

SAMPLE FORMS - CONTRACTS
Standard Renewable Gas
Services Agreement (Form 5501)

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(TO BE INSERTED BY UTILITY)

ADVICE LETTER NO. 5756
DECISION NO. 20-12-031

105

ISSUED BY

Dan Skopec
Vice President
Regulatory Affairs

(TO BE INSERTED BY CAL. PUC)

SUBMITTED Jan 20, 2021
EFFECTIVE Feb 19, 2021
RESOLUTION NO. _____

SERVICES AGREEMENT

This SERVICES AGREEMENT (the “Agreement”) is made and entered into as of the latest signature date in the signature block of this Agreement (“Effective Date”) by and between [Utility], a California corporation (“Utility”), and [Company] (the “Company”).

RECITALS

WHEREAS, Utility is a public utility regulated by the California Public Utilities Commission (“CPUC”) providing gas service to end-use customers within California.

WHEREAS, the Company is a sponsor of a renewable gas project and/or has an interest in Utility’s ability to receive and redeliver additional renewable gas supplies on its gas utility system.

WHEREAS, the Company desires to explore a Utility interconnection, and the Utility agrees to perform services with respect thereto (the “Services”), all upon the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth herein the parties agree as follows:

SECTION 1 - SERVICES

1.1. **Retention.** Company hereby retains Utility to provide the Services, upon the terms and conditions set forth in this Agreement.

1.2. **Scope of Services.** The Services to be performed by Utility shall consist of the following tasks to this Agreement, including (check all that apply), as detailed in the applicable Attachment:

- Attachment A – Interconnection Screening Study (),
- Attachment A1 – Preliminary Engineering Study (),
- Attachment A2 – Detailed Engineering Study with Optional Long Lead Material Procurement (),
- Attachment – A3 Pipeline Blending Exception Study ()

Unless Company has in place as of the Effective Date a valid and effective Interconnection Screening Study, the parties must (a) execute, and each party must satisfy its obligations with respect to Attachment A before Company can contract for Attachment A1, and (b) execute Attachment A1 before or concurrent with Company’s contracting for Attachment A2. Further, (x) Company may execute Attachment A3 at any time after the parties have executed an Attachment A providing Company funding for an Interconnector Screening Study consistent with Attachment A3 Services, and (y) the parties must enter into a Confidentiality Agreement, the form of which is attached hereto as Attachment B, prior to Utility performing any Services pursuant to this Agreement. Each Attachment only becomes effective upon execution by both Company and Utility.

No construction work shall be included or done pursuant to this Agreement.

1.3. **Term.** This Agreement shall be effective on the Effective Date and shall continue in full force and effect until the completion of the all Services selected under Section 1.2 above.

SECTION 2 - COMPENSATION AND EXPENSES

2.1. Compensation. An estimate of Utility's fees and all other applicable costs to be billed by Utility to Company under this Agreement are set forth in each applicable Attachment to this Agreement. In any event, Company shall be liable for the actual costs of the Services, which may be higher than the estimated costs. Actual costs shall include the actual Services rendered and all related costs incurred, and shall include permit or other fees or charges, procurement, indirect costs and overheads, carrying costs, and any related income or other tax liability thereon.

2.2. Payment. Upon execution of this Agreement, Attachment A, and Attachment B (Confidentiality Agreement), Company shall make payment to "[Utility name]" for the Services in the amount specified in Attachment A within thirty (30) days. Upon execution of any additional Attachment (as further described in Section 1.2), Company shall make payment to "[Utility name]" for Services in the amount specified in such Attachment(s) within thirty (30) days. Any amount billed by Utility to Company subsequent to the initial payment shall be paid by Company within twenty (20) days after receipt of Utility's invoice to the address set forth in Section 8 below.

2.3. Change Orders. Any change to the Services shall be in writing (a "Change Order") and signed by Company and Utility. If Company issues any request for a change in the Scope of the Services or the time of completion of the Services beyond those tasks described in the Services and not identified as a Change Order, but which Utility considers to be a Change Order, then Utility shall notify Company in writing and the parties shall mutually decide whether such a change in the Services or the time of completion of the Services constitutes a Change Order, which increases or decreases the Scope of the Services and increases or decreases the cost to Utility of performing the Services. If Utility issues a Change Order that results in an increase or decrease in the cost of the Services, then an adjustment shall be made to the total compensation and/or the time of completion of the Services. All written Change Orders shall become a part of this Agreement. Utility may refrain from any additional work until Company has paid such additional amount as set forth above.

