

AGREEMENT

**AGREEMENT BETWEEN COUNTY OF SAN MATEO AND PACIFIC GAS AND
ELECTRIC COMPANY REGARDING THE CONSTRUCTION AND COST
RESPONSIBILITIES ASSOCIATED WITH THE 230 kV TRANSMISSION PROJECT
AT THE CRYSTAL SPRINGS RESERVOIR IN SAN MATEO COUNTY
PROJECT NO. R1103 [F151-(7D)]**

THIS AGREEMENT, made and entered into this _____ day
of _____, 2008, by and between the **COUNTY OF SAN MATEO**, a political
subdivision of the State of California, hereinafter called “County”, and the **PACIFIC GAS AND
ELECTRIC COMPANY**, a California corporation, hereinafter called “PG&E”.

W I T N E S S E T H :

WHEREAS, the County operates and maintains the existing bridge structure (“Existing
Bridge”), which is located on top of the Crystal Springs Dam and connects the two adjacent
sections of Skyline Boulevard, a County maintained road, and

WHEREAS, Crystal Springs Reservoir is owned by the City and County of San
Francisco and is managed by the San Francisco Public Utilities Commission (SFPUC), as a
municipal watershed, and

WHEREAS, PG&E was granted a Certificate of Public Convenience and Necessity (CPCN) by the California Public Utilities Commission (“CPUC”) on August 19, 2004, for the Jefferson-Martin 230 kV Transmission Project (the “Project”), and

WHEREAS, the Project involved the construction of a new 27 mile-long 230 kV electric transmission line consisting of both overhead and underground segments between PG&E’s Jefferson Substation and Martin Substation, and

WHEREAS, the southern segment of the Project extends across the Crystal Springs Reservoir at the Existing Bridge, and

WHEREAS, the Project has been completed, with the exception of an underground crossing at the bridge location, which is currently overhead, and

WHEREAS, the County is preparing to design and replace the Existing Bridge with a new pre-stressed concrete bridge structure (“Replacement Bridge”), and

WHEREAS, the Replacement Bridge is subject to various regulatory approvals, and the County does not know when said approvals will be received, and

WHEREAS, PG&E desires to have the County design and construct their conduit facilities to their specifications within the Replacement Bridge structure (conduit facilities), and

WHEREAS, the design of said conduit facilities must be in accordance with current engineering practices and take into account the seismic conditions of the area as well as the proximity of proposed pedestrian and vehicular traffic, and

WHEREAS, PG&E desires to install its 230 kV electric transmission and fiber optic lines through the constructed conduit facilities under an encroachment permit, and

WHEREAS, PG&E desires to operate and maintain the 230kV electric transmission and fiber optic lines in accordance with its franchise agreement with the County, and

WHEREAS, the County may include, in its design and construction contracts, the accommodation of said PG&E utilities by including the conduit facilities, located between the electrical vaults north and south of the Existing Bridge, and

WHEREAS, the parties agree that the incremental cost incurred by the County associated with inclusion of PG&E's conduit facilities in its contracts should be borne by PG&E, and

WHEREAS, by this Agreement, PG&E and the County seek to memorialize the terms and conditions for accommodation of the longitudinal location of the transmission line within conduit facilities on the Replacement Bridge.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

In consideration of the covenants provided herein, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1. **Accommodation of Transmission Line within the Replacement Bridge:** The County hereby gives PG&E a non-transferable permit to use the County's Replacement Bridge only for the installation, operation and maintenance of a longitudinal 230 kV transmission line and a fiber optic communication line (collectively called, "Operations."), in accordance with the Franchise Agreement issued by the County in 1937 (Ordinance No. 456). No other use of the Replacement Bridge is authorized without the prior written permission of the County. The use of the Replacement Bridge by PG&E, along with all associated Operations, shall be subject to County's approval, and shall:
 - 1.1 Comply with the requirements of all applicable governmental regulatory agencies including the Federal Energy Regulatory Commission (FERC) and the California Public Utilities Commission (CPUC).

- 1.2 Comply with all applicable laws, orders, ordinances, regulations, licenses and permits, if any, of any Federal, State and Local authorities with jurisdiction over PG&E's Operations or the construction of the Replacement Bridge.
- 1.3 Not interfere with the County's use of its property, the free and safe flow of traffic on the Replacement Bridge, or the County's construction and maintenance work, unless prior written approval is expressly granted from the County.
- 1.4 Not cause any public safety hazard.

2. **Planning and Design of the Transmission Line Facilities within the Replacement Bridge:** At the request of the County, and within a reasonable period of time to be mutually agreed upon by the County and PG&E, PG&E will submit to the County the proposed design plans and specifications for accommodating the location of conduit facilities and access openings proposed to be installed within the Replacement Bridge. The plans shall divide the conduit facilities into manageable elements and, for each element, shall include the location, alignment, length, size and/or capacity, type, class, design loads (weight), pertinent operating conditions, and design features of the proposed facilities.

