



**UNDERGROUND
SERVICE ALERT
OF
SOUTHERN
CALIFORNIA**

**ARTICLES OF INCORPORATION
BYLAWS
OPERATING PROCEDURES**

INCORPORATED MAY 21, 1984

REVISED 7/2018

TABLE OF CONTENTS

| <i>Section</i> | | <i>Page</i> |
|----------------------------------|---|-------------|
| ARTICLES OF INCORPORATION | | 1 |
| BY LAWS | | 2 |
| ARTICLE I | OFFICES | 3 |
| Section 1. | Principal Office | 3 |
| Section 2. | Other Offices | 3 |
| ARTICLE II | MEMBERSHIP | 3 |
| Section 1. | Classes | 3 |
| Section 2. | Voting Rights | 4 |
| Section 3. | Membership Dues | 5 |
| Section 4. | Transfer of Membership | 5 |
| Section 5. | Termination of Membership | 5 |
| Section 6. | Good Standing | 5 |
| Section 7. | Place of Meetings | 5 |
| Section 8. | Annual Meetings | 5 |
| Section 9. | Special Meetings | 5 |
| Section 10. | Notice of Annual or Special Meetings | 6 |
| Section 11. | Quorum | 6 |
| Section 12. | Adjourned Meetings and Notice Thereof | 6 |
| Section 13. | Voting | 7 |
| Section 14. | Record Date | 8 |
| Section 15. | Consent of Absentees | 8 |
| Section 16. | Action Without a Meeting | 9 |
| Section 17. | Proxies | 9 |
| Section 18. | Inspector of Election | 9 |
| Section 19. | Conduct of Meeting | 10 |
| ARTICLE III | DIRECTORS | 10 |
| Section 1. | Powers | 10 |
| Section 2. | Numbers of Directors | 11 |
| Section 3. | Qualifications of Directors | 11 |
| Section 4. | Election and Term of Office | 11 |
| Section 5. | Vacancies | 11 |
| Section 6. | Place of Meeting | 12 |
| Section 7. | Regular Meetings | 12 |
| Section 8. | Special Meetings | 12 |
| Section 9. | Quorum | 12 |
| Section 10. | Participation in Meetings by Conference | 13 |
| | Telephone | |
| Section 11. | Waiver of Notice | 13 |
| Section 12. | Adjournment | 13 |
| Section 13. | Action Without Meeting | 13 |
| Section 14. | Rights of Inspection | 13 |
| Section 15. | Committees | 13 |
| Section 16. | Fees and Compensation | 14 |
| ARTICLE IV | OFFICERS | 14 |
| Section 1. | Officers | 14 |
| Section 2. | Election | 14 |
| Section 3. | Subordinate Officers | 14 |
| Section 4. | Removal and Resignation | 15 |
| Section 5. | Vacancies | 15 |

| <i>Section</i> | | <i>Page</i> |
|---|---|-------------|
| ARTICLE IV (continued) | | |
| Section 6. | Chairman of the Board | 15 |
| Section 7. | Vice Chairman | 15 |
| Section 8. | President | 15 |
| Section 9. | Vice Presidents | 15 |
| Section 10. | Manager | 15 |
| Section 11. | Secretary | 16 |
| Section 12. | Treasurer | 16 |
| ARTICLE V | OTHER PROVISIONS | 16 |
| Section 1. | Inspection of Corporate Records | 16 |
| Section 2. | Inspection of Articles and Bylaws | 17 |
| Section 3. | Endorsement of Documents; Contracts | 17 |
| Section 4. | Membership Certificates | 17 |
| Section 5. | Representation of Shares of Other Corporations | 17 |
| Section 6. | Construction and Definitions | 17 |
| Section 7. | Amendments | 18 |
| ARTICLE VI | INDEMNIFICATION | 18 |
| Section 1. | Definitions | 18 |
| Section 2. | Indemnification in Actions by Third Parties | 18 |
| Section 3. | Indemnification in Actions by or in the Right of the Corporation | 19 |
| Section 4. | Indemnification Against Expenses | 19 |
| Section 5. | Required Determinations | 19 |
| Section 6. | Advance of Expenses | 20 |
| Section 7. | Other Indemnification | 20 |
| Section 8. | Forms of Indemnification Not Permitted | 20 |
| Section 9. | Insurance | 20 |
| Section 10. | Nonapplicability | 20 |
| ARTICLE VII | EMERGENCY PROVISIONS | 21 |
| Section 1. | General | 21 |
| Section 2. | Unavailable Directors | 21 |
| Section 3. | Authorized Number of Directors | 21 |
| Section 4. | Quorum | 21 |
| Section 5. | Directors Becoming Available | 21 |
| | Certificate of Secretary | 22 |
| OPERATING PROCEDURES | | 23 |
| Article | Contents | |
| 1. | Purpose | 24 |
| 2. | Objectives | 24 |
| 3. | Rate Structure | 25 |
| 4. | Contractor | 25 |
| 5. | Communications | 25 |
| 6. | Center Operations | 25 |
| 7. | Public Relations and Publicity | 29 |
| Exhibit I/II – Dues/Communication Charges | | 31 |
| Exhibit III/IV – Web TMS Charges/Archive Record Fees | | 32 |
| Exhibit V – Design Stage Fees | | 33 |
| Exhibit VI - Location Request Form | | 34 |
| Associate Member Agreement | | 35 |

**ARTICLES OF INCORPORATION
OF
UNDERGROUND SERVICE ALERT
OF SOUTHERN CALIFORNIA**

I

Underground Service Alert of Southern California, an existing unincorporated association, is being incorporated by the filing of these articles. The name of this corporation shall be UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA.

II

This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

III

The purposes of this corporation are:

- (1) promoting public service and safety, eliminating costly damage to underground facilities, reducing lost production time due to damages, promoting compliance with the Federal Occupational Safety and Health Act of 1970 and providing help in protecting the underground environment;
- (2) providing a centralized one number call system to expedite the location of underground installations, including but not limited to water, gas, electric, telephone, oil, fuel, and sewer lines, prior to the start of any excavation work or any other work that may affect the subsurface of the earth;
- (3) receiving reports from the public, contractors, utilities and all other excavators or other entities performing any other work that may affect the subsurface of the earth who call the centralized one number call system in advance of planned excavation or similar activity;
- (4) transmitting information received from such reports to all participating members who may have underground facilities at the location of the excavation or other activity or who are otherwise concerned with said activity; and
- (5) engaging in any lawful act or activity in which a corporation organized under the Nonprofit Mutual Benefit Corporation Law may engage.

IV

The name of this corporation's initial agent for service of process is CT Corporation System.

Dated: May 21, 1984

Marlene B. Jones, Incorporator

I hereby declare that I am the person who executed the foregoing Articles of Incorporation, which execution is my act and deed.

Marlene B. Jones, Incorporator

BYLAWS

of
UNDERGROUND
SERVICE ALERT OF
SOUTHERN CALIFORNIA
A California nonprofit
mutual benefit corporation

ARTICLE I OFFICES

Section 1. *Principal Office.* The corporation's principal office is fixed and located at such place as the Board of Directors (herein called the "Board") shall determine. The Board is granted full power and authority to change said principal office from one location to another.

Section 2. *Other Offices.* Branch or subordinate offices may be established at any time by the Board at any place or places.

ARTICLE II MEMBERSHIP

Section 1. *Classes.* There shall be two classes of members: Principal members and Associate members. Principal members of the corporation shall be those investor-owned entities who own or operate 2,000 or more miles of Underground Facilities in the area served by the corporation, as such area is determined by the Board from time to time. Each Principal member, who has not previously done so prior to incorporation, shall make a capital contribution equal to \$1.75 per mile of Underground Facilities owned or operated by the Principal member in the area served by the corporation at the time the contribution is made. Each person or entity having satisfied this requirement shall be entitled to one Principal membership. Associate members of the corporation shall be all other persons, firms, corporations, associations, and governmental or public entities or agencies who own or operate any Underground Facilities in the area served by the corporation, as such area is determined by the Board from time to time. Each person or entity having satisfied this requirement is entitled to one Associate membership.

