

SERVICES AGREEMENT

This Services Agreement is made and entered into as of June 3, 2014 (“Effective Date”) by and between, on the one hand, County of San Mateo, a municipal corporation of the State of California (County) and the Bel-Aire Lighting Maintenance District, Belmont Highway Lighting District, Colma Highway Lighting District, County Service Area No. 6, Granada Highway Lighting District, Emerald Lake Heights Highway Lighting District, Enchanted Hills Lighting Maintenance District, La Honda Lighting Maintenance District, Pescadero Highway Lighting District, Menlo Park Highway Lighting District, Montara Highway Lighting District (formed pursuant to Legislations as defined below in Section 1 and staffed by County of San Mateo Department of Public Works, collectively referred to herein as “the Lighting Districts”) and, on the other hand, Pacific Gas and Electric Company, a California corporation, with offices at 77 Beale Street, San Francisco, California 94105 (“PG&E”). County, the Lighting Districts and PG&E shall each individually be referred to as a “Party” and together constitute the “Parties.”

RECITALS

WHEREAS, the County of San Mateo is a municipal corporation formed under the laws of the State of California in 1850 (the “County”);

WHEREAS, the Lighting Districts are assessment districts, maintenance districts and/or unincorporated areas located in the County that have been formed pursuant to the Legislation;

WHEREAS, the Lighting Districts are operated and managed by employees of the County of San Mateo Department of Public Works;

WHEREAS, County and the Lighting Districts desire assistance in implementing energy conservation and management services and other energy-related projects and services at one or more of its facilities located in PG&E’s service territory;

WHEREAS, PG&E desires to assist County and Lighting Districts implement the energy conservation measures as more fully set forth herein; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set out in this Agreement, County, the Lighting Districts and PG&E agree as follows:

1. DEFINITIONS. In addition to those definitions set forth elsewhere in this Agreement, the following capitalized terms shall have the meanings set forth below:

1.1 “Agreement” shall mean this Agreement, and all such Agreement’s Exhibits, Work Orders and Change Orders, all of which are incorporated herein; as such Agreement, Exhibits, Work Orders or Change Orders may be amended, changed or modified from time to time.

1.2 “Change” shall mean: (a) any material addition to, deletion from, suspension of or other modification that materially affects the design, configuration, quality, or function of the Project or the Services; (b) a change or modification to or repeal of an applicable law after the Effective Date, (c) delay or other demonstrable material adverse impact to the Work Order resulting from a Force Majeure Event, or (d) any applicable performance or compliance requirement which Customer may newly articulate or revise during the Term.

1.3 “Change Order” shall mean a written document signed by the Parties that describes a Change to the Scope of Work or Work Order, and authorizes and directs PG&E to perform such Change. The Change Order may also authorize the additional compensation, if any, to be paid PG&E to perform such Change.

1.4 “Customer” shall mean, collectively, the County and those Lighting Districts executing Work Orders pursuant to this Agreement.

1.5 “Energy Conservation Measures” or “ECM” means an energy conservation measure which may include a feasibility study, engineering and design (*e.g.*, IGA), operation and maintenance.

1.5 “Investment Grade Audit” or “IGA” shall mean the detailed analysis of all or a portion of a Facility to determine the technical and financial feasibility of implementing, operating and maintaining one or more ECMs at such Facility.

1.6 “Equipment” shall mean all of the equipment, machinery, technology and other items described in the applicable Work Order.

1.7 “Facility(ies)” shall mean the above-ground buildings and related premises owned or leased by the County or a Lighting District as set forth in the applicable Work Order.

1.8 “Force Majeure Event” shall mean any cause, act, event, condition or other occurrence materially impacting the Services or the Project Schedule not caused by the Party asserting the Force Majeure Event and that is beyond the control of such Party to avoid, overcome or remedy through the exercise of due diligence and reasonable efforts. Without limiting the foregoing, the following are examples of Force Majeure Events: acts of God and the public enemy; the relocation, repair, shut down, or construction of PG&E transmission or distribution facilities; flood, earthquake, tornado, storm, fire, power failures, epidemics, civil disobedience, labor disputes, shortage of components and supplies.

1.9 “Hazardous Materials” shall mean any hazardous, toxic or dangerous wastes, substances, chemicals, constituents, contaminants, pollutants, and materials, including without limitation, asbestos-containing equipment or materials, lead-based paint, ozone depleting refrigerants, fluorescent tubes, fluorescent magnetic core and coil ballasts, carcinogenic, corrosive, ignitable, radioactive, and reactive or otherwise hazardous substances or mixtures (whether solids, liquids, or gases) now or at any time subject to regulation, control, removal, remediation or otherwise addressed under applicable law or under PG&E's CPUC-approved rules.