The County and PG&E agree to exchange technical data and other relevant information related to the construction of the conduit facilities and the Replacement Bridge. The County and PG&E agree to participate in timely review (not more than ten (10) working days) of the design of the conduit facilities. Exceptions to the timely response will apply to items subjected to Federal, State, Regulatory, or Local agency reviews and/ or approvals. PG&E shall be responsible for the design of the conduit facilities, subject to the County's approval.

- 2.1 The conduit facilities shall be of durable materials designed in accordance with PG&E minimum standards. PG&E will provide the County with minimum specifications and plans for the conduit facilities, including but not limited to minimum clearance required with bridge reinforcing steel, special details, material unit weights, location of access points, and alignment prior to any design revisions associated with adding the conduit facilities to the Replacement Bridge design. Final approval for the conduit facilities, to be installed, and access locations shall be by the County.
- 2.2 The conduit facilities will consist of four (4) six-inch conduits for transmission circuits, two (2) four-inch conduits for fiber optic cable, and related access points along the Replacement Bridge, for access to such conduits. The In-Bridge conduit system shall be of suitable strength, support, and protection to meet an intended minimum life of 40 years. PG&E submittals shall address methods of repair and/or replacement of the conduit facilities should the life expectancy of these

facilities be determined to be less than the expected service life of the Replacement Bridge.

- 2.3 After County's execution of the Replacement Bridge design contract and per County request, in writing, PG&E shall pay County an engineering advance of Fifty Thousand Dollars (\$50,000) for the design work performed by the County in connection with the conduit facilities. The County and /or its consultant will provide monthly invoices of the charges debited against this engineering advance. These invoices will be available to PG&E upon request.
 - 2.4 If the design work performed by the County and/or its consultant exceeds the engineering advance, PG&E will deposit additional funds in an amount equal to the actual cost for the County and/or its consultant to complete such design work. Failure, on the part of PG&E, to provide the requested additional funds within sixty (60) calendar days of request of payment shall cause the County to cease all work on said PG&E conduit facilities.
3. **Construction of the Transmission Line Facilities within the Replacement Bridge:** County and/ or its consultant shall provide an estimate for the cost of construction of the PG&E facilities, based on plans as mutually approved by County and PG&E. The cost estimate shall specify the estimated cost of each element of the construction of the PG&E facilities and shall include the following items: labor, materials and supplies (including long lead time materials) and other direct costs related to all aspects of PG&E facilities. PG&E shall review the estimates and notify County, within thirty (30) calendar days of receipt of estimates from County, of intention to include conduit facilities in County's Replacement Bridge Project in accordance with the approved plans. Should PG&E not provide approval to include work within County's Replacement Bridge Project, within time specified, County shall proceed without the inclusion of PG&E's conduit facilities in said structure. After construction of the Replacement Bridge, PG&E will submit an encroachment permit application for installation of the transmission lines.
- 3.1 Installation of transmission lines and optic fiber lines shall be with PG&E forces and shall not start until the construction of the Replacement Bridge is completed as stated in Section 4 of this agreement.
 - 3.2 PG&E's inspectors shall have access to the construction of the conduit facilities. PG&E will provide inspectors to verify in writing that the construction of the conduit facilities are in accordance with PG&E's specifications as given to the County and as stated in Section 2 above. PG&E shall make field and shop inspections and shall verify all tests associated with the conduit facilities. County shall provide PG&E with testing certificates in accordance with approved specifications, relating to the material to be provided, including concrete and conduit material in advance of installation. Any cost incurred by the County in

connection with providing the aforementioned testing certificates shall be included in the cost to be reimbursed to the County.

- 3.3 All issues relating to PG&E facilities shall be conveyed to the County inspector to convey to the prime bridge contractor.
 - 3.4 At any time after the Award of Contract for the Bridge Replacement Project by the County, if either party determines that it is necessary to deviate from the approved conduit facilities plans, the party making the determination shall notify the other party. The parties shall agree upon the nature and scope of the deviation from the approved plans. The County shall not proceed with the deviation to the conduit facility plans until it has received approval in writing to proceed from PG&E.
4. **Conditions To Occupancy of the Replacement Bridge:** PG&E and County agree to the following conditions in conjunction with County's authorization of occupancy of the Replacement Bridge:
- 4.1 PG&E shall have no more than four (4) 6-inch diameter conduits longitudinally along the length of the Replacement Bridge, and two (2) 4- inch diameter conduit for fiber optic communications. PG&E is not limited to the number of fibers contained within each conduit. Construction of said conduit facilities for PG&E shall be performed by the County's Bridge Replacement contractor, as outlined by the conditions of this agreement.
 - 4.2 The transmission lines and fiber optic cables shall be installed by PG&E forces upon completion and acceptance of the Replacement Bridge construction by the County. The County will provide PG&E with notice of completion of construction of the Replacement Bridge and an opportunity to inspect the conduit facilities as stated in Section 3 above.
 - 4.3 Subject to obtaining approval from the California Independent System Operator to take the Jefferson-Martin 230 kV transmission line out of service during relocation, within twelve (12) months of County's completion of the Replacement Bridge, PG&E will relocate its overhead electric transmission facilities into the conduit facilities.
 - 4.4 PG&E shall follow County's standard utility permit process to facilitate the installation of its transmission and fiber optic lines. PG&E shall complete and submit the County's current encroachment permit application for the installation of its lines. The permit covered by this Agreement is for the Replacement Bridge only. PG&E's use of the Replacement Bridge shall be in accordance with the franchise agreement issued by the County in 1937 (Ordinance No. 456).

