TEXT OF PROPOSED REGULATIONS

California Code of Regulations
Title 19. Public Safety

Division 4. California Underground Facilities Safe Excavation Board
Chapter 1. General
Article 1. General

Section 4000. Definitions

(a) The definitions in this section are supplementary to those under Government Code section 4216.

(b) The following definitions shall apply wherever the terms are used throughout this division:

"Act" means the Dig Safe Act of 2016 (SB 661, Chapter 809, Statutes of 2016) and article 2 of chapter 3.1 of division 5 of title 1 of the Government Code (commencing with section 4216).

"Area of Continual Excavation Agreement (Agricultural Operations)" means the Area of Continual Excavation Agreement – Agricultural Operations (Form No. ACE Agreement 01 (Rev. 07-01-2020)), which is available on the Board's website: digsafe.fire.ca.gov.

"Area of Continual Excavation Agreement (Flood Control Facilities)" means the Area of Continual Excavation Agreement – Flood Control Facilities (Form No. ACE Agreement 02 (Rev. 07-01-2020)), which is available on the Board's website: digsafe.fire.ca.gov.

"Business day" means a weekday Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding State of California observed holidays under Government Code section 19853.

"Damage" means any damage to a subsurface installation caused by excavation or excavation related work, including breaks, leaks, nicks, dents, strikes, gouges, grooves, cracks, or punctures to a subsurface installation.

"Investigator" means an investigator under the California Underground Facilities Safe Excavation Board.

"Record" means any document, email, photograph, electronic recording, map, drawing including computer-aided designs, film, microfiche, tape, disc, flash drive, book, log, journal, global positioning system ("GPS") coordinates, design plan, ticket, previous incident documentation, soil sample, writing as defined in Evidence Code section 250, or any other tangible or intangible material of any kind.

"Respondent" means the excavator or operator who has been issued a notice of probable violation.

"Staff" means the staff of the California Underground Facilities Safe Excavation Board.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216 and 19853, Government Code; Section 250, Evidence Code.

Chapter 2. Investigation
Article 1. Damage Notification

Section 4100. Damage Notification by Excavators

(a) Excavators shall notify the appropriate regional notification center of damage causing injury or fatality. Excavators shall also notify the appropriate regional notification center of damage to any of the following:

(1) Natural gas or hazardous liquid pipeline subsurface installation in which the damage results in the escape of any flammable, toxic, or corrosive gas or liquid.

(2) High priority subsurface installation of any kind.

(b) Immediately after calling 911 emergency services or other emergency responders as necessary, and in no event longer than XX hours after the excavator's knowledge of the damage, the excavator shall notify the appropriate regional notification center of damage described in subdivision (a). The excavator shall provide the notification through the appropriate regional notification center's website. The notification shall include, as may be known to the excavator at the time of notification, the ticket number, location of the damage, type of subsurface installation, type of excavation equipment or tool used by the excavator when the excavator discovered the damage, the approximate date and time the damage occurred, any injury or fatality, and the excavator's contact information.

(c) Regional notification centers shall transmit the notification by email or other method as may be provided on the Board's website (digsafe.fire.ca.gov), to the Board immediately, but not longer than 1 hour, after the regional notification center's receipt of the notification.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.4, 4216.6, 4216.12, and 4216.19, Government Code.

Chapter 2. Investigation
Article 2. Investigators

Section 4150. Investigators

(a) Investigators are authorized to investigate any damage, probable violation of the Act or this division, reports of incident events as defined in Government Code section

4216.6, subdivision (h)(1), and complaints of damage or probable violation of the Act or this division.

(b) Investigators are delegated the powers conferred on the Board under article 2 of chapter 2, part 1, division 3, title 2 of the Government Code (commencing with section 11180). Investigators are authorized to pursue any other investigatory or discovery power authorized under the laws of the State of California.

(c) Investigators may interview witnesses and obtain statements, declarations, verifications, certificates, oaths, or affidavits under penalty of perjury pursuant to Code of Civil Procedure section 2015.5.

(d) Investigators may issue notices of probable violation and information letters. An information letter may include safe excavation education and training opportunities, and information on the Act or this division.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, 4216.19, and 11180-11191, Government Code; Section 2015.5, Code of Civil Procedure.