1.10 “Legislation” shall mean, collectively, the California Streets and Highways Code Section 5820 *et seq.*, California Streets and Highways Code Section 19000 *et seq.*, and the California Government Code Section 25210.1 *et seq.*

1.11 “Material Changed Condition” shall mean the unforeseeable or unanticipated discovery of the presence of Hazardous Materials or other unanticipated or unforeseeable condition or circumstance, at or near a Facility or Project site that has occurred or has been discovered after the Services has commenced that materially impacts the Schedule, the Services or PG&E's costs to perform the Services, was not caused by PG&E and that PG&E could not have discovered through the exercise of reasonable due diligence. Only by way of example, a Material Changed Condition includes but is not limited to (i) Hazardous Materials or other differing and unexpected site conditions, surface or subsurface conditions, (ii) adverse weather conditions unusual to the area where the Services is to be performed and that could not have been anticipated and that materially impacts the Services or Project Schedule; or (iii)

unforeseeable material delays in Equipment, material deliveries or the availability of labor that materially impacts the Services or Project Schedule.

1.12 “Project” shall mean energy efficiency, energy conservation, energy management, energy production or other energy-related measures or projects; or any other energy-related matter, measure or project that is, or will become, the subject of a Work Order.

1.13 “Project Schedule” shall mean the estimated commencement date, sequence, duration, and, if appropriate, milestones, for Substantial Completion of the Project as set forth in the Work Order.

1.14 “Services” mean, collectively all activities to be performed by PG&E pursuant to this Agreement to complete a Project, including, without limitation, preliminary and/or IGA, design, Equipment or materials procurement, construction, installation, testing, completion, maintenance and operation of a Project. Services shall also include all labor, work, Equipment fabrication, assembly, modification, repair and replacement, and other activities as the Parties may agree upon and are set forth in a Work Order.

1.15 “Scope of Work” shall mean all of the Services to be performed by PG&E and/or its Subcontractors pursuant to the terms and conditions of a Work Order, and any Change Orders to a Work Order, as well as all other efforts of PG&E and other entities with respect to such Work Order, for the implementation of an ECM alone or as part of a Project pursuant to the terms and conditions of this Agreement and as specifically described in each Work Order and applicable Change Orders.

1.16 “Subcontractor” shall mean any corporation, limited liability company, partnership, association, or individual hired by PG&E to perform Services.

1.17 “Substantial Completion” shall mean the Project is generally capable of being used for or of achieving the purpose intended by the Work Order.

1.18 “Work Order” means the document executed by PG&E, the County and Lighting District (if applicable) to complete the Services identified in such Work Order. Each Work Order shall be subject to the terms and conditions of this Agreement and the terms and conditions set forth in such Work Order. If there is a conflict between the Work Order or Change Orders and the terms and conditions of this Agreement, such Work Order/Change Order shall take precedence and shall establish the Scope of Work of each Project.

2. SCOPE. This Agreement shall operate as a master agreement under which County, on behalf of itself or the Lighting Districts, may engage PG&E to implement ECMs at one or more of the facilities of County or a Lighting District by executing one or more Work Orders. All Work Orders shall be subject to and governed by this Agreement. Each Work Order shall continue for the term specified therein, unless sooner terminated as permitted by this Agreement or the applicable Work Order.

3. RELATIONSHIP OF THE PARTIES.

3.1 Independent Contractors. The County, Lighting Districts and PG&E are independent contractors. Nothing herein shall be construed as creating any agency, partnership, or other form of joint enterprise between County, the Lighting Districts and/or PG&E and County, Lighting Districts and PG&E may not create any obligations or responsibilities on behalf of the others.

3.2 Subcontractors. PG&E may subcontract its obligations hereunder to other persons or entities in order to perform the Services hereunder. PG&E agrees to impose on its Subcontractors obligations consistent with those set forth in this Agreement with respect to safety, security, confidentiality, insurance and indemnification. The fees and costs billed to Customer shall be inclusive of any and all fees and compensation due to any Subcontractors.

3.2.1 Subcontractor Selection. PG&E may perform some or all of the Services under a Work Order itself or through Subcontractors. Subcontractor selection shall be based on cost, experience, past performance, reliability and such other factors as practicably related to the Customer's needs.

3.3 Project Management.

3.3.1 Authorized Persons. County, the Lighting Districts and PG&E will each designate an employee who is sufficiently experienced to provide the information and support necessary to the other party for the performance of this Agreement (the "Authorized Person"). The Authorized Person for the County, the Lighting Districts and PG&E shall be the primary point of contact for inquiries and requests. Each such Authorized Person shall provide the other with such information and assistance as may be reasonably requested by the other from time to time for the purpose of the performance of this Agreement.

3.3.2 Approvals. The Authorized Person for each party will have the authority to issue, execute, receive, grant and provide any and all approvals, requests, notices and other communications permitted, required or requested by the other party; provided, however, that neither Customer nor PG&E shall rely for any purpose on any oral communication not confirmed in writing by an Authorized Person within twenty-four (24) hours, and provided however, that neither Customer nor PG&E shall rely for any purpose on any oral communication which would have the effect of amending this Agreement.

4. **SERVICES.**

4.1 General. County, on behalf of itself or a Lighting District, may request that PG&E assist Customer in the implementation of one or more of the ECMs at set forth in Exhibit A, which is attached hereto and incorporated by reference herein.

4.1.1 Preliminary Audit. At Customer's written request, PG&E or its Subcontractor will conduct, at no cost to Customer, a preliminary audit consisting of an on-site building investigation and evaluation for a mutually agreeable Facility to determine if any significant energy conservation opportunities exist and whether a further IGA is needed.