- 4.5 PG&E shall obtain all additional permits or agreements that may be necessary from the City and County of San Francisco for facilities that will be installed and maintained outside of the County's right of way. Any costs, mitigation measures or other requirements imposed under permits or agreements with the City and County of San Francisco, the SFPUC or any other government agency associated with the conduit facilities or Project shall be the sole responsibility of PG&E.
 - 4.6 Any damages to the Replacement Bridge or other County properties resulting from PG&E's installation of the transmission facilities will be repaired to County's satisfaction at PG&E's cost.
 - 4.7 PG&E shall not occupy the Replacement Bridge until construction is complete and PG&E has fully reimbursed the County for all payments due under this agreement.
5. **Compensation and Method of Payment:** PG&E shall reimburse County one hundred percent (100%) of the actual net cost the County incurred in effecting the design and construction of said conduit facilities in the Replacement Bridge.
- 5.1 For purposes of this Agreement, "actual net cost" will be determined in accordance with regularly established accounting practices and will include the following charges:
 - 5.1.1. Wages and salaries of County's employees and contractors directly engaged in design and construction of the conduit facilities.
 - 5.1.2. Materials and supplies actually consumed in the conduit facilities, and the transportation thereof, at actual cost, less any cash discounts received by County.
 - 5.1.3. Incidental direct costs to County arising directly from incorporating the conduit facilities into the design and construction of the Replacement Bridge.
 - 5.2 PG&E shall deposit funds for the estimated final construction cost, of said conduit facilities based on the bid amount received from the lowest responsible bidder for the Bridge Replacement Project. Said funds shall be deposited with the County within forty five (45) calendar days of the Award of Contract by the County. Failure by PG&E to pay all outstanding charges for design as set forth in Section 3 hereof, or to deposit said construction funds within the stipulated time frame shall be cause for the County to proceed with construction of the Replacement Bridge without the inclusion of said PG&E facilities.
 - 5.2.1. **Final Payment:** Forty five (45) calendar days after satisfactory completion and acceptance of the conduit facilities, County shall submit a

final invoice to PG&E certifying to the completion of the conduit facilities and setting forth, the total final cost, to include construction, and contract change orders. The cost for said conduit facilities shall be debited from funds on account with the County.

5.2.2. If final costs are determined to exceed said amount deposited per Section 5.2 of this agreement, PG&E shall then provide the County with the balance of any outstanding funds for cost determined to be related to PG&E conduit facilities. If it is determined, by the County, that the actual net cost is less than any amount previously paid by PG&E under this Agreement, County shall reimburse PG&E the amount of the difference between the amount paid and the actual net cost, without interest.

5.3 PG&E shall have reasonable access to County's accounts and records for the purpose of auditing the County's invoices. If, after such invoices are prepared, it is determined that the actual net cost is less than any amount previously paid by PG&E under this Agreement, County shall reimburse PG&E the amount of the difference between the amount paid and the actual net cost, without interest. For a period of five years after completion of the conduit facilities, each party shall keep and maintain all books, papers, plans, drawings, records, accounting record, files, reports and other material relating to the construction of the conduit facilities on the Replacement Bridge and shall make these records available to the other party and their respective auditors at any reasonable time and upon reasonable notice for the purposes of auditing, inspection, and copying. County shall include in any contract for any part of the conduit facilities a similar requirement and a provision requiring its contractor to require any subcontractor to do likewise.

5.3.1. If deviations per Section 3.4, are required by PG&E or, in County's determination, there are additional costs directly resulting from including PG&E transmission line or conduit facilities within the Replacement Bridge, all costs associated with the deviations, including but not limited to the cost of contractor delays, alteration to planned construction methods, additional permit fees and additional design analysis, shall be paid by PG&E in accordance with this Agreement.

5.3.2. If deviations are required by the County, the cost associated with the deviations shall be the responsibility of the County in accordance with the terms of this agreement.