Section 4151. Evidence Collected by Investigators

(a) Investigators may inspect, examine, gather, and maintain records related, pertaining, or relevant to any damage or probable violation of the Act or this division, including any record of activities performed at the site of the incident and the individuals and entities performing these activities, even if not directly involved with the excavation activities.

(b) Upon an investigator's request, excavators and operators shall provide access to sites and facilities, and any records related, pertaining, or relevant to the damage or probable violation of the Act or this division. Excavators and operators shall remove objects, such as barricades and plates, at or near the site of the damage to facilitate the investigation.

(c) Any excavator or operator who obstructs an investigation by taking actions that were known or reasonably should have been known to prevent, hinder, or impede an investigation is subject to sanctions under the Act and this division.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, 4216.19, and 11180-11191, Government Code; Section 2015.5, Code of Civil Procedure.

Chapter 3. Enforcement
Article 1. Sanctions

Section 4200. Categories of Sanctions

(a) Violation of the Act or this division is subject to any of or a combination of any of the following sanctions:

(1) Order for corrective action, such as completion of relevant education or training courses; facility or equipment repair, testing, or replacement; and changes to operational or management procedures or processes.

(2) Monetary penalty up to the maximum amounts under Government Code section 4216.6.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, and 4216.19, Government Code.

Section 4201. Considerations to Assess Sanctions

(a) All of the following shall be considered to determine the appropriate sanction for a violation under the Act or this division:

(1) Type of violation and gravity, such as risk of or actual injury, death, or environmental or property damage.

(2) Degree of culpability, including intervening acts or omissions by other persons.

(3) Respondent's history of violations.

(4) Respondent's history of work conducted without violations.

(5) Efforts taken by the respondent to prevent the violation and, once the violation occurred, the efforts taken to mitigate the safety consequences of the violation.

(b) Any of the following may be considered to determine the appropriate sanction for a violation under the Act or this division:

(1) Respondent notified the Board, or other state agency with jurisdiction over the respondent under Government Code section 4216.6, of the violation immediately after detecting it and before the respective state agency learned of it by other means.

(2) Cooperation with state agencies during the investigation.

(3) Appropriateness of the sanction to the size of the business of the respondent, including any effect on the respondent's ability to continue doing business.

(4) Economic benefit gained from the violation without any reduction because of subsequent damages.

(5) Respondent had received one or more information letters from a Board investigator.

(6) Other factors in consideration of the facts, evidence, and violation.

(c) Any of the following may be considered to issue an order for corrective action instead of monetary penalty:

(1) Respondent is willing and able to comply with an order for corrective action.

(2) Respondent notified the Board, or other state agency with jurisdiction over the respondent under Government Code section 4216.6, of the violation immediately after detecting it and before the state agency or the Board learned of it by other means.

(3) Cooperation with state agencies during the investigation.

(4) Violation did not cause death or substantial injury, environment, or property damage, or pose significant risk of death or substantial injury, environment, or property damage.

(5) Respondent did not act willfully or knowingly, which includes recklessness.

(6) Respondent does not have a history of the same or similar violations, and has not failed to comply with an order for corrective action.

(7) If the respondent has a history of engaging in excavation or excavation related work, the respondent has a history of work conducted without a history of the same or similar violations.

(8) Respondent took immediate action upon discovery to mitigate the safety consequences of the violation.

(9) Other factors in consideration of the facts, evidence, and violation.

(d) Monetary penalties may be assessed if the respondent fails to comply with an order for corrective action. Respondent shall provide the Board, or other state agency with jurisdiction over the respondent under Government Code section 4216.6, with access to respondent's records, sites, and facilities to verify compliance with an order for corrective action.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, and 4216.19, Government Code.

Chapter 3. Enforcement
Article 2. Enforcement of Violations

Section 4250. Effective Date for Enforcement by the Board

Beginning July 1, 2020, the Board shall enforce the Act and this division on persons under the jurisdiction of the Board pursuant to Government Code section 4216.6.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, and 4216.19, Government Code.

Section 4251. Notice of Probable Violation

(a) Based on the results of an investigation, the Board may issue a notice of probable violation of the Act or this division. A notice of probable violation shall include the following:

(1) Statute, regulation, or order that the respondent is alleged to have violated and a statement of the evidence upon which the allegation is based.

(2) Maximum amount of the penalty the respondent is subject to under the Act and this division.

