

Agreement Regarding Transfer of Rule 20A Credits

This Agreement Regarding Transfer of Rule 20A Credits (“Agreement”) is entered into the ____ day of January, 2021 (“Effective Date”), by and between the County of Amador, a political subdivision of the State of California (“Amador”) and the County of Sonoma, a political subdivision of the State of California (“Sonoma”). Amador and Sonoma are sometimes individually referred to herein as “Party,” and collectively as “Parties.”

RECITALS

- A. Electric Utilities collect and allocate credits to communities to convert overhead electric facilities to underground electric facilities. These work credits are hereafter referred to as “Rule 20A Credits”. The Rule 20A Credits allocated by Pacific Gas and Electric Company (“PG&E”) to Amador as of the Effective Date are hereafter referred to as the “Amador Allocation.”
- B. Sonoma has identified a need for additional Rule 20A Credits for future Rule 20A projects.
- C. Amador currently has no active undergrounding projects that could make use of the Amador Allocation.
- D. On November 10, 2020, the Amador Board of Supervisors authorized the Amador County Administrator to enter into this Agreement with Sonoma to transfer the accrued Amador Allocation of Rule 20A Credits.
- E. On January 26, 2021, the Sonoma Board of Supervisors authorized the Sonoma County Administrator to enter into this Agreement with Amador to purchase the Amador Allocation of Rule 20A Credits.

NOW, THEREFORE, the Parties hereto agree as follows:

- 1. Assignment of Rights.** Upon receipt of the Acquisition Price from Sonoma, Amador assigns all of its rights to and interest in the Amador Allocation to Sonoma, and Sonoma assumes all of Amador’s rights to and interest in the Amador Allocation in accordance with the terms of this Agreement.
- 2. Consideration.** The Parties agree that the purchase price for the Amador Allocation shall be \$0.50 per \$1.00 of Rule 20A Credits.
- 3. Payment of Acquisition Price.** Within thirty (30) business days of the Effective Date, Sonoma shall make a payment to Amador in the amount of \$1,909,707.00 for the purchase of \$3,819,414.00 in currently available Amador Allocation credits. The calculated payment

amount of \$1,909,707.00 is referred to herein as the “Acquisition Price.” Payment shall be made in immediately available funds via wire transfer to an account designated by Amador. Amador shall hold the funds pending approval of the transfer by PG&E as described in Paragraph 4 below. The Acquisition Price shall constitute full consideration for the transfer and assignment of the Amador Allocation.

- 4. PG&E Approval of the Transfer.** Sonoma’s obligation to assume the Amador Allocation and pay the Acquisition Price is conditioned on receipt of written confirmation from PG&E that it has approved the transfer and applied the Amador Allocation to Sonoma’s allocation of Rule 20A Credits. Within five (5) business days of Amador’s receipt of the Acquisition Price from Sonoma, Amador shall deliver a written request to PG&E, with a copy to Sonoma, making a formal request to transfer and assign the Amador Allocation, for which payment was made at a rate of \$0.50 for each \$1.00 credit, to and for the benefit of Sonoma. Amador shall cooperate in good faith with Sonoma to provide any additional documentation or information that is reasonably requested by PG&E to complete the transfer. In the event PG&E is unable to complete the transfer, Amador shall return Acquisition Price to Sonoma within ten (10) business days of PG&E’s notification to Amador that it is unable to complete the transfer. Should PG&E fail to complete the transfer within 60 days of Amador’s written request, Sonoma shall have the right, but not the obligation, to cancel this Agreement by written notice to Amador. In the event of such cancellation, Sonoma shall notify PG&E and Amador shall return the Acquisition Price to Sonoma within ten (10) business days, and upon Sonoma’s receipt of the funds, all rights and obligations of the Parties under this Agreement shall terminate.
- 5. Representations.** Amador represents and warrants that as of the Effective Date it has been allocated \$3,819,414.00 in unapplied Rule 20A Credits through PG&E’s Rule 20A Credit program. The Parties acknowledge and agree that the transferability of the Amador Allocation to Sonoma may be impacted by pending rulemaking proceedings before the California Public Utilities Commission (“CPUC”). Should CPUC take any action that prohibits the transfer contemplated by this Agreement, Sonoma shall have the right to cancel this Agreement by written notice to Amador. In the event of such cancellation, Amador shall return the Acquisition Price to Sonoma within ten (10) business days, and upon receipt of the funds, all rights and obligations of the Parties under this Agreement shall terminate.
- 6. Indemnification.** Sonoma shall indemnify, defend (with counsel reasonably acceptable to Amador), and hold harmless Amador, its elected officials, officers, employees, agents, contractors, and attorneys, from and against any and all demands, claims, actions, causes of action, damages, losses, liabilities, or expenses of any nature whatsoever, including those for reasonable attorney’s fees, arising from the use of the Amador Allocation in connection with the construction of any Sonoma project. Sonoma’s indemnification of Amador from such