6. **Ownership:** The conduit facilities installed on the Replacement Bridge as part of the Project shall be PG&E's solely-owned property and responsibility. PG&E shall have the exclusive right to occupy the conduit facilities. PG&E shall own and maintain the

conduit facilities and all conductors in said facility. Ownership does not apply to any other part of the Replacement Bridge.

7. **Future Utility Accommodations:** This Agreement does not provide for exclusive use of the Replacement Bridge by PG&E. County may allow utility installations adjacent to PG&E's facilities, provided that any such utilities comply with the minimum separation requirements established by FERC, the CPUC or any other governmental agencies with jurisdiction. The County shall also make reasonable efforts to minimize any potential conflicts with PG&E's facilities and to reduce the possibility of accidental damage.
8. **Rearrangements To Accommodate Construction of the Replacement Bridge.** PG&E shall remove, adjust or realign temporary overhead lines in accordance with PUC section 6297 and with existing easements, agreements and permits.
9. **Dispute Resolution:** Either party may give the other party written notice of any dispute. If PG&E disputes an invoice, PG&E shall give County notice of the dispute within thirty (30) calendar days of receipt of the invoice. The notice shall state the basis of the dispute.
 - 9.1 The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between a vice president of PG&E or, if designated by a vice president, an operations director, and the Director of Public Works or designated representative. Within twenty (20) calendar days after delivery of the notice specified in Section 9, the executives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute.
 - 9.2 If the matter has not been resolved within thirty (30) calendar days of the first meeting, either party may initiate a mediation of the controversy. Neither party may initiate litigation until at least one mediation has been conducted.
 - 9.3 Notwithstanding the foregoing provisions, a party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo.
 - 9.4 Each party is required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.
10. **Choice of Laws:** This Agreement shall be construed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.
11. **Integration:** This Agreement and the exhibits hereto constitute the entire agreement and understanding between the parties as to the subject matter of the Agreement. This

Agreement supersedes all prior or contemporaneous agreements, commitments, representations, writings, and discussions between the County and PG&E, whether oral or written, and has been induced by no representations, statements or agreements other than those expressed herein.

12. **Amendments and Waivers:** Neither this Agreement nor any terms, covenants, agreements, conditions or provisions hereof may be amended, supplemented or modified except in writing signed by the parties. The parties may, from time to time,
 - (a) enter into written amendments, supplements or modifications hereto for the purpose of adding or modifying any provisions to this Agreement or changing in any manner the rights of the parties hereunder, or
 - (b) waive, on such terms and conditions as may be specified in writing, any of the requirements of this Agreement.

13. **Contribution:** Notwithstanding any other provision in this Agreement, if any contractor fails to perform its obligations with respect to the conduit facilities:
 - (a) The County and PG&E shall meet and confer to determine what remedies, if any, to pursue against the breaching entity;
 - (b) PG&E shall contribute the cost of pursuing a remedy against the breaching entity pertaining to the design and construction of the conduit facilities. PG&E shall be entitled to reimbursement of any such costs from any recovery obtained by the County from the breaching entity.

14. **Termination:** Any Party may terminate the Agreement at any time prior to County's issuance of the Notice to Proceed with the Replacement Bridge's construction contract upon thirty (30) calendar days written notice to the other party. If the Agreement is terminated, PG&E will compensate County, for its portion of all actual documented and agreed upon completed costs incurred by County, for that portion of work, up to the day of termination.

Once the Notice to Proceed for the Replacement Bridge construction contract has been issued, this Agreement may only be terminated with the mutual written consent and terms acceptable to all Parties.

This agreement shall terminate upon completion and acceptance of the construction contract for the Project and, the satisfactory completion of all post-construction obligations of PG&E per Section 4, “Conditions to Occupancy of the Replacement Bridge”, and Section 5, “Compensation and Method of Payment” of this agreement, with concurrence of County.

Should any construction-related or other claims arising out of Project be asserted against one of the parties, the parties may agree to extend the termination date of this Agreement per Section 12, Amendments and Waivers.

15. **Hold Harmless:** PG&E shall indemnify, defend and hold harmless the County and its officers from all liability for claims, losses or damages brought by a third party, including without limitation those resulting from any claim by any contractor, for additional compensation or for injury or property damage proximately resulting from any construction work in connection with or related to the conduit facilities, except to the extent such claim, loss or damage is the result of the active negligence or willful misconduct of the County or its officers or employees.
16. **Execution/Effective Date:** A copy with all original executed signature pages affixed shall constitute the original Agreement and be retained by the County. The Term of the Agreement shall commence upon execution of the Agreement by both parties.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands
the year and date written below:

PACIFIC GAS AND ELECTRIC COMPANY: (PG&E)

By: _____
Name

Title: _____

COUNTY OF SAN MATEO: (County)

By: _____
Adrienne Tissier
President of the Board of Supervisors

Attest: _____

Date: _____