2.4. Payroll Taxes. Social security, federal, and other applicable taxes shall not be withheld from payments made to Utility.

SECTION 3 - INFORMATION AND OWNERSHIP

3.1. Confidential Information. During the term of this Agreement, either party may have access to and become acquainted with confidential information and trade and business secrets of the other. Treatment of this information by both parties is set forth in the Confidentiality Agreement, the form of which is attached hereto and incorporated herein as Attachment B of this Agreement (the "Confidentiality Agreement").

3.2. Ownership and Use; Limits on Liability. Notwithstanding the above, any and all material and information prepared, accumulated or developed by Utility, any subcontractor or their respective employees, including, without limitation, documents, drawings, designs, calculations, maps, plans, workplans, text, filings, estimates, manifests, certificates, books, specifications, sketches, notes, reports, summaries, analyses, data models and samples (hereinafter, collectively "Work Product"), shall remain the property of Utility when prepared or in process, whether or not delivered to Company. Utility hereby grants to Company an unrestricted royalty-free license to use, copy, and distribute any Work Product furnished by Utility to Company under this Agreement, subject to the terms specified in the Confidentiality Agreement. The Work Product provided by Utility hereunder is intended to meet or exceed all generally accepted industry standards for this type of work; however, except as may otherwise be set forth in the applicable Attachment(s), Utility makes no warranty or representation about the fitness, suitability, reliability, availability, timeliness or accuracy of Work Product or Services for any purpose. The Work Product will be done using information and assumptions at one point of time and which are subject to change at any time that could change the results or analysis reflected in Work Product. Estimates of costs

may not cover all environmental costs or other unforeseen costs, or costs resulting from changes to laws, rules and regulations governing the Services herein. Therefore, except as may otherwise be set forth in the applicable Attachment(s), Utility does not warrant the Services or Work Product for any use and specifically disclaims any liability for any subsequent use of the Work Product, or any part thereof, by Company. Except as may otherwise be set forth in the applicable Attachment(s), no warranty of any kind is or will be included as part of the Services and all express and implied warranties, including any warranties of merchantability, and/or fitness for a particular purpose are specifically disclaimed. With the exception of claims solely arising from the gross negligence or intentional misconduct by Utility that occurs while performing the Services, Company will not hold Utility liable or responsible in any way for any losses, damages, claims, costs, expenses or other obligations it incurs, or may incur, arising out of or related to Company's use of, or reliance on, any part of the Services, Work Product or other information provided by Utility hereunder.

SECTION 4 - STATUS

The relationship between Utility and Company hereunder is and at all times during the term of this Agreement shall be that of independent entities. Nothing contained in this Agreement shall be construed to create a relationship of principal and agent, employer and employee, partnership or joint venture between the parties.

SECTION 5 - ATTORNEYS' FEES

Should any dispute arise regarding any term or provision of this Agreement or enforcement of any rights hereunder, or to collect any portion of the amount payable under this Agreement, then all litigation and collection expenses, witness fees, court costs and attorneys' fees shall be paid by the losing party to the prevailing party.

SECTION 6 - SUPERVISION AND COORDINATION

During the term of this Agreement, each party shall appoint a representative who will be authorized, empowered and available to act for and on behalf of each to implement the terms and conditions of this Agreement.

SECTION 7 – DISPUTES

Any dispute or need for interpretation arising out of this Agreement which cannot be resolved after a reasonable period of time of good faith negotiation may be submitted to the CPUC for resolution.

SECTION 8 – NOTICES

Any notice, demand, or request required or authorized in connection with this Agreement shall be deemed properly and duly given when delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to Company: [Contact Information To Be Supplied]
Mailing Address:

If to Utility: [Contact Information To Be Supplied]
Mailing Address:

In addition to the notice specified above, notice may also be provided by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below, but must be immediately followed up by a written notice delivered pursuant to the first paragraph of this Section 8:

If to Company: [Contact Information To Be Supplied]
Telephone Numbers:
Facsimile:
Email Address:

If to Utility: [Contact Information To Be Supplied]

Telephone Numbers:
Facsimile:
Email Address:

Either party may change the notice information in this Section 8 by giving notice within five (5) business days prior to the effective date of the change.

SECTION 9 - SUCCESSORS AND ASSIGNS

This Agreement may not be assigned by either party without the written consent of the other party. Consent to assignment will not be unreasonably withheld, conditioned or delayed.