(3) Amount of the penalty, if any.

(4) Corrective action, if any.

(5) Response options available to the respondent under section 4252.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, and 4216.19, Government Code.

Section 4252. Response Options to a Notice of Probable Violation

(a) If neither a penalty nor corrective action is stated in a notice of probable violation, a response to a notice of probable violation is not necessary.

(b) If a penalty or corrective action is stated in a notice of probable violation, the respondent must respond by choosing one of the following options in writing, which must be received by the Board within 30 business days of the date of the notice of probable violation:

(1) Respondent may choose not to contest the allegation, penalty (if any), and corrective action (if any).

(A) If the respondent is under the jurisdiction of the Board pursuant to Government Code section 4216.6, the respondent shall pay any penalty and complete any corrective action, in accordance with section 4256, as may be provided in the notice of probable violation and ordered by the Board.

(B) If, pursuant to Government Code section 4216.6, the respondent is under the jurisdiction of the Registrar of Contractors of the Contractors State License Board, the Public Utilities Commission, or the Office of the State Fire Marshal, the Board may recommend enforcement by the proper state agency.

(2) Respondent may submit written explanation, information, and other records the respondent believes may warrant modification or elimination of the penalty or corrective action for the Board's consideration at a public meeting held in accordance with the Bagley-Keene Open Meeting Act (Government Code section 11120 et seq.). The public meeting shall be held no later than 60 business days from the date of the Board's receipt of respondent's request. If a quorum of the Board cannot be gathered at the public meeting, the Board may consider the matter at the next public meeting where a quorum is present. At that public meeting or thereafter, within 45 business days or at the next public meeting where a quorum of the Board is present, the Board shall adopt a written decision or recommendation, as applicable. The Board's decision is effective upon the adoption of the written decision or a later date as may be provided in the written decision.

(A) If the respondent is under the jurisdiction of the Board pursuant to Government Code section 4216.6, the respondent shall pay any penalty and complete any order for corrective action, in accordance with section 4256, that may be ordered by the Board.

(B) If, pursuant to Government Code section 4216.6, the respondent is under the jurisdiction of the Registrar of Contractors of the Contractors State License Board, the Public Utilities Commission, or the Office of the State Fire Marshal, the Board may recommend enforcement by the proper state agency.

(3) Respondent may request an informal hearing before the Board at a public meeting held in accordance with the Bagley-Keene Open Meeting Act (Government Code section 11120 et seq.), as provided in section 4253.

(A) If the respondent is under the jurisdiction of the Board pursuant to Government Code section 4216.6, the respondent shall pay any penalty and

complete any order for corrective action, in accordance with section 4256, that may be ordered by the Board.

(B) If, pursuant to Government Code section 4216.6, the respondent is under the jurisdiction of the Registrar of Contractors of the Contractors State License Board, the Public Utilities Commission, or the Office of the State Fire Marshal, the Board may recommend enforcement by the proper state agency.

(4) If the respondent is under the jurisdiction of the Board pursuant to Government Code section 4216.6, the respondent may request a hearing before an Administrative Law Judge of the Office of Administrative Hearings, as provided in section 4254.

(5) If, pursuant to Government Code section 4216.6, the respondent is under the jurisdiction of the Registrar of Contractors of the Contractors State License Board, the Public Utilities Commission, or the Office of the State Fire Marshal, the respondent may contest the allegation, penalty (if any), or corrective action (if any) and request the Board to make a recommendation to the state entity with jurisdiction over the respondent.

(c) Failure of the respondent to respond in accordance with this section constitutes a waiver of the respondent's right to contest the notice of probable violation, including allegation, penalty (if any), and corrective action (if any). The Board may, without further notice to the respondent, find facts to be as alleged in the notice of probable violation and issue a decision or recommendation to the proper state agency with jurisdiction over the respondent under Government Code section 4216.6.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, 4216.19, 11120, 11400, and 11500, Government Code.

Section 4253. Informal Hearing Before the Board

(a) An informal hearing before the Board shall be held at a public meeting within 60 business days of the Board's receipt of respondent's request.

(1) If a quorum of the Board cannot be gathered at the public meeting, the Board may consider the matter at the next public meeting where a quorum is present.