For purposes of these Bylaws, Underground Facilities means underground pipes, pipelines, conduits, cables, ducts, wires, manholes, vaults, tanks, tunnels and any encasements to furnish or transport their services or materials.

Each member shall, on or before March 31 of each year, submit to the corporation in writing the number of miles of Underground Facilities owned or operated by the member in the area then served by the corporation as of December 31 of the prior year with substantiation acceptable to the Board. In the case of members who are governmental or public entities or agencies and who elect to exercise voting rights based on per capita population in the area served by that member, that member shall, on or before March 31 of each year submit to the corporation in writing, the total population in its area as of December 31 of the prior year based on the most recent census or other method acceptable to the Board. Two or more persons or entities may have indivisible interests in a single membership of any class, provided each of them meets the requirements of such class and provided all such persons or entities shall have the rights and responsibilities of a single member unless otherwise provided.

Members of each class shall have the right to vote, as set forth in Section 2 of this Article II, for the election of directors and on a disposition of substantially all of the assets of the corporation and on a merger and on a dissolution. Additionally, members of each class shall have all of the rights afforded members under the California Nonprofit Mutual Benefit Corporation Law.

In the event of dissolution of the corporation, the Principal members of record at the time a certificate evidencing the corporation's election to dissolve is filed with the

Attorney General or, if no such election is made, at the time an order for winding up and dissolution of the corporation is entered shall receive the assets of the corporation remaining after (a) return of those assets held upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur; (b) disposition of those assets held in a charitable trust in compliance with the provisions of any trust under which such assets are held; (c) payment, or adequate provision for payment, of all taxes, penalties, debts and liabilities; and, (d) other provisions required under applicable law. Such remaining assets shall be distributed pro rata among the Principal members in the ratio which their capital contributions bear to the total capital contributions made by all Principal members.

Nothing in this Section 1 shall be construed as limiting the right of the corporation to refer to persons or entities associated with it as "members" even though such persons or entities are neither Principal nor Associate members as defined above nor members, and no such reference shall constitute such person or entity a member, within the meaning of Section 5056 of the California Nonprofit Mutual Benefit Corporation Law or the foregoing provisions of this Section 1, unless such persons or entities shall have qualified for membership as set forth above. The corporation may admit, as Sustaining members, those persons, firms, corporations, associations or public agencies who share the concern and objectives of the corporation in protection of Underground Facilities. Sustaining members shall pay the fee established by the Board from time to time but shall not have the right to vote on any of the matters set forth in the fourth paragraph of this Section 1, and shall not be a member within the meaning of Section 5056.

Section 2. Voting Rights. Subject to the provisions of Section 7612 of the California Nonprofit Mutual Benefit Corporation Law and Sections 5, 13 and 16 of this Article II, each membership shall be entitled to one vote for each mile of Underground Facilities owned or operated by the member in the area then served by the corporation (or in the case of members who are governmental or public entities or agencies who have opted to exercise voting rights on per capita population, one vote for each 1000 of population in the area served by such member) on each matter submitted to a vote of the members except for the election of directors in which case each member shall have one vote for each director's position for which it is entitled to vote in the election of directors by class. The Principal members as a class shall elect a number of directors ("Principal members of the Board") equal to the number of Principal members but not to exceed 50% of the number of directors fixed by the Board within the limits authorized by Section 2 of this Article III of these Bylaws, with each Principal member having one vote for each director's position for which it is entitled to vote. The Associate members as a class shall elect a number of directors ("Associate members of the Board") equal to the number of Principal members but not to exceed 50% of the number of directors fixed by the Board within the limits authorized by Section 2 of Article III of these Bylaws, with each Associate member having one vote for each director's position for which it is entitled to vote. Members who are not in good standing, as set forth in Section 6 of this Article II, shall not be entitled to vote on any matter.

For the purpose of computing voting rights of members, Underground Facilities shall include facilities for carrying or transporting water, gas, oil, sewerage, waste water or other liquid or gaseous substances or electricity or telephone, telegraph or other

communication signals including the total trench miles but shall exclude services, service lines or lateral extensions.

Notwithstanding the foregoing in this section, the Principal and Associate members of the Board of Directors elected pursuant to this section by the Principal and Associate members may themselves elect up to three At-Large directors to sit on the Board of Directors. The At-Large directors shall be elected as set forth in Article II, Section 13.

Section 3. *Membership Dues.* Each member shall pay periodic dues and assessments based on the class of membership. Membership dues and assessments shall be in such amounts and at such times as shall be determined by the Board.

Section 4. *Transfer of Membership.* The Board may provide for the transfer of memberships, subject to such restrictions or limitations as the Board deems appropriate including transfer upon the death, dissolution, merger or reorganization of a member.

Section 5. *Termination of Membership.* The Board may terminate or suspend a membership or expel or suspend a member for nonpayment of fees, periodic dues or assessments or for conduct which the Board deems inimical to the best interests of the corporation, including, without limitation, violation of any provision of these Bylaws or the Corporation's Operating Procedures, as such procedures may be periodically amended, or failure to satisfy membership qualifications. The Board shall give the member who is the subject of the proposed action fifteen days' prior notice of the proposed expulsion, suspension or termination and the reasons therefore. The member may submit a written statement to the Board regarding the proposed action not less than five days before the effective date of the proposed expulsion, suspension or termination. Prior to the effective date of the proposed expulsion, suspension or termination, the Board shall review any such statement submitted and shall determine the mitigating effect, if any, of the information contained therein on the proposed expulsion, suspension or termination. A suspended member shall not be entitled to exercise any of the voting rights set forth in Section 2 of this Article II.

Section 6. *Good Standing.* Any member who shall be in arrears in the payment of any installment of fees, periodic dues or assessments more than 30 days after their due date shall not be in good standing and shall not be entitled to vote as a member.

Section 7. *Place of Meetings.* Meetings of members shall be held either at the principal office of the corporation or at any other place within or without the State of California which may be designated either by the Board or by the written consent of all persons entitled to vote thereat, given either before or after the meeting and filed with the Secretary.

Section 8. *Annual Meetings.* Annual meetings of members shall be held on such date and at such time as may be fixed by the Board. In any year in which directors are elected, the election shall be held at the annual meeting. Any other proper business may be transacted at the meeting.

Section 9. *Special Meetings.* Special meetings of members may be called at any time by the Board, the Chairman of the Board, the President or not less than five percent of the members. Upon request in writing to the Chairman of the Board, the

President, any Vice President or the Secretary by any person (other than the Board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the Board, not less than 35 nor more than 90 days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice.

Section 10. *Notice of Annual or Special Meetings.* Written notice of each annual or special meeting of members shall be given not less than 10 nor more than 90 days before the date of the meeting to each member entitled to notice thereof; provided, however, that if notice is given by mail, and the notice is not mailed by first class, registered, or certified mail, the notice shall be given not less than 20 days before the meeting. Such notice shall state the place, date and hour of the meeting and (a) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (b) in the case of the annual meeting, those matters which the Board, at the time of the mailing of the notice, intends to present for action by the members, but, subject to the provisions of applicable law, any proper matter may be presented at the meeting for such action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is sent to members.

Notice of a members' meeting shall be given either personally or by mail or by other means of written communication, addressed to a member at the address of such member appearing on the books of the corporation or given by the member to the corporation for the purpose of notice, or, if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mails, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient.