claims and demands arising from the use of Amador Allocation shall apply regardless of the merit or outcome of any such claim or suit, and regardless of whether the nature of such claim or suit is administrative, judicial, or legislative.

- 7. Acknowledgement.** Sonoma acknowledges that it has read Section 6, pertaining to Sonoma's indemnification of Amador, and fully understands its terms. Sonoma acknowledges, knows, and understands that it is signing the Agreement freely and voluntarily.
- 8. Termination for Breach.** In the event that either Party is in breach of its obligations as set forth in this Agreement, then the non-defaulting Party shall have the right to terminate this Agreement on ten (10) business days' written notice to the defaulting Party unless the default is cured within the notice period. Upon termination for breach, the non-defaulting Party may exercise any right or remedy which it may have under applicable law. If Sonoma has paid the Acquisition Price to Amador and Amador's Allocation has not been transferred to Sonoma at the time that this Agreement is terminated pursuant to this Section 8, Amador will, within ten (10) business days of the termination, return that Acquisition Price to Sonoma.
- 9. Notices.** All notices to be given pursuant to this Agreement shall be delivered in person, by registered or certified U.S. mail (return receipt requested), or by commercial overnight delivery and shall be effective upon receipt. Notice may further be given by electronic means, provided, however, that such notice shall not be deemed effective unless it is acknowledged in writing by the recipient of such notice. All notices shall be sent and addressed to the representative of the Party that signs this Agreement on behalf of the Party and addressed as follows:

To Amador: 810 Court Street, Jackson, CA 95642

To Sonoma: 575 Administration Drive, Rm. 104-A, Santa Rosa, CA 95403
- 10. Headings.** Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.
- 11. Authority to Enter Agreement.** Each person executing this Agreement on behalf of the Parties represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Amador or Sonoma, and that this Agreement is binding on Amador and Sonoma in accordance with its terms and conditions.
- 12. Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their representative heirs, successors, and assigns.

- 13. No Assignment.** No Party shall assign or transfer, by operation of law or otherwise, any or all of its rights or obligations under this Agreement without the prior written consent of the other Party and formal written modification.
- 14. No Third-Party Beneficiaries.** Nothing contained in this Agreement shall be construed to create any rights in third parties, and the Parties do not intend to create any such rights.
- 15. Modification.** This Agreement may be modified or amended only by a writing duly authorized and executed by Sonoma and Amador.
- 16. Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of California, and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Amador or Sonoma unless transferred by court order pursuant to Code of Civil Procedure section 394.
- 17. Compliance with Applicable Law.** Each Party shall, at its own cost and expense, comply with all statutes, ordinances, regulations, and requirements of all governmental entities, including federal, state, county, or municipal, whether now in force or hereinafter enacted.
- 18. Waiver.** A waiver by either Party of any breach of any term, covenant, or conditions contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character, unless specifically stated in writing.
- 19. No Party Deemed to be Draftsperson.** The terms of this Agreement shall be construed in accordance with the meaning of the language used, and shall not be construed for or against either Party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.
- 20. Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
- 21. Attorney's Fees.** In the event of any dispute or legal action arising under this Agreement, the prevailing Party shall not be entitled to attorney's fees.
- 22. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

23. Entire Agreement. This Agreement contains the entire agreement between Sonoma and Amador relating to the services, rights, obligations, and covenants contained herein and assumed by the Parties respectively. Any prior or other agreements or representations between Sonoma and Amador regarding those matters are null and void unless expressly set forth in this Agreement. No oral understanding or agreement not incorporated in the Agreement is binding on any of the Parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

County of Amador

County of Sonoma:

BY: _____
Chuck Iley, CAO

BY: _____
Sheryl Bratton, CAO

Approved as to Form:
Greg Gillott, County Counsel

Approved as to Form:
Robert Pittman, County Counsel

BY: _____

BY: _____