(2) If the notice of probable violation does not include any corrective action, the respondent may request staff to reschedule the hearing date to a date no later than 45 business days from the scheduled hearing date. Respondent must submit such a request in writing to staff no later than 15 business days before the scheduled hearing date. Staff may grant the request to reschedule the hearing only once if a quorum of the Board is available and only for good cause.

(3) Respondent may submit a written response to the notice of probable violation that may support modification or elimination of the penalty or corrective action for the Board's consideration. Respondent must provide a minimum of one original and XX copies of the original written response to staff at least 15 business days before the hearing.

(b) Ex parte communication with any Board member or staff regarding the substance of the matter is prohibited. However, ex parte communication with staff regarding procedural issues is permitted, such as scheduling a hearing.

(c) Rules relating to admission of evidence do not apply to the informal hearing. Nevertheless, at the Board's discretion, the Board may exclude evidence that is unduly repetitious, irrelevant, or reasonably unreliable.

(d) The informal hearing shall proceed as follows.

(1) Staff may present the basis for the notice of probable violation. The Board may place time limitations, not less than 15 minutes, depending on the complexity of the facts and evidence to make such a presentation to the Board.

(2) After staff's presentation, the respondent may present respondent's reasons for contesting the allegation or reasons that may support a modification or elimination of the penalty or corrective action. The Board may place time limitations, not less than 15 minutes, depending on the complexity of the facts and evidence to make such a presentation to the Board.

(3) Staff may present a rebuttal to respondent's presentation. The Board may place time limitations, not less than 5 minutes, depending on the complexity of the facts and evidence to make such a rebuttal.

(4) Respondent may present a rebuttal to staff's rebuttal. The Board may place time limitations, not less than 5 minutes, depending on the complexity of the facts and evidence to make such a rebuttal.

(5) The Board may pose questions to staff, respondent, or other witnesses or experts.

(e) At sole cost to the respondent, the respondent may arrange for a stenographer or court reporter to transcribe the informal hearing if transcription by a stenographer or court reporter is feasible at the hearing, and the respondent notifies staff at least 15 business days in advance of the hearing. Respondent shall submit a complete copy of the transcript for the Board's record.

(f) The Board shall issue a decision at the informal hearing or thereafter within 45 business days of the informal hearing, or at the next public meeting where a quorum of the Board is present. The Board shall adopt a written decision at the informal hearing or subsequent public meeting. The Board's decision is effective upon the

adoption of the written decision or a later date as may be provided in the written decision.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, 4216.19, and 11120, Government Code.

Section 4254. Hearing Before an Administrative Law Judge

(a) If a respondent, under the jurisdiction of the Board pursuant to Government Code section 4216.6, requests a hearing before an Administrative Law Judge under section 4252, subdivision (b)(4), the hearing shall be conducted pursuant to chapters 4.5 and 5 of part 1 of division 3 of title 2 of the Government Code (commencing with sections 11400 and 11500) and California Code of Regulations, title 1, section 1000 et seq., and shall be subject to the following:

(1) At the Board's discretion, the hearing may be recorded electronically instead of by a stenographer or court reporter.

(2) The Board may recover all costs as provided under California Code of Regulations, title 1, section 1042.

(b) The Board shall act on the Administrative Law Judge's proposed decision in accordance with Government Code section 11517, subdivision (c).

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, 4216.19, 11120, 11400, 11500, and 11517, Government Code.

Section 4255. Request for Reconsideration

(a) Respondent may request the Board to reconsider the Board's decision issued pursuant to section 4252, subdivision (b)(2), or 4253. The request for reconsideration must be received by the Board before the effective date of the Board's decision or within 30 business days of the date of the Board's decision, whichever comes first.

(1) The Board will not consider information or other records previously submitted to or received by the Board prior to the Board's decision issued pursuant to section 4252, subdivision (b)(2), or 4253. The basis of the request for reconsideration must be that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the time of the respondent's response or informal hearing on the matter.

(2) The Board may grant or deny, in whole or in part, a request for reconsideration without further proceedings. The Board shall issue a decision at a public meeting within 60 business days of the Board's receipt of respondent's request for

reconsideration, or at the next public meeting where a quorum of the Board is present. At that public meeting or thereafter, within 45 business days or at the next public meeting where a quorum of the Board is present, the Board shall adopt a written decision on respondent's request for reconsideration. The Board's decision on the request for reconsideration is effective upon the adoption of the written decision or a later date as may be provided in the written decision.