Section 11. *Quorum.* A majority of the total voting power of the members must be represented at any meeting of the members in person or by proxy in order to constitute a quorum at any meeting of members. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members, unless the vote of a greater number or voting by classes is required by law, by the Articles or by these Bylaws, except as provided in the following sentence. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

Section 12. *Adjourned Meetings and Notice Thereof.* Any members' meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the votes represented, but in the absence of a quorum (except as provided in Section 11 of this Article II) no other business may be transacted at such meeting. It shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted thereat, other than by

announcement at the meeting at which such adjournment is taken; provided, however, when any members' meeting is adjourned for more than 45 days or, if after adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given as in the case of the meeting as originally called, whether annual or special.

Section 13. *Voting.* The members entitled to notice of any meeting or to vote at any such meeting shall be only persons in whose name memberships stand on the records of the corporation on the record date for notice determined in accordance with Section 14 of this Article II.

Subject to the following sentence and to the provisions of Section 7615 of the California Nonprofit Mutual Benefit Corporation Law, every member entitled to vote at any election of directors may cumulate such member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is normally entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit. No member shall be entitled to cumulate votes for a candidate or candidates pursuant to the preceding sentence unless such candidate's name or candidate's names have been placed in nomination prior to the voting and the member has given notice prior to the voting at the meeting of the member's intention to cumulate the member's votes. If any one member has given such notice, all members may cumulate their votes for candidates in nomination.

Elections need not be by ballot; provided, however, that all elections for directors must be by ballot upon demand made by a member at the meeting and before the voting begins.

In any election of directors, the candidates receiving the highest number of votes are elected.

If a membership stands of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, voting trustees, persons entitled to vote under a voting agreement or otherwise, or if two or more persons (including proxy holders) have the same fiduciary relationship respecting the same membership, unless the Secretary of the corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect:

- (i) If only one votes, such act binds all; or
- (ii) If more than one vote, the act of the majority so voting binds all.

The three At-Large members of the Board of Directors shall not be elected pursuant to the foregoing procedure, but shall be elected by the Principal and Associate members of the Board of Directors elected by the Principal and Associate members, with each such Principal and Associate Board member entitled to cast one vote for each At-Large director position. Each At-Large director position shall be filled only upon an At-Large candidate receiving an absolute majority vote of the Principal and Associate members of the Board of Directors, not merely a majority of the Board's quorum.

Voting shall in all cases be subject to the provisions of Chapter 6 of the California Nonprofit Mutual Benefit Corporation Law.

Section 14. *Record Date.* The Board may fix, in advance, a record date for the determination of the members entitled to notice of any meeting of members. The record date so fixed shall be not more than 60 days nor less than 10 days prior to the date of the meeting. When a record date is so fixed, only members of record on that date are entitled to notice of the meeting for which the record date was fixed. A determination of members of record entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the Board fixes a new record date for the adjourned meeting. The Board shall fix a new record date if the meeting is adjourned for more than 45 days.

The Board may fix, in advance, a record date for the determination of members entitled to vote at a meeting of members or to cast written ballots or to exercise any rights in respect of any other lawful action. The record date so fixed shall be not more than 60 days before the date of the meeting or before the date on which the first written ballot is mailed or solicited or before such other action, as the case may be. A determination of members of record entitled to vote at a meeting shall apply to any adjournment of the meeting unless the Board fixes a new record date for the Adjourned Meeting.

If no record date is fixed by the Board, the record date for determining members entitled to notice of a meeting of members shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held. If no record date is fixed by the Board, members on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting of members or, in the case of an adjourned meeting, members on the day of the adjourned meeting who are otherwise eligible to vote are entitled to vote at the adjourned meeting of members. The record date for determining members for any purpose other than set forth in this Section 14 or Section 10 or 16 of this Article II shall be at the close of business on the day on which the Board adopts the resolution relating thereto, or the sixtieth day prior to the date of such other action, whichever is later.

Section 15. *Consent of Absentees.* The transactions of any meeting of members, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present, and if, either before or after the meeting, each of the persons entitled to vote not present signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by the California Nonprofit Mutual Benefit Corporation Law to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the

minutes thereof, except as provided in Section 7511(f) of the California Nonprofit Mutual Benefit Corporation Law.

Section 16. *Action Without Meeting.* Subject to Section 7513 of the California Nonprofit Mutual Benefit Corporation Law, any action except election of directors which, under any provision of the California Nonprofit Mutual Benefit Corporation Law, may be taken at any regular or special meeting of members, may be taken without a meeting if the written ballot of every member is solicited, if the required number of signed approvals in writing, setting forth the action so taken, is received, and if the number of ballots cast within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast. Unless a record date for voting purposes be fixed as provided in Section 14 of this Article II, the record date for determining members entitled to cast written ballots pursuant to this Section 16, when no prior action by the Board has been taken, shall be the day on which the first written ballot is mailed or solicited, whichever is first.

Section 17. *Proxies.* Every person entitled to vote a membership has the right to do so either in person or by one or more persons authorized by a written proxy executed by such member and filed with the Secretary. Any proxy duly executed is not revoked and continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto. Such revocation may be effected either (i) by a writing delivered to the Secretary of the Corporation stating that the proxy is revoked, (ii) by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or (iii) as to any meeting, by attendance at the meeting and voting in person by the person executing the proxy; provided, however, that no proxy shall be valid after the expiration of 11 months from the date of its execution unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date of execution.

Section 18. *Inspectors of Election.* In advance of any meeting of members, the Board may appoint inspectors of election to act at such meeting and any adjournment thereof. If inspectors of election be not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairman of any such meeting may, and on the request of any member or member's proxy shall, make such appointment at the meeting. The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more members or proxies, the majority of members represented in person or by proxy shall determine whether one or three inspectors are to be appointed.

The duties of such inspectors shall be as prescribed by Section 7614(b) of the California Nonprofit Mutual Benefit Corporation Law and shall include: determining the number of memberships outstanding and the voting power of each; determining the memberships represented at the meeting; determining the existence of a quorum; determining the authenticity, validity and effect of proxies; receiving votes, ballots or consents; hearing and determining all challenges and questions in any way arising in connection with the right to vote; counting and tabulating all votes or consents; determining when the polls shall close; determining the result; and doing such acts as may be proper to conduct the election or vote with fairness to all

members. If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all.

Section 19. *Conduct of Meeting.* The Chairman of the Board shall preside as chairman at all meetings of the members. The chairman shall conduct each such meeting in a businesslike and fair manner, but shall not be obligated to follow any technical, formal or parliamentary rules or principles of procedure. The chairman's rulings on procedural matters shall be conclusive and binding on all members, unless at the time of a ruling a request for a vote is made to the members entitled to vote and which are represented at the meeting, in which case the decision of a majority of such members shall be conclusive and binding on all members. Without limiting the generality of the foregoing, the chairman shall have all of the powers usually vested in the chairman of a meeting of members.

ARTICLE III DIRECTORS

Section 1. *Powers.* Subject to limitations of the Articles, of these Bylaws and of the California Nonprofit Mutual Benefit Corporation Law relating to action required to be approved by the members or by a majority of members, the activities and affairs of the corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate the management of the activities of the corporation to any person or persons, a management company or committees however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Board shall have the following powers in addition to the other powers enumerated in these Bylaws:

- (a) To select and remove all the other officers, agents and employees of the corporation, prescribe powers and duties for them as may not be inconsistent with law, the Articles or these Bylaws, fix their compensation and require from them security for faithful service.
- (b) To conduct, manage and control the affairs and activities of the corporation and to make such rules and regulations therefore not inconsistent with law, the Articles or these Bylaws, as they may deem best.
- (c) To adopt, make and use a corporate seal, and to prescribe the forms of certificates of membership, and to alter the form of such seal and of such certificates from time to time as they may deem best.
- (d) To authorize the issuance of memberships of the corporation from time to time, upon such terms and for such consideration as may be lawful.
- (e) To borrow money and incur indebtedness for the purposes of the corporation, and to cause to be executed and delivered therefore, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefore; provided that such power to borrow money and incur indebtedness shall be exercised only upon the affirmative vote of two-thirds (2/3) of the directors present at a duly held meeting with a quorum present.