4.1.2 Investment Grade Audit. After reviewing the Preliminary Audit, the Parties may enter into a Work Order setting forth a Scope of Work for an "IGA to determine whether the ECMs proposed in the Preliminary Audit are feasible. The Work Order for the IGA shall specify the terms for completing the IGA and establish a price for the IGA. Customer shall pay for the IGA in accordance with the payment terms of this Agreement and the applicable Work Order. Unless otherwise agreed upon in the Work Order for the IGA, Customer shall provide PG&E, at Customer's sole cost and expense, legible and complete copies of all floor plans, drawings and any other documents deemed necessary by PG&E in order to provide the IGA.

4.1.3 Design and Implementation Phase. Upon completion of the IGA, PG&E will provide an ECM implementation proposal, which would include additional design, engineering and

construction services (the “Proposal”). Customer shall evaluate the Proposal for technical and price reasonableness. If Customer elects to proceed with the ECM, the Parties will agree upon a Scope of Work with specifications, time of performance, ECM cost, source and cost of capital or financing, payment terms, amortization schedule and termination schedule which shall be set forth in a Work Order. If required, PG&E will provide acceptable payment and performance bonds.

4.1.4 Assumptions. Customer understands that performance of the Services is dependent upon Customer’s cooperation. Therefore, Customer agrees to use its best efforts to cooperate with PG&E in the performance of the Services and shall provide PG&E with timely access to, during normal business hours, and use of Customer’s personnel, facilities, data, Equipment, materials and information to the extent necessary for PG&E to perform the Services. Customer acknowledges and agrees that Work Orders may set forth additional details regarding PG&E’s access to and use of the foregoing as well as Customer’s computer systems and networks.

4.2 Changes and Change Orders. If a Change has occurred the Parties shall, if reasonably possible, agree on a Change Order. If the Parties are unable to agree on a Change Order, PG&E shall suspend its performance of the Services including the Change, until such time as the Parties’ disagreement has been resolved pursuant to Section 11 (Dispute Resolution).

4.2.1 Material Changed Condition. PG&E will give written notice to Customer of the discovery of Hazardous Materials on or near a Facility, or other condition or circumstance PG&E or its Subcontractor believes to be a Material Changed Condition. Neither PG&E nor its Subcontractor will remove, remediate, repair or otherwise disturb any site, soil, subsurface conditions, Hazardous Materials or other adverse impacts on the Services or the Facility until Customer has had a reasonable opportunity to investigate to determine whether a Material Changed Condition has occurred. If Customer reasonably determines a Material Changed Condition has occurred, the Parties will, if reasonably possible, agree on a Change Order with respect to such Material Changed Condition. If the Parties fail to agree on a Change Order relating to a Material Changed Condition, PG&E shall suspend Services until such time as the Parties have resolved the disagreement pursuant to Section 11 (Dispute Resolution).

(a) Handling and Disposal of Hazardous Materials. Customer acknowledges and agrees that PG&E has no obligation to investigate or inspect the Facility for the presence of Hazardous Materials, or to identify, remove, dispose of, abate, or remediate Hazardous Materials. Customer shall have sole responsibility for the identification, removal, disposal, abatement or remediation of Hazardous Materials, and for the clean-up, transport and disposal of any fixtures, materials, Equipment, or substances containing, exposed to or contaminated by Hazardous Materials, all in accordance with applicable laws.

4.2.2 Unanticipated Conditions. If any unusual or unanticipated conditions exist or arise at the Site (such as Hazardous Materials, environmental conditions or pollution), which conditions would involve the incurrence by PG&E of any expenses to correct such conditions, PG&E shall submit a written request to Customer for Customer’s prior written approval of the corrective work and payment of the related expenses. The additional Services resulting therefrom will be set forth in a Change Order signed by both Parties.

4.2.3 Safety Waiver and Repair Services. If in the process of performing the Services, a condition is discovered at the Facility that, in the sole judgment of PG&E, (a) represents an extreme safety hazard to its worker’s safety or other personnel, (b) may cause operational failure of the Equipment comprising the Facility, or (c) may cause damage to other Equipment being served by the Facility, PG&E will immediately notify Customer in writing of such condition and the Services necessary to remedy the



condition. Customer will be asked to sign this written notification in the form of Exhibit B (Safety Waiver). Failure or refusal to sign the Safety Waiver will relieve PG&E and its Subcontractors of any responsibility to perform the Services.

4.2.4 Customer Delay. If the performance of particular Services by PG&E depends upon approvals or other decisions by Customer, or Customer furnishing particular data, drawings, documents or other information, and Customer does not timely perform or provide the same, the minimum time estimate for PG&E's completion of the particular Services which are dependent thereon shall be extended by the period of Customer's delay with respect thereto.

4.2.5 Change Costs. Customer shall reimburse PG&E for those reasonable costs incurred by PG&E or its Subcontractor(s) to implement a Change in accordance with the Change Order. These costs include, but are not necessarily limited to, increased costs for design and other professional services, expenses and taxes, if any.