(3) The filing of a request for reconsideration stays the payment of any assessed penalty, but does not stay any order for corrective action unless specified otherwise by the Board in the Board's written decision under section 4252, subdivision (b)(2), or 4253.

(b) Respondent may request the Board to reconsider the Board's decision issued pursuant to section 4254. The request for reconsideration must be received by the Board within 5 business days of the date of the Board's decision, and shall be administered in accordance with Government Code section 11521 and California Code of Regulations, title 1, section 1050.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, 4216.19, 11120, 11400, 11500, and 11521 Government Code.

Section 4256. Payment of Penalty and Compliance with Order for Corrective Action

(a) If the respondent is under the jurisdiction of the Board pursuant to Government Code section 4216.6, the respondent must pay any Board ordered penalty within 30 days of the Board's decision unless specified otherwise in the decision. Payment shall be made by certified check or money order payable to "Safe Energy Infrastructure and Excavation Fund – Enforcement Account" and sent to: California Underground Facilities Safe Excavation Board, 2251 Harvard Street, Sacramento, California 95815.

(b) If the respondent is under the jurisdiction of the Board pursuant to Government Code section 4216.6, the respondent must comply with any order for corrective action within the timeframe specified in the Board's decision.

(c) If, pursuant to Government Code section 4216.6, the respondent is under the jurisdiction of the Registrar of Contractors of the Contractors State License Board, the Public Utilities Commission, or the Office of the State Fire Marshal, the respondent shall pay any penalty or comply with any corrective action as may be prescribed by the respective state agency with jurisdiction over the respondent. Payment shall be made by certified check or money order payable to "Safe Energy Infrastructure and Excavation Fund – Enforcement Account" and sent to: California Underground Facilities Safe Excavation Board, 2251 Harvard Street, Sacramento, California 95815.

(d) If the respondent fails to pay the full amount of the penalty in accordance with this section, the matter may be referred to the Attorney General to enforce the penalty, including any interest and costs, in a civil action in the appropriate court.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, and 4216.19, Government Code.

Section 4257. Valid and Current Contact Information

(a) Respondent shall maintain valid and current phone number, email, and address with the Board and promptly notify the Board of any changes to the phone number, email, or address.

(b) Regional Notification Centers shall provide updated contact information for their members to the Board on the first business day of February and July of each year, and upon request by the Board.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.6, 4216.12, 4216.19, 11400, and 11500, Government Code.

Chapter 4. Area of Continual Excavation
Article 1. General

Section 4300. Effective Date

This chapter is effective beginning July 1, 2020.

NOTE: Authority cited: Sections 4216.10, 4216.11, and 4216.22, Government Code. Reference: Sections 4216.10 and 4216.12, Government Code.

Chapter 4. Area of Continual Excavation
Article 2. Onsite Meeting and Plan to Manage Area of Continual Excavation – Agricultural Operations

Section 4301. Locate and Field Marks or Records for Agricultural Operations Near High Priority Subsurface Installations

(a)(1) Prior to the onsite meeting under section 4302, at a mutually agreed upon date and time, the operator shall, with the excavator's agreement, do one of the following:

(A) Locate and field mark within the area delineated for excavation and, where multiple high priority subsurface installations of the same type are known to exist together, mark the number of high priority subsurface installations.

(i) Excavator and operator shall agree to the method to be used under the guidelines in Appendix B of the "Guidelines for Operator Facility Field Delineation" published in the most recent version of the Best Practices guide of the Common Ground Alliance and in conformance with the uniform color code of the American Public Works Association.

(ii) Only a qualified person shall perform high priority subsurface installation locating activities.

(B) To the extent and degree of accuracy that the information is available, provide information to an excavator where the operator's high priority subsurface installations are located.

NOTE: Authority cited: Sections 4216.11 and 4216.22, Government Code. Reference: Sections 4216.10 and 4216.12, Government Code.

Section 4302. Onsite Meeting and Plan for Agricultural Operations Near High Priority Subsurface Installations

(a) An onsite meeting for agricultural operations near a high priority subsurface installation held pursuant to Government Code section 4216.10, subdivision (c)(1), must take place at the parcel of real property where the high priority subsurface installation is present. The onsite meeting must be held at a mutually agreed upon date and time that does not unreasonably disrupt the excavator's or operator's business operations.