Section 2. *Number of Directors.* The authorized number of directors shall be not less than ten (10) nor more than twenty-one (21) until changed by amendment of the Articles or by Bylaw duly adopted by the members. The exact number of directors shall be determined by either the Board or the members.

Section 3. *Qualifications of Directors.* Each director shall be either an officer, an employee, or a representative of a member and fifty percent (50%) of the directors shall be officers, employees, or representatives of Principal members and fifty percent (50%) shall be officers, employees, or representatives of Associate members.

Notwithstanding the foregoing in Article III, Section 3, up to three additional directors who are neither officers nor employees of Principal members may be elected as At-Large directors of the Board. To qualify for an election as an At-Large director, an individual must be generally recognized as having broad experience and knowledge in and of underground excavation activities, underground damage prevention activities or other related fields that lend furtherance to the goals, objectives and programs of Underground Service Alert of Southern California.

Section 4. *Election and Term of Office.* Directors shall be elected at each annual meeting of the members, but if any such annual meeting is not held or the directors are not elected thereat, the directors may be elected at any special meeting of members held for that purpose. Notwithstanding the foregoing, At-Large directors shall be elected by the Principal and Associate members of the Board of Directors at a Board meeting immediately following the annual meeting of the members and the organizational meeting of the Board at which time officers are elected, immediately after any special meeting as discussed herein above in Section 4 or at any later meeting of the Board. Each director shall serve until the next annual meeting of the members and until a successor has been elected and qualified.

Section 5. *Vacancies.* Any director may resign effective upon giving written notice to the Chairman of the Board, the President, the Secretary or the Board, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected before such time to take office when the resignation becomes effective.

Vacancies in the Board, except those existing as a result of a removal of a director by the members, may be filled by a majority of the remaining directors, although less than a quorum, or by a sole remaining director, and each director so elected shall hold office until the expiration of the term of the replaced director and until such replacement director's successor has been elected and qualified.

A vacancy or vacancies in the Board shall be deemed to exist in case of the death, resignation or removal of any director, or if the authorized number of directors be increased, or if the members fail, at any regular or special meeting of members at which any director or directors are elected, to elect the full authorized number of directors to be voted for at that meeting.

The Board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, convicted of a felony, or been found by a final order or judgment of any court to have breached any duty arising under Section 7238 of the California Nonprofit Mutual Benefit Corporation Law, or who no longer meets the qualifications set forth in Section 3 of this Article III. The Board may declare

vacant the office of a director for failure to attend two Board Meetings in any term. The members may elect a director or directors at any time to fill any vacancy or vacancies not filled by the directors.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of the director's term of office.

Vacancies in an At-Large position in the Board shall be filled only by election of an At-Large director by an absolute majority of the Principal and Associate members of the Board, not merely by a majority of the Board's quorum or a majority of the remaining members of the Board, should there be any vacancy or vacancies in the seats held by Principal or Associate members of the Board of Directors. At-Large directors shall not participate in filling any vacancy or vacancies in At-Large director positions.

Section 6. *Place of Meeting.* Regular or special meetings of the Board shall be held at any place within or without the State of California which has been designated from time to time by the Board. In the absence of such designation, regular meetings shall be held at the principal office of the corporation.

Section 7. *Regular Meetings.* Immediately following each annual meeting of members the Board shall hold a regular meeting for the purpose of organization, election of officers and the transaction of other business.

Other regular meetings of the Board shall be held without call or notice on such dates and at such times as may be fixed by the Board.

Section 8. *Special Meetings.* Special meetings of the Board for any purpose or purposes may be called at any time by the Chairman of the Board, the President, any Vice President, the Secretary or any two directors.

Special meetings of the Board shall be held upon four days' notice by first class mail or 48 hours' notice given personally or by telephone, telegraph, telex, electronic mail (email) or other similar means of communication. Any such notice shall be addressed or delivered to each director at such director's address as it is shown upon the records of the corporation or as may have been given to the corporation by the director for purposes of notice or, if such address is not shown on such records or is not readily ascertainable, at the place in which the meetings of the directors are regularly held.

Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mails, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the receiver.

Section 9. *Quorum.* Forty percent (40%) of the number of directors fixed by the Board within the limits authorized by Section 2 of this Article III shall constitute a quorum of the Board for the transaction of business, except to adjourn as provided in Section 11 of this Article III. Every act or decision done or made by a majority of the

directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board, unless a greater number be required by law, these Bylaws or by the Articles, except as provided in the next sentence. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 10. *Participation in Meetings by Conference Telephone.* Members of the Board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another.

Section 11. *Waiver of Notice.* Notice of a meeting need not be given to any director who signs a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

Section 12. *Adjournment.* A majority of the directors present, whether or not a quorum is present, may adjourn any directors' meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent directors if the time and place be fixed at the meeting adjourned, except as provided in the next sentence. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

Section 13. *Action without Meeting.* Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such consent or consents shall have the same effect as a unanimous vote of the Board and shall be filed with the minutes of the proceedings of the Board.

Section 14. *Rights of Inspection.* Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation.

Section 15. *Committees.* The Board may appoint one or more committees, each consisting of two or more directors, and delegate to such committees any of the authority of the Board except with respect to:

- (a) The approval of any action for which the California Nonprofit Mutual Benefit Corporation Law also requires approval of the members or approval of a majority of all members;
- (b) The filling of vacancies on the Board or in any committee;
- (c) The fixing of compensation of the directors for serving on the Board or on any committee;
- (d) The amendment or repeal of Bylaws or the adoption of new Bylaws;
- (e) The amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;

- (f) The appointment of other committees of the Board or the members thereof;
- (g) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected;
- (h) Except as provided in Section 7233 of the California Nonprofit Mutual Benefit Law, with respect to any assets held in charitable trust, the approval of any self-dealing transaction;
- (i) The contracting for or purchase of any items in an amount in excess of \$500 during any fiscal year; or
- (j) The incurrence of debt or liability in an amount in excess of \$500 during any fiscal year.

Any such committee must be created, and the members thereof appointed, by resolution adopted by a majority of the authorized number of directors then in office, provided a quorum is present, and any such committee may be designated an Executive Committee or by such other name as the Board shall specify. The Board may appoint, in the same manner, alternate members of any committee who may replace any absent member at any meeting of the committee. The Board shall have the power to prescribe the manner in which proceedings of any such committee shall be conducted. In the absence of any such prescription, such committee shall have the power to prescribe the manner in which its proceedings shall be conducted. Unless the Board or such committee shall otherwise provide, the regular and special meetings and other actions of any such committee shall be governed by the provisions of this Article III applicable to meetings and actions of the Board. Minutes shall be kept of each meeting of each committee.

Section 16. *Fees and Compensation.* Directors and members of committees shall not receive any compensation for their services.

ARTICLE IV OFFICERS

Section 1. *Officers.* The officers of the corporation shall be a Chairman of the Board, A Vice Chairman of the Board, a President, a Secretary, and a Treasurer. The corporation may also have, at the discretion of the Board, one or more Vice Presidents, a Manager, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be elected or appointed in accordance with the provision of Section 3 of this Article IV. Any number of offices may be held by the same person unless the Articles or these Bylaws provide otherwise.