Company shall have the right to assign this Agreement, without the consent of Utility, for collateral security purposes to aid in providing financing its renewable gas project. Company will promptly notify Utility of any such assignment for collateral security purposes. Any assignment for collateral purposes entered into by Company shall require that upon any exercise of remedies by the financing party, the entity substituted for Company shall have an equal or greater credit rating as Company and have the legal authority and operational ability to satisfy the obligations of Company under this Agreement.

Either party shall have the right to assign this Agreement, without the consent of the other Party, when the assignment is to a successor, representative, or assignee which shall succeed by purchase, merger, corporate reorganization/restructuring or consolidation to all or substantially all of the assets of the assigning party.

Assignment shall not relieve the assignor of its obligations under this Agreement for the period before the assignment becomes effective, nor shall the non-assigning party's obligations be enlarged, in whole or in part, by reason of the assignment. At the time the assignment becomes effective, the assignee shall become a party to this Agreement and shall undertake all rights and responsibilities under this Agreement.

Any attempted assignment that violates any of the requirements of this Section 9 is void and ineffective.

SECTION 10 - APPLICABLE LAW

The provisions of this Agreement shall be construed and enforced in accordance with the laws of the State of California, without giving effect to its choice of law provisions.

SECTION 11 – WAIVERS

The failure or delay of either party to exercise or enforce at any time any of the provisions of this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce each and every provision of the Agreement and shall not otherwise affect the validity of this Agreement.

SECTION 12 – SEVERABILITY

If any provision of this Agreement is finally determined to be contrary to, prohibited by, or invalid under applicable laws or regulations, such provision shall become inapplicable and shall be deemed omitted

from this Agreement. Such determination shall not, however, in any way invalidate the remaining provisions of this Agreement.

SECTION 13 - ENTIRE AGREEMENT AND AMENDMENTS

This Agreement and its Attachments constitute the entire understanding and agreement between the parties relating to the subject matter hereof and supersedes any prior written or oral understanding or agreement between the parties relating to the subject matter hereof. This Agreement shall not be amended, altered, or supplemented in any way except by an instrument in writing, signed by the duly authorized representative of the parties that expressly references this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of Effective Date.

[Utility name]

[Company name]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachment A – Interconnection Screening Study
Services Agreement between ____ and ____ effective ____

Utility will provide the Company with a report that provides a preliminary non-binding analysis of the nearest Utility pipeline that has Takeaway Capacity to accommodate Company’s requested maximum hourly injection volume / flow rate and the Takeaway Capacity of the pipeline closest to the same location specified below as described below (the “Services”).

Utility proposes to analyze the impact on its gas transmission system of receiving _____ thousand Standard cubic feet per day (MScfd) on a ratable 1/24th hourly basis of new supply at _____, California, on a Displacement and/or an Expansion basis.

The findings will not constitute a proposal by Utility. Utility will not have performed a specific site or route evaluation or estimated any costs for the Company’s project.

Utility urges the Company to enter into a Preliminary Engineering Study with Utility to develop a preliminary engineering cost estimate for this specific project.

Because of the exclusions and limitations of this initial review, Utility does not recommend that the Company use this screening study for any other purpose, including any substantive planning or other decisions regarding the cost or viability of its project, except to further evaluate site(s) potentially suitable for additional Interconnection Screening Study(ies) and/or Preliminary Engineering Study(ies). Any use by the Company is solely at its own risk and should factor in the above risks and limitations.

A report that summarizes the Utility’s assumptions, parameters, limitations and identifies the nearest pipeline that has Takeaway Capacity to accommodate Company’s maximum injection volume/flow rate, a preliminary pipeline route and length for interconnection to Utility’s pipeline system and the then-current maximum allowable operating pressure and, if available, operating pressures of the existing Utility pipeline system receiving Gas from the Receipt Point and the Receipt Point’s closest pipeline’s Takeaway capacity will be provided to the Company.

The estimated cost to perform the Services is \$_____. Utility will complete the analysis within _____ business days after receipt and Utility posting of Company’s payment, if applicable.

Capitalized terms used but not defined in this Attachment have the meaning ascribed to them in Utility’s Tariff Rule No. 45.