4.2.6 With respect to any Change Order made in accordance with this Section 4, Customer acknowledges that PG&E and its Subcontractors shall not be obligated to commence and/or perform any Services pursuant to a Change Order unless and until PG&E has received the signed Change Order and Customer has issued PG&E a Work Order for such Change Order.

4.3 PG&E's Utility Obligations. Customer acknowledges that PG&E has an obligation to maintain, repair and service its own facilities, including those under the operation and control of the California Independent System Operator, in order to perform its duties as a public utility, which obligation takes precedence over any obligations undertaken in this Agreement. Accordingly, if PG&E determines at any time, in its sole discretion, that it requires any personnel or resources previously committed to the performance of Services under a Work Order in order to maintain adequate service to PG&E's other customers or to fulfill its duties as a public utility, then PG&E shall have the right to divert the use of such personnel or resources to satisfy such requirements. If as a result of such action, PG&E is unable to perform its obligations under this Agreement and is unable to procure a third party to perform the Services (or a portion thereof), then PG&E shall be excused from the performance of the Services affected by such action to the extent so affected. In that event, PG&E shall have no liability to Customer, and shall not be considered in default under this Agreement, for such failure to perform.

5. FACILITY SAFETY AND HAZARDOUS MATERIALS

5.1 Facility Safety. Customer shall be responsible for ensuring that the Facilities are safe for PG&E personnel and Subcontractors performing Services at Customer's facilities. Customer shall also cooperate with PG&E personnel working on-site and shall promptly take such actions that may be requested by PG&E personnel to help ensure a safe working environment.

5.2 Hazardous Materials. Prior to performing any Services at a Facility, Customer will inform PG&E and Subcontractors of the presence of any Hazardous Materials of which Customer is aware exist inside the Facility (e.g., asbestos). If PG&E or its Subcontractor discovers any Hazardous Materials at or around the Facility after commencement of the Services, the procedures specified below in Section 5.3 shall apply. Neither PG&E nor its Subcontractors shall handle, remove, dispose of or remediate any Hazardous Materials absent Customer's prior written instructions and the execution of a Change Order.

5.3 If, during performance of the Services, PG&E or a Subcontractor reasonably believes that it has encountered or detected the presence of Hazardous Materials, PG&E will promptly stop

performing the Services and notify Customer of such Hazardous Materials or conditions. Customer will promptly investigate for the presence of Hazardous Materials and inform PG&E of the results of this evaluation. PG&E will not resume the performance of the Services until the Hazardous Materials have been removed, disposed of, abated or remediated to PG&E's reasonable satisfaction. Any delay or increase in the Services or costs as a result of the testing, presence, removal, disposal, abatement or remediation of Hazardous Materials shall be grounds for a Change Order.

6. COMPENSATION.

6.1 Payment Terms. Customer shall pay PG&E for the Services performed in accordance with payment terms set forth in the applicable Work Order. Unless otherwise set forth in the Work Order, each payment made by Customer must reference this Agreement, the Work Order and invoice number and be mailed to PG&E to the attention of Accounts Payable. The aggregate amount to be paid by Customer to PG&E for Services relating to streetlight replacement and installation pursuant to Work Orders issued under this Agreement shall not exceed six hundred and fifty thousand dollars (\$650,000.00) unless the Parties agree in writing to a different amount.

6.2 Late Payments. All late payments shall be subject to an interest charge, which is the greater of: (i) one and one half percent (1.5%) per month, or (ii) the maximum legal rate. In the event that any unpaid amounts are referred to collection, including but not limited to any applicable late fees, Customer shall reimburse PG&E for all costs and expenses of collection, including all reasonable attorneys' fees and costs related thereto.

6.3 Expenses. Customer agrees to reimburse PG&E for all expenses incurred in connection with PG&E's performance of the Services, including but not limited to all travel and lodging expenses. Expenses shall be invoiced at their actual cost and will be reflected on PG&E's invoices and shall be paid in accordance with the payment terms set forth in the applicable Work Order.

6.4 Taxes. Customer shall be solely responsible for the payment of any and all sales, use, transfer, and other taxes and duties, whether state, federal, national or international, however designated, which are levied or imposed on PG&E because of the Services performed under this Agreement (other than taxes based on PG&E's net income) ("Taxes"). If PG&E has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section 6.4, the appropriate amount shall be invoiced to and paid by Customer unless Customer provides PG&E with a valid tax exemption certificate authorized by the appropriate taxing authority verifying that Customer is not required to pay those Taxes and is legally exempt.

7. WARRANTIES AND WARRANTY DISCLAIMERS

7.1 Customer Warranties. Customer represents and warrants to PG&E that: (a) it has the full corporate right, power, and authority to enter into the Agreement and to perform its obligations hereunder; (b) the terms of the Agreement and the performance by such Party of its duties and obligations hereunder, do not violate and will not cause a breach of the terms of any other agreement or any applicable law to which such Party is a party or by which it is subject or bound; (c) when executed and delivered by such Party, the Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms; and (d) it is either the owner or lessee of the Facility and has all necessary rights to allow PG&E and Subcontractors access to such Facility so that they may perform the Services.