Section 2. *Election.* The officers of the corporation, except such officers as may be elected or appointed in accordance with the provisions of Section 3 or Section 5 of this Article IV, shall be chosen annually by, and shall serve at the pleasure of, the Board, and shall hold their respective offices until their resignation, removal, or other disqualification from service, or until their respective successors shall be elected.

Section 3. *Subordinate Officers.* The Board may elect, and may empower the Chairman of the Board to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as the Board may from time to time determine.

Section 4. *Removal and Resignation.* Any officer may be removed, either with or without cause, by the Board at any time or, except in the case of an officer chosen by the Board, any officer upon whom such power of removal may be conferred by the Board. Any such removal shall be without prejudice to the rights, if any, of the officer under any contract of employment of the officer.

Any officer may resign at any time by giving written notice to the corporation, but without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. *Vacancies.* A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

Section 6. *Chairman of the Board.* The Chairman of the Board is the chief executive officer of the corporation and has, subject to the control of the Board, general supervision, direction and control of the business and officers of the corporation. The Chairman shall preside at all meetings of the members and at all meetings of the Board. The Chairman has the general powers and duties usually vested in the office of chief executive officer of a corporation and such other powers and duties as may be prescribed by the Board.

Section 7. *Vice Chairman.* The Vice Chairman of the Board will assume the duties of the Chairman of the Board in his absence.

Section 8. *President.* Subject to such powers as may be given by the Board to the Chairman of the Board, the President is responsible for the general management of the corporation and promotes membership in the corporation by owners and operators of Underground Facilities and others; promotes use of the one call system by all excavators; attends meetings of outside groups and/or makes presentations to interested parties; develops and implements advertising and promotional activities; recommends changes and improvements to the operating procedures of the corporation; directs activities of the Manager; performs other duties in the furtherance of the business of the corporation as directed by the Chairman.

Section 9. *Vice Presidents.* In the absence or disability of the President, the Vice Presidents, if any be appointed, in order of their rank as fixed by the Board or, if not ranked, the Vice President designated by the Board, shall perform all the duties of the President and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice Presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board.

Section 10. *Manager.* The Manager reports to the President and exercises full responsibility for the day-to-day operations of the one call system: Hires, trains and supervises office clerks, coordinates work assignment to maintain proper telephone coverage; develops and implements quality assurance programs, reviews findings with clerks, compiles quality indices for the group and for individuals; reviews and analyzes on a sampling basis the work performed to assure accuracy and

performance in accord with established procedures; develops written procedures for the tasks performed by clerks; receives and handles unusual or complex calls; assists the President as requested and performs such other duties as may be assigned from time to time; may perform duties of office clerk.

Section 11. *Secretary.* The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board may order, a book of minutes of all meetings of members, the Board and its committees, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Board and committee meetings, the number of members present or represented at members' meetings, and the proceedings thereof. The Secretary shall keep, or cause to be kept, at the principal office in the State of California the original or a copy of the corporation's Articles and Bylaws, as amended to date.

The Secretary shall give, or cause to be given, notice of all meetings of the members and of the Board and any committees thereof required by these Bylaws or by law to be given, shall keep the seal of the corporation in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 12. *Treasurer.* The Treasurer is the chief financial officer of the corporation and shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the corporation, and shall send or cause to be sent to the members of the corporation such financial statements and reports as are by law or these Bylaws required to be sent to them. The books of account shall at all times be open to inspection by any director. The Treasurer shall prepare or cause to be prepared monthly invoices, oversee accounts payable, and maintain such records as may be required.

The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board. The Treasurer shall disburse the funds of the corporation as may be ordered by the Board, shall render to the President and the directors, whenever they request it, an account of all transactions as Treasurer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board.

ARTICLE V OTHER PROVISIONS

Section 1. *Inspection of Corporate Records.* Subject to Sections 8330, 8331 and 8332 of the California Nonprofit Mutual Benefit Corporation Law, a member may do either or both of the following for a purpose reasonably related to such member's interest as a member:

- (i) Inspect and copy the record of all the members' names, addresses and voting rights, at reasonable times, upon five business days' prior written demand upon the corporation, which demand shall state the purpose for which the inspection rights are requested; or
- (ii) Obtain from the Secretary of the corporation, upon written demand and tender of a reasonable charge, a list of the names, addresses and voting rights of those members entitled to vote for the election of directors, as of the most recent record date for which it has been compiled or as of a date

specified by the member subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The Secretary shall make the membership list available on or before the later of ten business days after the demand is received or after the date specified therein as the date as of which the list is to be compiled.

The corporation may, within 10 business days after receiving a demand, as set forth above in paragraph (i) or (ii) of this Section 1, deliver to the person(s) making the demand a written offer of an alternative method of achieving the purpose identified in said demand without providing access to or a copy of the membership list. Any rejection of the corporation's offer shall be in writing and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand made pursuant to paragraph (i) or (ii) of this Section 1.

The accounting books and records and minutes of proceedings of the members and the Board and committees of the Board shall be open to inspection upon written demand on the corporation of any member at any reasonable time for a purpose reasonably related to such person's interests as a member.

Section 2. Inspection of Articles and Bylaws. The corporation shall keep in its principal office in the State of California the original or a copy of its Articles and of these Bylaws as amended to date, which shall be open to inspection by members at all reasonable times during office hours. If the corporation has no office in the State of California, it shall upon the written request of any member furnish to such member a copy of the Articles or Bylaws as amended to date.

Section 3. Endorsement of Documents; Contracts. Subject to the provisions of applicable law, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing and any assignment or endorsement thereof executed or entered into between the corporation and any other person, when signed by the Chairman of the Board, the President or any Vice President and the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer of the corporation shall be valid and binding on the corporation in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same. Any such instruments may be signed by any other person or persons and in such manner as from time to time shall be determined by the Board, and, unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or amount.

Section 4. Membership Certificates. The corporation shall not issue and shall be under no obligation to issue membership certificates.

Section 5. Representation of Shares of Other Corporations. The President or any other officer or officers authorized by the Board or the President are each authorized to vote, represent and exercise on behalf of the corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of the corporation. The authority herein granted may be exercised either by any such officer in person or by any other person authorized so to do by proxy or power of attorney duly executed by said officer.

Section 6. Construction and Definitions. Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the General

Provisions of the California Nonprofit Corporation Law and in the California Nonprofit Mutual Benefit Corporation Law shall govern the construction of these Bylaws.

Section 7. *Amendments.* These Bylaws may be amended or repealed by approval of the members or by the approval of the Board; provided, however, that members must approve any action that would: (a) materially and adversely affect the rights of members as to voting, dissolution, or redemption, or transfer of memberships; (b) increase or decrease the number of memberships authorized in total or for any class; (c) effect an exchange, reclassification or cancellation of all or any part of the memberships; (d) authorize a new class of membership; or, (e) specify or change a fixed number of directors or the maximum or minimum number of directors or change from a fixed to a variable number of directors or vice versa. The power of members to approve the repeal or amendment of Bylaws is subject to the further approval of the members of a class if such action would: (a) materially and adversely affect the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption, or transfer of memberships in a manner different than such action affects another class; (b) materially and adversely affect such class as to voting, dissolution, redemption, or, transfer of memberships by changing the rights, privileges, preferences, restrictions, or conditions of another class; (c) increase or decrease the number of memberships authorized for such class; (d) increase the number of memberships authorized for another class; (e) effect an exchange, reclassification or cancellation of all or part of the memberships of such class; or, (f) authorize a new class of memberships.

A Bylaw conferring some or all of the rights of a member of any class upon any person or entity who does not have the right to vote on any of the matters set forth in Section 1 of Article II may be adopted only by approval of the members.