(b) The excavator, which may be the real property owner or lessee, and the operator must attend the onsite meeting.

(1) The onsite meeting must include the excavator or the excavator's authorized representative with the following knowledge and authority:

(A) Knowledge of the agricultural operations that will occur in the area of continual excavation during the period of time the continual excavation ticket is valid under Government Code section 4216.10, subdivision (d). Excavator must be prepared at the onsite meeting with all relevant information concerning the agricultural operations that will occur in the area of continual excavation.

(B) Authority to develop and agree to an area of continual excavation plan by completing the Area of Continual Excavation Agreement (Agricultural Operations).

(2) The onsite meeting must include the operator or the operator's authorized representative with the following knowledge and authority:

(A) Knowledge of the location of the high priority subsurface installation, such as a superintendent, supervisor, or engineer. Operator must be prepared at the onsite meeting with all relevant information concerning the location of the high priority subsurface installation in the area of continual excavation.

(B) Authority to develop and agree to an area of continual excavation plan by completing the Area of Continual Excavation Agreement (Agricultural Operations).

(3) The excavator and operator must complete the Area of Continual Excavation Agreement (Agricultural Operations).

(c) Excavator must be aware of the exact location of the high priority subsurface installations in conflict with the excavation pursuant to Government Code section 4216.4.

(1) If the operator's understanding of the exact location of the high priority subsurface installation is contrary to the excavator's understanding, the operator must demonstrate that the high priority subsurface installation is in conflict with the excavation, and excavation activities within a specified distance from each side of the high priority subsurface installation may cause damage to the high priority subsurface installation, by any of the following methods:

i. Provide records indicating the exact location of the high priority subsurface installations.

ii. Expose the high priority subsurface installations within the tolerance zone at a date and time, in a manner, and with the hand tool or vacuum excavation device agreed upon by the excavator and operator.

NOTE: Authority cited: Sections 4216.11 and 4216.22, Government Code. Reference: Sections 4216.10 and 4216.12, Government Code.

Chapter 4. Area of Continual Excavation
Article 3. Onsite Meeting and Plan to Manage Area of Continual Excavation – Flood Control Facilities

Section 4350. Locate and Field Marks or Records for Continual Excavation on Flood Control Facilities Near High Priority Subsurface Installations

(a)(1) Prior to the onsite meeting under section 4351, at a mutually agreed upon date and time, the operator shall, with the excavator's agreement, do one of the following:

(A) Locate and field mark within the area delineated for excavation and, where multiple high priority subsurface installations of the same type are known to exist together, mark the number of high priority subsurface installations.

(i) Excavator and operator shall agree to the method to be used under the guidelines in Appendix B of the "Guidelines for Operator Facility Field Delineation" published in the most recent version of the Best Practices guide of the Common Ground Alliance and in conformance with the uniform color code of the American Public Works Association.

(ii) Only a qualified person shall perform high priority subsurface installation locating activities.

(B) To the extent and degree of accuracy that the information is available, provide information to an excavator where the operator's high priority subsurface installations are located.

NOTE: Authority cited: Sections 4216.11 and 4216.22, Government Code. Reference: Sections 4216.10 and 4216.12, Government Code.

Section 4351. Onsite Meeting and Plan for Continual Excavation on Flood Control Facilities Near High Priority Subsurface Installations

(a) An onsite meeting for continual excavation on flood control facilities near a high priority subsurface installation held pursuant to Government Code section 4216.10, subdivision (c)(1), must take place at the parcel of real property where the high priority subsurface installation is present. The onsite meeting must be held at a mutually agreed upon date and time that does not unreasonably disrupt the excavator's or operator's business operations.

(b) The excavator, which may be the real property owner or lessee, and the operator must attend the onsite meeting.

(1) The onsite meeting must include the excavator or the excavator's authorized representative with the following knowledge and authority:

(A) Knowledge of continual excavation that will occur on the flood control facilities during the period of time the continual excavation ticket is valid under Government Code section 4216.10, subdivision (d). Excavator must be prepared at the onsite meeting with all relevant information concerning the continual excavation that will occur on the flood control facilities.

(B) Authority to develop and agree to an area of continual excavation plan by completing the Area of Continual Excavation Agreement (Flood Control Facilities).