7.2 PG&E Limited Warranties.

7.2.1 PG&E warrants that the Services will be performed in a commercially reasonable manner consistent with the level of care and skill exercised by others when performing Services of a similar nature under similar circumstances. Unless otherwise agreed to by PG&E in writing, the warranty period for Services furnished hereunder shall be for a period of twelve (12) months from the date of Substantial Completion (“Service Warranty Period”).

7.2.2 Remedies. Customer must notify PG&E of any non-conformity or defect in the Services within the Service Warranty Period. If Customer notifies PG&E within the Services Warranty Period, and PG&E confirms the Services were not performed in accordance with Section 7.2.1, then PG&E, in its sole discretion, will either re-perform the non-conforming Services within a commercially reasonable period of time at PG&E’s cost and expense or (b) refund the applicable fees paid to PG&E by Customer for the non-conforming Services. THIS SECTION 7.2.2 STATES CUSTOMER’S SOLE AND EXCLUSIVE REMEDY AND PG&E’S SOLE LIABILITY FOR A BREACH OF THE SERVICE WARRANTIES SET FORTH ABOVE IN SECTION 7.2.1. THE SERVICE WARRANTIES EXTEND TO CUSTOMER ONLY AND CANNOT BE ASSIGNED BY CUSTOMER.

7.3 Third Party Warranties. PG&E shall use commercially reasonable efforts to obtain from all manufacturers, Customers and distributors’ standard guarantees and warranties (“Third Party Warranties”) on the Equipment used in the Services or in an ECM, and any warranty for the Equipment shall be limited to the Third Party Warranties provided by manufacturers, Customers, and distributors. All such Third Party Warranties, including without limitation those for defects, whether latent or patent, in Equipment shall terminate upon the conclusion of each such applicable Third Party Warranty period. Neither PG&E nor its Subcontractors shall have any liability for breach of a Third Party Warranty, whether express or implied, or for any latent or patent defect of any kind. PG&E shall assign all Third Party Warranties directly to Customer.

7.3.1 The Third Party Warranty expressly excludes any remedy or liability for damage or defect caused by the improper use, or improper or inadequate operations or maintenance of Equipment or for the Services by users other than the Customer; corrosion, erosion, deterioration, abuse, modifications or repairs not performed by an authorized subcontractor; or for wear and tear under normal usage. At Customer’s option, Customer may contact the Equipment manufacturer, Customer or distributor directly to resolve any Third Party Warranty issues and Customer acknowledges that Customer and Equipment manufacturer, Customer or distributor shall have sole responsibility for such issues.

7.4 No Guarantee of Energy Savings. PG&E DOES NOT WARRANT OR GUARANTEE ANY LEVEL OF ENERGY, WATER SAVINGS, COST REDUCTIONS OR EQUIPMENT OR ECM PERFORMANCE.

7.5 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 8, CUSTOMER EXPRESSLY AGREES THAT PG&E MAKES NO OTHER WARRANTIES AND ASSUMES NO OTHER LIABILITIES, WHETHER IN CONTRACT OR IN TORT, IN CONNECTION WITH THE AUDIT, DESIGN, ENGINEERING, EQUIPMENT PROCUREMENT, CONSTRUCTION, IMPLEMENTATION, OPERATIONS, MAINTENANCE, SERVICES, EQUIPMENT OR ECMS HEREUNDER WHETHER EXPRESS OR IMPLIED, IN LAW, IN EQUITY OR IN COMMUNICATIONS BETWEEN PG&E AND CUSTOMER. PG&E SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER SHALL HAVE NO REMEDIES AGAINST PG&E FOR ANY DEFECTIVE SERVICES, INSTALLED EQUIPMENT, OR OPERATION OF AN ECM EXCEPT IN

ACCORDANCE WITH THE WARRANTY SET FORTH IN THIS SECTION 7 OR AS THE PARTIES MAY EXPRESSLY AGREE IN ANY WORK ORDER OR AMENDMENT TO THIS AGREEMENT.

8. LIMITATION OF LIABILITY

8.1 IF PG&E IS HELD TO BE LIABLE TO CUSTOMER OR TO ANY PARTY CLAIMING BY OR THROUGH CUSTOMER BY REASON OF PG&E'S PERFORMANCE OF SERVICES UNDER THIS AGREEMENT, PG&E'S TOTAL AGGREGATE LIABILITY WITH RESPECT TO DAMAGES AND LOSSES RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE LESSER OF: (A) THE PRICE FOR THE SERVICES UNDER THE WORK ORDER GIVING RISE TO THE CLAIM; OR (B) THE TOTAL AMOUNT PAID BY CUSTOMER TO PG&E FOR THE SERVICES UNDER THE WORK ORDER GIVING RISE TO THE CLAIM.

8.2 IN NO EVENT SHALL PG&E BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, COST OF DELAYS, REPLACEMENT OF POWER, OR LOSS OF PROFITS, EVEN IF PG&E IS ADVISED BY CUSTOMER OF THE POSSIBILITY OF SUCH DAMAGES.