Accepted and agreed to by their respective authorized representatives:

[Utility name]

[Company name]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Preliminary Engineering Study - Attachment A1
Services Agreement effective _____

Utility will provide the Company with a report that provides a Preliminary Engineering Study (“PES”) requested by the Company for construction of necessary facilities as described below (the “Services”) following completion of an Interconnection Screening Study for the same location and less than or equal to the maximum volume / flow rate that will be the basis for this PES.

Utility proposes to analyze the impact on its gas transmission system of receiving _____ minimum, average and maximum, respectively, thousand Standard cubic feet per day (MScfd) on a 1/24th ratable hourly basis of new supply at _____, California, on a () Displacement and/or an () Expansion Receipt Point Capacity basis and identify any system improvements necessary to accept this new supply.

The cost estimate calculated by Utility will include, but not be limited to, land acquisition, site development, right-of-way, metering, gas quality, permitting, regulatory, environmental, unusual construction costs, and, if applicable, operating and maintenance costs for any facility improvements, accurate to +100% / -50% based on a site visit and route evaluation for the Company’s project. The findings and estimate will not constitute a proposal by Utility. Utility will not have performed a specific site or route evaluation for the Company’s project in the development of this estimate. Other service costs associated with construction of the Interconnector’s Facility that are not part of already offered services could include, but not be limited to, engineering, consulting, contracting, construction costs, and environmental studies.

Utility’s construction costs continue to rise with increasing costs of labor and materials. Since the PES is developed using average historical project cost data, it is highly likely that the actual construction costs for the Company’s particular project will vary significantly from the PES. Utility urges the Company to retain the services of a third-party engineering construction firm or enter into a Detailed Engineering Study with Utility to develop a more accurate construction cost estimate for this specific project.

Because of the exclusions and limitations of this initial review, Utility does not recommend that the Company use the PES for any other purpose, including any substantive planning or other decisions regarding the cost or viability of its project, except to further evaluate Company’s project via a Utility Detailed Engineering Study. Any use by the Company is solely at its own risk and should factor in the above risks and limitations.

A report that summarizes the results of Utility’s analyses, identifies the study parameters, assumptions, limitations and the estimated construction costs of any facility improvements, evaluates whether the Interconnection Screening Study identified pipeline system has sufficient physical Takeaway Capacity to safely accommodate Company’s specified maximum volume / flow rate on a ratable 1/24th hourly basis, Utility pipeline routing recommendation using Utility’s rights-of-way, identification of the then current maximum allowable operating pressure and, if available, the operating pressures of the Utility’s receiving pipeline system and potential pipeline route obstructions as determined by the Utility’s physical observations will be provided to the Company.

The estimated cost to perform the Services is \$_____. Utility will complete the analysis within _____ business days after receipt and Utility posting of payment.

Payment in full of the estimated cost of the Services is required upon execution of an Attachment A1 to proceed with the analysis. The Company will be responsible for the actual costs of the Services; to this end, an invoice or refund will be issued to the Company at the completion of the project for any difference between the actual costs and this estimate.

Capitalized terms used but not defined in this Attachment have the meaning ascribed to them in Utility’s Tariff Rule No. 45.

Accepted and agreed to by their respective authorized representatives:

Preliminary Engineering Study - Attachment A1
Services Agreement effective _____

[Utility name]

[Company name]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**Detailed Engineering Study with Optional Long Lead
Material Procurement - Attachment A2**

Per Company's written request, Utility will provide the Company with a report that provides either a Detailed Engineering Study ("DES") or a Detailed Engineering Study with Long Lead Material Procurement requested by the Company for construction of necessary facilities as described below (the "Services") following completion of or in combination with an Attachment A1 - Preliminary Engineering Study.

Utility proposes to analyze the impact on its gas transmission system of receiving _____ thousand Standard cubic feet per day (MScfd) of new supply at _____, California, on a Displacement and/or an Expansion Receipt Point Capacity basis. Utility's analysis will identify any system improvements necessary to accept this new supply.

A cost estimate for any facility improvements, accurate to +50% / -30%, will be calculated and may also be generated at the following levels of Utility design to lesser accuracy standards, (1) if applicable, at 30% level for long lead material items, (2) 60% level and (3) at Issued for Construction level, based on the Company's estimated completion date.

The findings and estimate will not constitute a proposal by Utility unless and until the Utility and Company enter into a Standard Renewable Gas Interconnection Agreement to perform the Services herein.

The DES will (1) describe all costs of construction, (2) develop complete engineering construction drawings, (3) prepare all construction and environmental permit applications and right-of-way acquisition requirements and (4) if elected in this Attachment A2 above, include Utility long lead material procurement.