ARTICLE VI INDEMNIFICATION

Section 1. *Definitions.* For the purposes of this Article VI, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Sections 4 or 5(c) of this Article VI.

Section 2. *Indemnification in Actions by Third Parties.* The corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection

with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 3. *Indemnification in Actions by or in the Right of the Corporation.* The corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation, or brought under Section 5233 of the California Non-profit Public Benefit Corporation Law or brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 3:

- (a) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;
- (b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or
- (c) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval, unless such action concerns assets held in charitable trust and is settled with the approval of the Attorney General.

Section 4. *Indemnification Against Expenses.* To the extent that an agent of the corporation has been successful on the merits in defense of any proceeding referred to in Sections 2 or 3 of this Article VI or in defense of any claim, *issue* or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 5. *Required Determinations.* Except as provided in Section 4 of this Article VI any indemnification under this Article VI shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Sections 2 or 3 of this Article VI, by:

- (a) A majority vote of a quorum consisting of directors who are not parties to such proceeding;
- (b) Approval of the members, with the persons to be indemnified not being entitled to vote thereon; or
- (c) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

Section 6. *Advance of Expenses.* Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article VI.

Section 7. *Other Indemnification.* No provision made by the corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this Article VI. Nothing contained in this Article VI shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

Section 8. *Forms of Indemnification Not Permitted.* No indemnification or advance shall be made under this Article VI, except as provided in Sections 4 or 5(c), in any circumstances where it appears:

- (a) That it would be inconsistent with a provision of the Articles, these Bylaws, a resolution of the members or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 9. *Insurance.* The corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this Article VI.

Section 10. *Nonapplicability to Fiduciaries of Employee Benefit Plans.* This Article VI does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the corporation as defined in Section 1 of this Article VI. The corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207 of the California General Corporation Law.

ARTICLE VII EMERGENCY PROVISIONS

Section 1. *General.* The provisions of this Article VII shall be operative only during a national emergency declared by the President of the United States or the person performing the President's functions, or in the event of a nuclear, atomic or other attack on the United States or a disaster making it impossible or impracticable for the corporation to conduct its business without recourse to the provisions of this Article VII. Said provisions in such event shall override all other Bylaws of the corporation in conflict with any provisions of this Article VII, and shall remain operative so long as it remains impossible or impracticable to continue the business of the corporation otherwise, but thereafter shall be inoperative; provided that all actions taken in good faith pursuant to such provisions shall thereafter remain in full force and effect unless and until revoked by action taken pursuant to the provisions of the Bylaws other than those contained in this Article VII.

Section 2. *Unavailable Directors.* All directors of the corporation who are not available to perform their duties as directors by reason of physical or mental incapacity or for any other reason or who are unwilling to perform their duties or whose whereabouts are unknown shall automatically cease to be directors, with like effect as if such persons had resigned as directors, so long as such unavailability continues.

Section 3. *Authorized Number of Directors.* The authorized number of directors shall be the number of directors remaining after eliminating those who have ceased to be directors pursuant to Section 2.

Section 4. *Quorum.* The number of directors necessary to constitute a quorum shall be the number bearing the same proportional relationship to the number of directors remaining pursuant to Section 2 as the quorum established in Article III, Section 8 bears to the authorized number of directors set forth in Article III, Section 2.

Section 5. *Directors Becoming Available.* Any person who has ceased to be a director pursuant to the provisions of Section 2 and who thereafter becomes available to serve as a director shall automatically resume performing the duties and exercising the powers of a director unless the term of office of such person has expired in accordance with its original terms and a successor has been selected and qualified.

CERTIFICATE OF SECRETARY of
UNDERGROUND SERVICE ALERT

(a California nonprofit mutual
benefit corporation)

I hereby certify that I am the duly elected and acting Secretary of said corporation and that the foregoing Bylaws, comprising 19 pages, constitute the Bylaws of said corporation as duly adopted at a meeting of the Board of Directors thereof held on

Secretary

UNDERGROUND SERVICE ALERT
OF
SOUTHERN CALIFORNIA

OPERATING PROCEDURES

1.PURPOSE

1.01 The primary purpose of Underground Service Alert of Southern California ("USA/SC"), is to provide a regional notification system (the "Center") to expedite the location of underground facilities (as defined in USA/SC's Bylaws) prior to the start of any excavation work. For purposes of these Operating Procedures, the following definitions will apply:

- (a) "Excavation" means any operation in which earth, rock, pavement or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives in any of the following ways: grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping, cable or pipe plowing and driving, or any other way.
- (b) "Excavator" means any person, firm, contractor or subcontractor, owner, operator, utility association, corporation, partnership, business trust, public agency, or other entity that, with their, or his or her own employees or equipment perform any excavation.

1.02 The Center's major functions are:

- (a) To receive information from anyone who contacts the Center of any planned excavation work. The notifications received for this purpose are called "DigAlerts."
- (b) To transmit this information to all members who have notified USA/SC that they have underground facilities at the location of the excavation work or who are otherwise concerned with the excavation work. The member is then responsible for notifying the excavator pursuant to California Government Code section 4216 et seq.
- (c) To promote use of and membership in USA/SC.

2. OBJECTIVES

2.01 The Center is designed to encourage acceptance and active participation by all underground operators, government agencies and excavators. USA/SC's objectives are to:

- (a) Promote public safety
- (b) Eliminate costly damage to underground facilities;
- (c) Reduce lost production time due to damages;
- (d) Promote compliance with California Government Code Section 4216 et seq.;
- (e) Promote compliance with Cal/OSHA Title 8 Section 1541
- (f) Promote compliance with C.S.L.B., Section 7110;
- (g) Help protect our underground environment;
- (h) Promote membership in USA/SC;
- (i) Promote use of the Center;
- (j) Promote involvement in the California Regional Common Ground Alliance (CARCGA) and
- (k) Encourage reporting of incident events via the CARCGA Virtual Private Damage Information Reporting Tool (DIRT).

3. RATE STRUCTURE

- 3.01 Each member will be assessed a fee in accordance with the applicable rates adopted by the Board of Directors from time to time. A copy of the rate schedule currently in effect is attached hereto as Exhibit I.
- 3.02 The fees collected through this rate structure will cover the operating costs of the Center.

4. CONTRACTOR

- 4.01 USA/SC may contract with a third party for the management of the Center under the ultimate direction of the Board of Directors.

5. COMMUNICATIONS

- 5.01 USA/SC will provide sufficient equipment and personnel to maintain efficient operation of the Center. Increases in costs incurred will be justified by management to the Board of Directors.
- 5.02 For liability purposes, all incoming DigAlert calls are recorded on electronic media. Said recordings are made in accordance with tariffs on file with the California Public Utilities Commission and local, state and federal law.
- 5.03 Each member is individually responsible for maintaining equipment capable of receiving DigAlert information.
- 5.04 Members utilizing a third party to receive their DigAlert notifications are responsible for ensuring that notifications are received and processed as if the member were receiving the notifications directly. Members, or their designated third party agents, who receive DigAlert information via electronic means (i.e.: email, FTP, WebTMS) are responsible for retrieving their notifications once delivered to their designated location.
- 5.05 In addition to the monthly rates set by the Board of Directors, each member will be billed for communication charges in accordance with the message receiving equipment utilized and as may be amended from time to time. The rates currently in effect are set forth in Exhibit II attached hereto.
- 5.06 Members who use the Center's Web Ticket Management System (WebTMS) will pay applicable charges as set forth in Exhibit III attached hereto. The Board of Directors may amend these charges from time to time.