8.3 THE ABOVE LIMITS OF LIABILITY ARE EXCLUSIVE AS TO ALL REMEDIES AND THE LIABILITY CAP SHALL NOT BE COMBINED WITH ANY OTHER LIMITS OF LIABILITY SO AS TO INCREASE THE CAP VALUE IN ANY PARTICULAR INSTANCE OR SERIES OF INSTANCES. THE PARTIES AGREE THE ABOVE SECTIONS 7 - 9 REPRESENT THE BASIS OF THE BARGAIN AND A FAIR ALLOCATION OF RISK BETWEEN THE PARTIES.

8.4 Basis of the Bargain. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOREGOING SECTIONS ON WARRANTIES, WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY IN THE AGREEMENT FAIRLY ALLOCATE THE RISKS BETWEEN THE PARTIES AND ARE ESSENTIAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES SUCH THAT THE PARTIES WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT SUCH SECTIONS.

9. INDEMNIFICATION. Customer covenants and agrees that Customer will indemnify, defend and hold harmless PG&E, its affiliates, and PG&E's and its affiliates' respective directors, officers, employees, agents, successors and assigns (collectively, the "PG&E Indemnitees") from and against any and all claims, damages, costs, expenses, (including attorneys' fees and court costs) and liabilities (including settlements) brought or asserted by any third party against the PG&E Indemnitees resulting from, arising out of or related to any claim: (i) for personal injury, including death, or property damage, including theft, caused to any of the PG&E Indemnitees, Subcontractors or a third party by Customer's action or inaction, whether negligence or intentional misconduct; and (ii) resulting from Customer's breach of any representations, warranties or covenants contained above in Sections 7.1 or 7.2; and (iii) any data, Equipment, information, software or other property provided to PG&E hereunder or any elements embodied therein, or that any of the PG&E Indemnitees' use of any of the foregoing infringe or misappropriate the intellectual property rights of any third party (each of the foregoing (i) through (iii) are referred to as a "Claim"). PG&E shall promptly notify Customer of any Claim and shall (at Customer's sole expense) reasonably cooperate with Customer to facilitate the settlement or defense of such Claim. Customer shall, at its own expense, indemnify, defend and hold harmless the PG&E Indemnitees from and against all costs of defending the Claim, including attorneys' fees and court costs (including those incurred by the PG&E Indemnitees in enforcing this provision). Customer shall keep PG&E Indemnitees informed of, and consult with PG&E Indemnitees in connection with the selection of counsel to defend

the Claim and the progress of such litigation or settlement. Customer shall not have any right to settle any such Claim without the specific prior written approval from a designated legal representative of the PG&E Indemnitees.

10. TERM, SUSPENSION AND TERMINATION

10.1 Term. This Agreement shall commence on the Effective Date and shall terminate upon later of: (a) three (3) years from the Effective Date, or (b) the Final Completion of all then-outstanding Work Orders, unless otherwise terminated earlier pursuant to this Section 10 (the "Initial Term"); provided, however, and without limitation upon County's or the Lighting Districts' obligations for the payment of all fees for the Services, that this Agreement shall remain in effect until such time as all Work Orders executed pursuant to this Agreement have either expired or been terminated as provided in this Agreement or in the applicable Work Order. This Agreement may be renewed, upon thirty (30) days prior written notice, for two (2) additional one (1) year periods upon the mutual written agreement of the Parties (each a "Renewal Term"). The Initial Term and all Renewal Terms shall be collectively referred to as the "Term".

10.2 Termination for Cause. A Party may terminate this Agreement or any Work Order if either Party materially defaults in the performance of any of its duties and obligation hereunder, or such material default is not cured within thirty (30) days after written notice thereof, this Agreement or the Work Order (as applicable) may be terminated by the non-defaulting party for cause as of the date specified in the notice. In addition, a Party may be entitled to terminate the Agreement immediately if a Party files a petition in bankruptcy, makes an assignment for the benefit of its creditors, becomes insolvent, fails to do business in the ordinary course, shall have or suffer the appointment of a receiver or trustee for its business or property, or be adjudicated bankrupt or insolvent, or bankruptcy proceedings are commenced by or against such Party.

10.3 PG&E's Additional Termination Rights

10.3.1 Change in Law. In the event legislation or governmental regulations would prohibit PG&E from providing the Services under this Agreement (in whole or in part), PG&E may terminate the Agreement or any Work Order (without any liability or penalty) upon thirty (30) days' notice. Upon the effective date of PG&E's termination notice under this Section, Customer will pay PG&E for all of the Services provided to Customer as of the effective date of the termination notice.

10.3.2 Program Change. PG&E may terminate this Agreement immediately and without prior notice in the event the California Public Utilities Commission ("CPUC") issues a ruling or order prohibiting or otherwise preventing PG&E from fulfilling, or substantially interfering with PG&E's ability to fulfill, its obligations under this Agreement, or finding that this Agreement is contrary to the policies of the CPUC.

10.4 Suspension of Service. PG&E reserves the right (in addition to any and all other rights and remedies PG&E may have) to suspend the performance of the Services, including those performed by Subcontractors, without any penalty or liability to Customer, if any invoice remains unpaid (in whole or in part) after the date payment is due until such invoice (including late penalties) is paid in full.