(2) The onsite meeting must include the operator or the operator's authorized representative with the following knowledge and authority:

(A) Knowledge of the location of the high priority subsurface installation, such as a superintendent, supervisor, or engineer. Operator must be prepared at the onsite meeting with all relevant information concerning the location of the high priority subsurface installation in the area of continual excavation.

(B) Authority to develop and agree to an area of continual excavation plan by completing the Area of Continual Excavation Agreement (Flood Control Facilities).

(3) The excavator and operator must complete the Area of Continual Excavation Agreement (Flood Control Facilities).

(c) Excavator must be aware of the exact location of the high priority subsurface installations in conflict with the excavation pursuant to Government Code section 4216.4.

(1) If the operator's understanding of the exact location of the high priority subsurface installation is contrary to the excavator's understanding, the operator must demonstrate that the high priority subsurface installation is in conflict with the excavation, and excavation activities within a specified distance from each side of the high priority subsurface installation may cause damage to the high priority subsurface installation, by any of the following methods:

(A) Provide records indicating the exact location of the high priority subsurface installations.

(B) Expose the high priority subsurface installations within the tolerance zone at a date and time, in a manner, and with the hand tool or vacuum excavation device agreed upon by the excavator and operator.

NOTE: Authority cited: Sections 4216.11 and 4216.22, Government Code. Reference: Sections 4216.10 and 4216.12, Government Code.

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AREA OF CONTINUAL EXCAVATION AGREEMENT
AGRICULTURAL OPERATIONS

(Government Code section 4216.10 and California Code of Regulations, title 19, sections 4300-4302)

This Agreement must be completed legibly in ink or typed. Signatures must be handwritten in ink.

Excavator ("Farm Owner/Lessee") and Operator ("Utility Owner") with assets located in Farm Owner's/Lessee's property are required to complete this Area of Continual Excavation Agreement – Agricultural Operations (Form No. ACE Agreement 01 (Rev. 07-01-2020)) ("Agreement") for a Continual Excavation Ticket for farming activities involving excavation within 10 feet of the Utility Owner's **high priority subsurface installation** ("Utility"). Farming activities described in this Agreement may be performed up to one year after the Farm Owner/Lessee obtains a Continual Excavation Ticket, which may be renewed within two (2) working days by calling "811" or accessing the regional notification center's ("one-call center") website. This Agreement applies to only **ONE** Utility Owner. Other Utilities may be present on the property, and a separate Area of Continual Excavation Agreement – Agricultural Operations (Form No. ACE Agreement 01 (Rev. 07-01-2020)) is required with each Utility Owner.

CONTINUAL EXCAVATION TICKET NUMBER: _____

DATE OF ONSITE MEETING: _____

TIME OF ONSITE MEETING: _____

LOCATION: _____
(Parcel number, GPS Coordinates, or Description)

FARM OWNER/LESSEE: _____

FARM OWNER/LESSEE REPRESENTATIVE: _____

PHONE NUMBER: _____

EMAIL: _____

UTILITY OWNER: _____

OWNER REPRESENTATIVE: _____

PHONE NUMBER: _____

EMAIL: _____

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UTILITY DESCRIPTION:

Size, Materials, Operating Pressures, etc.

UTILITY LOCATION:

Utility Owner must provide information to assist in verifying the location of the Utility.

FARM OPERATION DESCRIPTION:

Describe all farming activities involving excavation that may be conducted within 25 feet of each side of the Utility, including method, tools and equipment, depth of excavation, subcontractors (if any), etc.

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REQUIRED CHECKLIST:

	Onsite Meeting	Onsite Meeting between Farm Owner/Lessee and Utility Owner (onsite meeting must include the 1) Utility Owner's authorized representative with knowledge of the location of the Utilities, and authority to develop and sign this Agreement, such as a superintendent, supervisor, or engineer; and 2) Farm Owner/Lessee or Farm Owner's/Lessee's authorized representative with knowledge of the farming activities involving excavation that will occur in the area of continual excavation during the year, and authority to develop and sign this Agreement). Discussion and agreed terms and conditions must be documented in this Agreement.
	Signature & Distribution	Farm Owner/Lessee and Utility Owner sign this Agreement and copies are distributed to both parties.