6. CENTER OPERATIONS

- 6.01 The Center's business hours are from 6:00 a.m. to 7:00 p.m. Monday through Friday excluding holidays.
- 6.02 The Center's holidays are New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Day After Thanksgiving and Christmas Day. If Christmas Eve & New Year's Eve fall on a Monday through Thursday, the Center will close at 3pm.
- 6.03 USA/SC shall provide the personnel necessary to carry out its business and shall employ a President, Manager, Customer Service Representatives and other Employees. The work schedule of the Manager, Customer Service

Representatives and other Employees will be arranged to provide adequate personnel during business hours.

6.04 USA/SC will bill members in accordance with the rates established from time to time by the Board as follows:

- (a) USA/SC will determine, prepare and mail or email a bill for each member in accordance with the approved rate structure. For purposes of accounting, books are kept of each month's billing by member name. Said books shall be kept in accordance with generally accepted accounting principles.
- (b) USA/SC will compile a monthly summary of the Center's operating costs in detail as well as the current month's billing. These reports will be submitted to the Board at the next scheduled board meeting.
- (c) Upon receipt of the monthly bill, each member will make payment by check made out to "Underground Service Alert." This check is to be sent to USA/SC at the Center's mailing address. Alternate methods of remittance must be approved by USA/SC prior to use.
- (d) USA/SC will credit the appropriate member's account when payments are received and will deposit the money in the USA/SC bank account. Chairman will review all financial practices.
- (e) Payments are due and payable upon receipt of each monthly bill. Payments not received within 45 days of the date of the bill, may be subject to a 5% penalty of the amount billed.
- (f) If payment is not received within 135 days of the date of the bill a certified letter will be sent to the member which shall indicate that the member is no longer in good standing. At the next regularly scheduled board meeting the member in question will be brought before the Board for termination of membership.
- (g) Upon termination by the Board, a letter will be forwarded to the District Attorney(s)'s office advising that the entity is no longer a member of Underground Service Alert of Southern California as required by California Government Code section 4216 et seq.
- (h) USA/SC will maintain records of all expenses associated with the Center operations. These records are subject to audit by the Board of Directors.

6.05 DigAlerts refer to notification of excavations as defined in 1.01 (a).

- (a) All DigAlerts called into 811 or a toll-free line will be recorded.
- (b) Each DigAlert will have a ticket assigned to it, which will be given to each excavator for future reference.
- (c) Unless the excavation is necessary due to an emergency, all excavators not giving a legal excavation start date and time as defined in California Government Code section 4216 et seq. will be reminded of this requirement, and that the affected member(s) must have a minimum of 2 working days not including the date of notification in which to mark their lines. If the excavation is necessary due to an emergency, excavators will

be given the definition of an emergency as stated in California Government Code section 4216 and notified that members responding may charge a locating fee if the job does not meet the statutory definition. All excavators not delineating their proposed excavation site will be informed that state law requires that the excavator shall delineate the area to be excavated before contacting the Center and if the area is not delineated the members may, at their discretion, chose not to locate and field mark until the area is delineated. In addition, the excavator will be advised that the DigAlert is active for 28 calendar days and that work continuing beyond that time requires an extension of the DigAlert prior to expiration of the 28 day period. DigAlerts may be extended online or by calling 811. The excavator will be advised that state law requires that excavation shall not begin until all members have responded. The excavator will also be notified that after they have initially marked, state law requires the excavator to notify USA/SC if the members' marks are no longer reasonably visible.

- (d) After all the necessary information (set forth on Exhibit VI attached hereto) to complete the DigAlert has been given, Center personnel will tell the caller which member(s) will be notified. In the event that the information was provided online a list of the members to be notified will be displayed.

6.06 Locations

Each member is responsible for submitting to USA/SC shape files in NAD83 Datum or WSG84 Datum with a Coordinate Reference System of Latitude/Longitude. Shape files must contain valid data for their shape type – lines must contain at least 2 points; polygons must have at least 3 points, etc. USA/SC will annually send a report to each member to verify that all areas in which they have underground facilities are included in the Center's database.

6.07 Contact Information

Each member is responsible for submitting to USA/SC a list of contacts within their organization for issues related to billing, design requests, problems receiving DigAlerts, emergencies during working hours, emergencies after hours, no show – if the member hasn't responded to a DigAlert notification, requests for permission to utilize vacuum equipment and a main contact. These listings will be requested annually by the Center. Each member shall notify USA/SC of any changes, as they occur, with respect to the contact listing. USA/SC will include this contact listing in the Center's database.

6.08 Transmission of DigAlert information

All DigAlert information will be dispatched by USA/SC to each affected member as soon as possible after receipt thereof. USA/SC shall use reasonable judgment in determining the sequential order in which such requests are to be transmitted.

- (a) Each member is responsible for immediately notifying the Center of any indecipherable message received from the Center, and/or any technical failure of equipment used by the member (or its designated agent) for purpose of receipt of DigAlert notifications from the Center of which it is or should be aware.

- (b) When trouble with or failure of, equipment used by a member to receive DigAlert notifications from the Center is discovered, the member (or its designated agent) will be responsible for reporting it to the appropriate personnel for repair.
- (c) Other provisions of these operating procedures notwithstanding, the Center shall use its best efforts to receive and transmit DigAlerts in the event of electrical power failure which precludes the recording and normal transmission of messages.
- (d) USA/SC will send to all members on a DigAlert any follow-up excavator requests for additional information, any notifications of work continuing, requests for re-remarks or failure of any member(s) to respond.
- (e) DigAlerts received to report emergency work that must be done immediately, will be handled as an emergency type and transmitted as soon as possible.
- (f) For excavators reporting damage to underground lines, USA/SC will send a damage/exposed DigAlert to members in the area of damage. The Center will also provide the excavator with the emergency telephone number of any member(s) involved.

6.09 After Hours

All calls received by the Center after scheduled operating hours will be answered by a recording device attached to 811 or a toll-free number. A pre-recorded message will advise the caller of the Center's scheduled operating hours and direct them to call back or to visit www.digalert.org for more information. The message will also refer all emergency notifications to the affected member or non-member.

6.10 Archives

USA/SC shall maintain a file of all DigAlerts and recorded conversations for a period of **five** (5) years. At the end of **five** (5) years, USA/SC will destroy the above records unless otherwise requested in writing by any member. Upon receipt of a request, USA/SC will supply a copy of the information requested to the requesting member, at the member's expense, to be maintained by the member.

USA/SC shall archive the following:

- (a) Notifications received including time received and ticket number;
- (b) Notifications giving less than 48 hours' notice, including ticket number, excavator's company and length of notice in hours;
- (c) Messages transmitted, including ticket number involved;
- (d) Monthly summaries of the member transmissions, and notification distribution;

DigAlerts will be communicated by excavators to USA/SC by a toll free number, 811, via the USA/SC website, or via USA/SC applications. All notifications on USA/SC toll free lines or 811 will be recorded. Notification of DigAlerts will be transmitted to members electronically, depending on the needs of each member and as agreed upon between the member and USA/SC. Recordings and computer copies will be retained by USA/SC for the use and benefit of members,

USA/SC, and users of the regional notification system. Recorded conversations will be handled, recorded, played, and stored, by USA/SC only, or by such qualified operators as may be designated by the Chairman of the Board to maintain reliability and integrity of the recordings.

USA/SC will provide, upon written request, one copy of any DigAlert and if also requested a .wav format of the conversation. All revisions, through the date of incident or such date as requested, of the DigAlert ticket will be provided. For current fees for copies of DigAlerts see Exhibit IV – Archive Record Fees.

6.11 Design Stage

Excavators not excavating within 14 calendar days can request “design stage” information either via the Centers website or from Center personnel. A list of members and their contact information, that has been provided by the member(s), with underground facilities in the proposed excavation area will be supplied. For current fees see Exhibit V – Design Stage Fees.