10.5 Effect of Termination. Upon any expiration or termination of this Agreement, PG&E's obligations to Customer shall be to continue to perform the Services until the effective date of such termination (except as otherwise instructed in writing by PG&E), to wind down and terminate the



Services in an efficient, workmanlike and cost-effective manner, and to cooperate with PG&E in the transition to third parties or employees designated by PG&E.

10.5.1 Effect of Customer's Termination.

(a) If Customer terminates a Work Order for cause pursuant to Section 10.2 and prior to Substantial Completion, Customer may do so by giving written notice to PG&E at least thirty (30) days prior to the effective date of such termination. In that event, Customer shall pay PG&E the amount set forth in the termination schedule set forth in the applicable Work Order.

(b) If Customer terminates a Work Order for cause pursuant to Section 10.2 and after Substantial Completion, Customer may do so by giving written notice to PG&E at least thirty (30) days prior to the effective date of such termination. In that event, Customer shall pay PG&E the amount set forth in the termination schedule set forth in the applicable Work Order.

(c) In the event this Agreement is terminated, this Agreement and all Work Orders then-in-effect shall immediately terminate. However, in the event a Work Order is terminated under Section 10.5.1(a) or 10.5.1(b) above, said Work Order shall be terminated but shall not terminate this Agreement or any other Work Order then-in-effect.

10.6 Survival. The following Sections of this Agreement shall survive expiration, cancellation or other termination of this Agreement: 1, 6, 7 through 9, 10.5, 10.6 and 11 through 13. Any other provisions of this Agreement that would generally be construed as intended to survive the expiration, cancellation or other termination of this Agreement shall also survive such expiration, cancellation or other termination.

11. DISPUTE RESOLUTION. If any dispute, excluding payment defaults or delinquencies, arises under the Agreement that is not settled promptly in the ordinary course of business, the Parties shall first seek to resolve any such dispute between them by negotiating promptly in good faith in face-to-face negotiations. These face-to-face negotiations shall be conducted by the respective designated senior managers of each Party responsible for their relationship, and shall be escalated internally by each Party as reasonably necessary to seek resolution of the dispute. If the Parties are unable to resolve the dispute between them through these face-to-face negotiations within thirty (30) business days following their commencement (or within such other period as the parties may otherwise mutually agree upon), then the parties shall escalate the dispute to their most senior executives within their organization. If the Parties' most senior executives are unable to resolve the dispute within thirty (30) business days or such other period as they may mutually agree, then either Party may pursue available legal and equitable remedies.

12. GOVERNING LAW AND VENUE. This Agreement shall be construed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules that may direct the application of the laws of another jurisdiction. Any controversy or claim arising out of or in any way relating to this Agreement shall be litigated in a California Superior Court of competent jurisdiction; or if jurisdiction over the action cannot be obtained in a California Superior Court, in a Federal District Court of competent jurisdiction situated in the State of California, and Customer hereby consents to the personal jurisdiction of such courts.

13. FORCE MAJEURE. A Party will be excused from a delay in performing, or a failure to perform, its obligations under this Agreement (excluding Customer's payment obligations) to the extent such delay or failure is caused by the occurrence of a Force Majeure Event. In such event, the performance times shall be extended for a period of time equivalent to the time lost due to the Force Majeure Event. However, if

a Force Majeure Event (excluding any affecting Customer's payment obligations) continues more than ninety (90) days, the party not relying on the excusable delay may, at its option, terminate the affected Product Order Form or Work Order, in whole or in part, upon notice, without penalty or obligation to the party suffering under the Force Majeure Event.

14. NON-DISCRIMINATION AND OTHER REQUIREMENTS. PG&E agrees to comply with the following laws:

14.1 General non-discrimination. No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

14.2 Equal employment opportunity. PG&E shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. PG&E's equal employment policies shall be made available to County upon request.

14.3 Section 504 of the Rehabilitation Act of 1973. PG&E shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

14.4 Compliance with County's Equal Benefits Ordinance. With respect to the provision of benefits to its employees, PG&E shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, PG&E certifies that it complies with Chapter 2.84 by offering the same benefits to its employees with spouses and its employees with domestic partners.

14.5 Discrimination Against Individuals with Disabilities. PG&E shall comply fully with the nondiscrimination requirements of 41 C.F.R. 60-741.5(a), which is incorporated herein as if fully set forth.

15. JURY SERVICE. PG&E states that its employees are eligible for time off with pay if they have completed six consecutive months of service. If called for jury duty, a full-time PG&E employee will be granted the necessary time off with pay and a part-time employee will be granted time off with pay for the number of hours s/he is scheduled to work during the basic workday and work week. If the PG&E employee has not completed six months of continuous service, s/he may be granted time off without pay or may elect to use accrued vacation/PTO, floating holidays, or vacation buy days.



