please send a copy of the bill for our file and advise us the date when the bill was paid.) (Please advise us when the refund was made.)

MEMORANDUM FOR UTILITY EASEMENT BILLING WITH RIGHT OF WAY CONTRACT

(Form #)

EXHIBIT 13-EX-31
(NEW 1/2009)

State of California Department of Transportation

Business, Transportation and Housing Agency

MEMORANDUM FOR UTILITY EASEMENT BILLING WITH RIGHT OF WAY CONTRACT

TO: ACCOUNTS RECEIVABLE - MS #33

DATE:

FROM: DEPARTMENT OF TRANSPORTATION

REQUESTED BY:

DISTRICT: TELEPHONE:

☐ Do Not Mail
or
☐ Mail

SUBJECT: INVOICE REQUEST

Bill to:

☐ Copy of Invoice to Requester

Attention:

TOTAL AMOUNT TO BILL $

Reason for request (please attach supporting documents: POs, CDPOs, COPIES OF CHECKS, ETC.

TYPE OF INVOICE

ABATEMENT X

CODING INFORMATION

SUF	TC	SD	UNIT	CD	EA	SUBJOB	SPECIAL D	FA	AO	SUB ACCT	AMOUNT	FY

DO NOT WRITE BELOW

ENTERED BY: DATE:

INVOICE NUMBER:

Reference Right of Way Manual 13.11.07.01

Source: Microsoft Excel Worksheet