6.12 This Section Intentionally Left Blank

6.13 Electronic Positive Response

Members may supply an electronic positive response through the center before the legal excavation start date and time. USA/SC will make those responses available to the excavator.

7. PUBLIC RELATIONS AND PUBLICITY

7.01 The Center will maintain a log of all presentations made involving the promotion of the USA/SC program. Arrangements may be made through the Safety Awareness Director for such presentations to be given to any interested groups.

7.02 Advertisement and promotional materials will designate "Underground Service Alert of Southern California" and/or DigAlert and should include the 811 logo.

7.03 To prevent duplication of effort and to maintain continuity of promotional items, all members are asked to submit to the Board of Directors at least one copy of any promotional materials used (including intracompany promotions), which were not processed through the Board of Directors.

7.04 A complete file of all promotional material will be kept by the Center.

7.05 Members will be encouraged to list 811 and www.digalert.org as the member’s “contact information” for purposes of notifying before excavating near their underground facilities in any directories in which the member’s company or agency appears.

7.06 The Center will encourage all members and excavators to report “incident events” via the California Regional Common Ground Alliance Virtual Private Damage Information Reporting Tool. The Center will post an annual report on www.digalert.org of the compiled statewide information regarding “incident events” provided by operators and excavators. For purposes of this section a “incident event” means the occurrence of excavator downtime, damages, near misses and violations.

7.07 Members may, on a voluntary basis, supply information to USA/SC regarding excavators that do not comply with California Government Code section 4216 et seq. The information supplied will include the excavator’s name, address

(including, city, state and zip code), and the date and location of the incident. USA/SC will send informational materials to those excavators regarding the requirements of California Government Code section 4216 et seq.

EXHIBIT I

Dues Schedule Effective July 1, 2018

- I. Associate members shall pay a fee of \$1.65 for each **new** DigAlert notification received during the previous month.
- II. Principal members shall pay a fee of \$1.65 for each **new** DigAlert notification received during the previous month. In addition Principal members may be assessed from time to time an amount as determined by the Board to maintain the level of working capital necessary to insure financial stability. Such assessment shall be based on the ratio which the number of miles of underground facilities owned or operated by that member bears to the total miles owned or operated by all Principal members within the area served by the Corporation.
- III. Associate members who receive less than 50 **new** DigAlert notifications per year must have a \$25 deposit on account.
- IV. New members with only 1 member code will be charged \$10 per month until a years worth of transmissions data is obtained. All others will be under the schedule below:

| Billed Member Codes | Rate |
|--|----------------|
| 1 member code < 100 new transmissions a year | No Charge |
| 1 – 5 member codes | \$10 per month |
| 6 – 10 member codes | \$20 per month |
| 11 – 15 member codes | \$30 per month |
| 16 – 20 member codes | \$40 per month |
| More than 20 member codes | \$50 per month |

- V. Sustaining members will pay an annual fee of \$50.00
-

EXHIBIT II

Communication Charges Effective July 1, 2013

The following charges are in addition to those charges listed above and will be billed monthly.

- I. Fax Notification - **\$10.00** for **each transmission** during any month.
 - II. Data Receiver or PC - **\$10.00** for **each transmission** during any month.
 - III. Email, TMS or FTP – *No Charge*
-

EXHIBIT III

**Web Ticket Management System Charges
(WebTMS)
Effective February 1, 2018**

- I. Members who use USA/SC's WebTMS program shall pay a one-time set up fee of \$150.00.
- II. Rates are based on number of users and based on a monthly rate billed annually.
- | | |
|----------------|--|
| Up to 5 users | \$25.00 per month |
| Up to 10 users | \$50.00 per month |
| Up to 15 users | \$75.00 per month |
| Up to 25 users | \$100.00 per month |
| 26 + users | \$100.00 per month plus \$5 per additional user |
- III. Optional Program Add-Ons are based on a monthly rate billed annually.
- | | |
|--------------------|----------------|
| Ticket Attachments | \$20 per month |
|--------------------|----------------|
-

EXHIBIT IV

**Archive Record Fees
Effective January 1, 2014**

- I. Member
- | | |
|-------------------------|-------------------------------|
| 25 Requests in a month | Free |
| 26+ Requests in a month | \$15.00 each addition request |
- II. Non Member
- | | |
|-----------------------------|------------------------------|
| Each DigAlert Ticket | \$50 |
| No DigAlert Ticket Provided | \$50 per each year requested |
| Copy of conversation | \$50 per location requested |

EXHIBIT V

Design Stage Fees Effective January 1, 2014

I. Member

| | |
|-------------------------|-----------------------------|
| USA/SC Personnel | \$25.00 up to 1 square mile |
| Web Design Subscription | Free |

II. Non Member

| | |
|---------------------------------|-----------------------------|
| USA/SC Personnel | \$50.00 up to 1 square mile |
| 6 month Web Design Subscription | \$150.00 |
| 1 year Web Design Subscription | \$240.00 |
| 2 year Web Design Subscription | \$350.00 |

EXHIBIT VI

**CONTACT 811
2 Working Days Before You Dig**
(not including the date of notification)



DigAlert No. _____

LOCATION REQUEST FORM

For faster service, prior to call fill out all non-italicized fields

For Single Addresses, Use DigAlert Express @ www.digalert.org

Date & Time of call: _____ *Operator:* _____

Company phone #: _____ Caller: _____

Company name: _____

Address: _____

City: _____ State: _____ Zip: _____

Fax: _____ Email: _____

Best time to reach you: _____

Foreman: _____ Alternate phone #: _____

Delineation Method (check all that apply): None Chalk Flags Flour
 Pink Paint Stakes Whiskers White Paint Other

County: _____ City: _____

If more than 1 address or descriptive location: _____

Address: _____ Street: _____

Closest X/ST: _____

Does the excavation enter into the street or sidewalk: Yes No

Latitude/Longitude: _____

Boring: Yes No Explosives: Yes No Vacuum: Yes No

Type of work: _____

Any work at night: Yes No Any work over the weekend: Yes No

Date & Time work is to begin: _____

Instructions: Mark By Meet & Mark Validate Permit Only Now

Work being done for: _____

Permit #: _____ Not Required Not Available Blanket

Work Order/Job #: _____

Update on or before date: _____

Member notified by USA: _____

ASSOCIATE MEMBER AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20__, by and between the UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA (Hereinafter referred to as "USA-SC") and _____(Hereinafter referred to as "Associate Member").

WITNESSETH:

WHEREAS, USA-SC is a nonprofit mutual benefit corporation organized under the laws of the State of California which operates a regional notification center to facilitate notice to members with underground facilities of proposed excavation; and

WHEREAS, Associate Member desires to become a member of USA-SC and -USA-SC desires to accept Associate Member as a member.

NOW, THEREFORE, the parties hereto agree as follows:

1. Associate Member has reviewed the USA-SC Articles of Incorporation, By-Laws and Operating Procedures and hereby accepts and agrees to be bound by the terms and conditions thereof as they currently exist, and as may be amended from time to time.
2. Associate Member agrees to pay dues and assessments as established by the USA-SC Board of Directors from time to time.
3. Associate Member acknowledges that its performance of Services under this Agreement may involve access to personal information of users of the USA-SC website and that such access is governed by the USA-SC Privacy Policy. Associate Member shall only use such personal information for purposes of performing Services under this Agreement in accordance with the USA-SC By-Laws and Operating Procedures.
4. This Agreement shall become effective on the day and year above first written and shall continue in effect until Associate Member's membership is terminated pursuant to Article II, Section 5 of the USA-SC By-Laws.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year above first written.

| | |
|--|--|
| <p>_____ ASSOCIATE MEMBER</p> <p>BY _____</p> <p>TITLE _____</p> | <p>UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA</p> <p>BY _____</p> <p>TITLE _____</p> |
|--|--|