This Agreement applies only to the farming activities documented in this Agreement. Any deviating activities such as work requiring greater excavation depth or other tools or equipment are beyond the scope of this Agreement. All work outside the scope of this Agreement require separate Tickets and shall be performed in accordance with Government Code section 4216 et seq.

Each party will notify the other of any unexpected occurrences (ex., fire, flood, earthquake or other soil/geologic movement, riot, accident, sabotage, damage to Utility requiring immediate repair) or excavation activities that may be in conflict with the Utility.

Prior to conducting farming activities described in this Agreement, Farm Owner/Lessee will communicate information about the terms and conditions under this Agreement to all workers, including any subcontractors, who perform excavation work in the area of continual excavation.

FARM OWNER/LESSEE:

Signature	Name	Title	Date

UTILITY OWNER:

Signature	Name	Title	Date

DRAFT

AREA OF CONTINUAL EXCAVATION AGREEMENT
FLOOD CONTROL FACILITIES

(Government Code section 4216.10 and California Code of Regulations, title 19, sections 4300 and 4350-4351)

This Agreement must be completed legibly in ink or typed. Signatures must be handwritten in ink.

Excavator and Operator with assets located in property where flood control facilities are present are required to complete this Area of Continual Excavation Agreement – Flood Control Facilities (Form No. ACE Agreement 02 (Rev. 07-01-2020)) ("Agreement") for a Continual Excavation Ticket for continual excavation within 10 feet of the Operator's **high priority subsurface installation**. Excavation described in this Agreement may be performed up to one year after the Excavator obtains a Continual Excavation Ticket, which may be renewed within two (2) working days by calling "811" or accessing the regional notification center's ("one-call center") website. This Agreement applies to only **ONE** Operator. Other high priority subsurface installations may be present on the property, and a separate Area of Continual Excavation Agreement – Flood Control Facilities (Form No. ACE Agreement 02 (Rev. 07-01-2020)) is required with each Operator.

CONTINUAL EXCAVATION TICKET NUMBER: _____

DATE OF ONSITE MEETING: _____

TIME OF ONSITE MEETING: _____

LOCATION: _____
(Parcel number, GPS Coordinates, or Description)

EXCAVATOR: _____

EXCAVATOR REPRESENTATIVE: _____

PHONE NUMBER: _____

EMAIL: _____

OPERATOR: _____

OPERATOR REPRESENTATIVE: _____

PHONE NUMBER: _____

EMAIL: _____

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HIGH PRIORITY SUBSURFACE INSTALLATION DESCRIPTION:

Size, Materials, Operating Pressures, etc.

HIGH PRIORITY SUBSURFACE INSTALLATION LOCATION:

Operator must provide information to assist in verifying the location of the high priority subsurface installation.

FLOOD CONTROL FACILITIES EXCAVATION DESCRIPTION:

Describe all activities involving excavation that may be conducted within 25 feet of each side of the high priority subsurface installation, including method, tools and equipment, depth of excavation, subcontractors (if any), etc.

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REQUIRED CHECKLIST:

	Onsite Meeting	Onsite Meeting between Excavator and Operator (onsite meeting must include the 1) Operator or Operator's authorized representative with knowledge of the location of the high priority subsurface installation and authority to develop and sign this Agreement, such as a superintendent, supervisor, or engineer; and 2) Excavator or Excavator's authorized representative with knowledge of the excavation that will occur in the area of continual excavation during the year and authority to develop and sign this Agreement). Discussion and agreed terms and conditions must be documented in this Agreement.
	Signature & Distribution	Excavator and Operator sign this Agreement and copies are distributed to both parties.

This Agreement applies only to the excavation activities documented in this Agreement. Any deviating activities such as work requiring greater excavation depth or other tools or equipment are beyond the scope of this Agreement. All work outside the scope of this Agreement require separate Tickets and shall be performed in accordance with Government Code section 4216 et seq.

Each party will notify the other of any unexpected occurrences (ex., fire, flood, earthquake or other soil/geologic movement, riot, accident, sabotage, damage to the high priority subsurface installation requiring immediate repair) or excavation activities that may be in conflict with the high priority subsurface installation.

Prior to conducting excavation activities described in this Agreement, Excavator will communicate information about the terms and conditions under this Agreement to all workers, including any subcontractors, who perform excavation work in the area of continual excavation.

EXCAVATOR:

Signature	Name	Title	Date

OPERATOR:

Signature	Name	Title	Date

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