16. GENERAL TERMS. This Agreement contains the entire agreement between the parties regarding the Services and supersedes any other prior oral or written agreements. In the event of any conflict or inconsistency between the terms of this Agreement and any Work Order, such Work Order shall control. Any different or additional provisions in purchase orders, invoices or similar documents issued by Customer are hereby deemed refused by PG&E and such refused provisions will be unenforceable. Any modifications hereto must be in writing and signed by the parties. A waiver by any party of any breach will not constitute a waiver of any different or subsequent breach. If any part of this Agreement is invalid, illegal or unenforceable for any reason, that portion shall be replaced with a valid provision appropriate to the parties' original intent and the remainder shall be enforced.

17. JOINT AND SEVERAL LIABILITY. County shall be jointly and severally liable for all of the obligations of a Lighting District under a Work Order.

18. AUTHORITY. Each Party represents that the individual signing this Agreement has the requisite legal authority to bind the Party on whose behalf he/she is signing.

THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK



IN WITNESS THEREOF, the parties have caused this Agreement to be executed as of the Effective Date first set forth above.

PACIFIC GAS AND ELECTRIC COMPANY COUNTY OF SAN MATEO

245 Market Street MC N10D
San Francisco, CA 94105

By: _____
(Signature)

By: _____
(Signature)

Name:

Name: David Pine

Title:

Title: President of the Board of Supervisors
signing as Ex-Officio of the:

Date:

Bel-Aire Lighting Maintenance District
Belmont Highway Lighting District
Colma Highway Lighting District
County Service Are No. 6
Granada Highway Lighting District
Emerald Lake Heights Highway Lighting District
Enchanted Hills Lighting Maintenance District
La Honda Lighting Maintenance District
Pescadero Highway Lighting District
Menlo Park Highway Lighting District
Montara Highway Lighting District

Date:

COUNTY OF SAN MATEO

By: _____
(Signature)

Name: David Pine

Title: President of the Board of Supervisors of the County of San Mateo

Date:



**EXHIBIT A
POTENTIAL ECMS**

Potential ECMS that may be included in a Work Order are set forth below:

- a. Implementation, modification, repair, maintenance and/or operation of on-site generation/cogeneration facilities, including those fueled by alternative resources, emergency and back-up power supply systems,
- b. Power quality and power reliability solutions including uninterruptible power supply systems, thermal energy storage systems and fuel switching technology,
- c. Power factor correction measures and equipment,
- d. Transformer replacement,
- e. Interior and exterior lighting system replacement,
- f. Lighting control improvements,
- g. Occupancy sensors,
- h. LED exit sign installation,
- i. Motors replacement with high efficiency motors,
- j. Packaged air conditioning unit replacement,
- k. Cooling tower retrofit,
- l. Economizer installation,
- m. Energy management control system installation/alteration/repair,
- n. Fans and pump replacement or impeller trimming,
- o. Chiller retrofit,
- p. Variable frequency or variable speed drive utilization,
- q. Replacement of air conditioning & heating unit with a heat pump,
- r. Addition of liquid refrigerant pump to a reciprocating air conditioning unit,
- s. Heat pipe dehumidification,
- t. High efficiency window air conditioner replacement,
- u. Upgrade of natural gas-fired boilers with new controls (low NOx burners),
- v. Boiler control improvements,
- w. Steam trap maintenance and replacement,
- x. Infrared heating system,
- y. Solar domestic hot water system,
- z. Solar air preheating system,
- aa. Insulation installation,
- bb. Weatherization,
- cc. Window replacement,
- dd. Window coverings and awnings,
- ee. Reflective solar window tinting,
- ff. High efficiency refrigerator replacement,
- gg. Water conservation device installation (e.g., flow restrictors, low flow flush valves, waterless urinals, horizontal axis washing machines),
- hh. Faucet replacement (infrared sensor),
- ii. Water distribution system leak detection, and cost effective repair,
- jj. Flash bake commercial cooking,
- kk. Operation, maintenance, modification and/or extension of utility distribution and collection system,
- ll. Training that will result in reduced energy costs,
- mm. Installation, maintenance and operation of standby propane facility,
- nn. Installation, maintenance and operation of gas distribution system and associated



- equipment,
- oo. Any other cost-effective ECM, including those that reduce Customer's energy consumption, energy demand or energy costs, provide energy savings, improve energy reliability, and other energy infrastructure improvements, and water conservation.
- pp. Design and/or scoping efforts in support of Authorization(s) other than the Authorization in which such design and/or scoping efforts are ordered and under which they are compensated.



**EXHIBIT B
SAFETY WAIVER**

PG&E has informed the Customer's on-site representative of the following condition(s) which, in the opinion of PG&E's on-site representative, should be remedied before the Services may be resumed at the Facility. Customer recognizes that if the below-listed condition at the Facility is not remedied as recommended by PG&E, an accident may occur causing damage to the Facility, Equipment and/or injury to persons, including but not limited to, the employees of Customer, PG&E and Subcontractors.

By signing this waiver, Customer acknowledges and accepts all liability associated with this condition

Description of condition:

Equipment ID#: _____ (If applicable)

Executed this ___ day of _____, _____

Facility name: _____

CUSTOMER

Sign: _____

Name (print): _____

Title _____

Date: _____

PACIFIC GAS AND ELECTRIC COMPANY

Sign: _____

Name (print): _____

Title: _____

Date: _____