A report that summarizes the results of Utility's analyses, identifies any facility improvements, and estimates the cost of construction of those improvements, will be provided to the Company, including, but not limited to, identifying the pipeline route using Utility rights-of-way for interconnection to the Utility system, and obstructions in the pipeline route, if applicable, as determined by Utility's physical observation, land acquisition, site development, right-of-way, metering, gas quality, permitting, regulatory, environmental, unusual construction costs and, if applicable, operating and maintenance costs for any facility improvements. Other service costs associated with construction of the Interconnector's Facility that are not part of already offered services could include, but not be limited to, engineering, consulting, contracting, construction costs, environmental studies.

The estimated cost to perform the Services is \$_____. Utility will complete the analysis upon the later of within _____ business days after Utility's receipt and posting of payment and Company's provision of all necessary design parameters, such as an agreed upon footprint for the Utility Facilities.

Payment in full of the estimated cost of the Services is required upon execution of a Services Agreement and this Attachment A2 to proceed with the analysis. The Company will be responsible for the actual costs of the Services; to this end, an invoice or refund will be issued to the Company if additional funding is anticipated to be required beyond the then current cost estimate to continue Utility's work and at the completion of the project for any difference between the actual costs and the final estimate.

Capitalized terms used but not defined in this Attachment have the meaning ascribed to them in Utility's Tariff Rule No. 45.

**Detailed Engineering Study with Optional Long Lead
Material Procurement - Attachment A2**

Accepted and agreed to by their respective authorized representatives:

[Utility name]

[Company name]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Pipeline Blending Exception Study - Attachment A3
Services Agreement dated _____

Consistent with Section L of Utility’s Renewable Gas Interconnection Rule 45 (“RGIR”), Utility will evaluate, pursuant to Section L.1. and L.3 of the RGIR, Company’s blending study request made pursuant to Section L.2 of the RGIR (attached hereto as Exhibit 1), as further described below (the “Services”).

Utility shall report its findings pursuant to Section L.4 of the RGIR.

Utility’s findings are subject to Section L.5 of the RGIR.

The estimated cost to perform the Services is \$_____. Utility will complete the analysis within_____business days after receipt and Utility posting of Company’s payment.

Payment in full of the estimated cost of the Services is required upon execution of an Attachment A3 to proceed with the analysis. The Company will be responsible for the actual costs of the Services; to this end, an invoice or refund will be issued to the Company if additional funding is anticipated to be required beyond the then current cost estimate to continue Utility’s work and at the completion of the project for any difference between the actual costs and this estimate.

Capitalized terms used but not defined in this Attachment have the meaning ascribed to them in the RGIR.

Accepted and agreed to by their respective authorized representatives:

[Utility name]

[Company name]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit 1 to Pipeline Blending Exception Study – Attachment A3

RGIR Section L.2. -- Interconnector Blending Study Request

- a. Desired interconnect location(s) on the Utility System
- b. Maximum and minimum flow rates, including seasonal variations, if appropriate
- c. Maximum concentrations of all Constituents listed within the RGIR
- d. Maximum and minimum Heating Value and Wobbe Index
- e. Ability of Company to accept limits on flow rates
- f. Reason for request
- g. Information collected from Interconnection Request

ATTACHMENT B TO SERVICES AGREEMENT
CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (“Agreement”) is made and entered into effective as of [date] (“Effective Date”) by and between [Company name], a [state, entity type] located at [address] (“Company”), and [Utility name], a California corporation, located at [address] (“Utility”). Company and Utility are sometimes referred to individually as a “Party” and collectively as the “Parties.”

In consideration of the mutual covenants herein, and the disclosures to be made in connection herewith, the Parties agree as follows:

1. Company is considering engaging in developing a _____ (“Project”) that would connect with Utility’s gas pipeline system in California and wishes to discuss with Utility certain aspects of the Project and the possible future relationship of the Parties concerning the Project (the “Subject Matter”). Because of the competitive nature of the Project and the Subject Matter, which may be discussed by the Parties concerning the Project, the Parties agree to keep all Subject Matter identified in writing as “Proprietary Information” confidential in accordance with the terms of this Agreement. “Proprietary Information” shall mean confidential information, “trade secrets” as defined in the Uniform Trade Secret Act of California, and/or, with respect to Utility, “critical energy infrastructure information” as defined in 18 CFR § 388.113(c) (“Critical Energy Infrastructure Information”), unless considering information as non-Proprietary would pose a serious safety risk.. For the purposes of this Agreement, the Party receiving Proprietary Information from the other Party in connection herewith is the “Receiving Party,” and the Party providing Proprietary Information to the other Party hereunder is the “Disclosing Party.” Any information designated by a Party as Proprietary Information, if in tangible form, must be marked clearly as “Proprietary Information”; or if communicated orally, it must be identified in writing as “Proprietary Information” in reasonable detail within five (5) business days after disclosure. This Agreement does not require either Party to disclose any particular “Proprietary Information,” or to disclose it in any particular form or format. No representation is made that any Proprietary Information disclosed is free from error, or suitable for any use or purpose. Company understands that, as a California public utility company, Utility is obligated to provide service in a non-discriminatory manner and this Agreement in no way prevents, restricts or limits Utility’s discussions or relationships with other companies considering other projects other than not disclosing the Proprietary Information of Company.

2. Except as otherwise provided in this Agreement, no part of the Proprietary Information may be disclosed or delivered to third parties or used by the Receiving Party for any purpose other than for the purpose stated in Paragraph 1 above, without the prior written consent of the Disclosing Party, which may be refused. Except as authorized in writing by the Disclosing Party, the Receiving Party shall not copy, disclose, or use the Disclosing Party’s Proprietary Information or any part thereof and shall return to the Disclosing Party or destroy (with such destruction to be certified in writing by an authorized officer of the Receiving Party), upon the Disclosing Party’s request, all Proprietary Information provided by the Disclosing Party in tangible form, and all copies, photographs, reproductions, and all other duplications thereof, including any summaries, extracts and other information derived from the Proprietary Information, regardless of the form of media. Notwithstanding the foregoing sentence, no later than the expiration or earlier termination of this Agreement, and without any obligation of Utility to make a request therefor, Company shall return or destroy (with such destruction to be certified in writing by an authorized officer of Company) any and all Critical Energy Infrastructure Information (and all

copies, photographs, reproductions, and all other duplications thereof, including any summaries, extracts and other information derived from the Critical Energy Infrastructure Information, regardless of the form of media) provided or otherwise made available to it by Utility.

3. The Receiving Party shall take all reasonable measures to prevent unauthorized disclosure of the Proprietary Information and shall restrict access to the Proprietary Information to those Representatives who have a need to know in the course of their duties; provided, however, that if the Receiving Party finds it necessary for the purpose set forth in Paragraph 1 above to disclose any Proprietary Information to a Representative that is not directly employed by, or is not a director or officer of, the Receiving Party, such Representative shall first agree in writing to comply with the provisions of this Agreement. For purposes of this Agreement: (a) "Representative" means, with respect to a Party, such Party's Affiliates, and the directors, officers, employees, subcontractors, vendors, agents, and/or advisors of such Party or its Affiliates; (b) "Affiliate" means any company or legal entity which (i) controls, either directly or indirectly, a Party, or (ii) is controlled directly or indirectly by such Party, or (iii) is directly or indirectly controlled by a company or entity which directly or indirectly controls such Party; and (c) "control" means the right to exercise fifty percent (50%) or more of the voting rights in the appointment of the directors or similar representatives of such company or entity. Notwithstanding anything to the contrary set forth in this Agreement, each Party shall be responsible for any breach of this Agreement by its Representatives.

4. Notwithstanding any of the other provisions herein, Utility will not disclose any Proprietary Information disclosed pursuant to this Agreement to any of its Affiliates not regulated by the California Public Utility Commission ("CPUC"), if applicable, without the prior written consent of Company.

5. All Proprietary Information disclosed hereunder shall be and remain the exclusive property of the Disclosing Party. This Agreement shall not be construed to grant to the Receiving Party any license or other rights to the Proprietary Information except as specifically noted herein.

6. The obligations set forth in this Agreement shall not apply to information that the Receiving Party can establish is:

a. Information which is in the public domain as of the Effective Date, or which later enters the public domain from a source other than the Receiving Party;

b. Information which the Receiving Party has written evidence of knowing prior to the execution of this Agreement;

c. Information which the Receiving Party receives from a bona fide third party source not under any obligation of confidentiality;

d. Information approved for release by the Disclosing Party in writing; and/or

e. Information, which is required by law (including, without limitation, court order or governmental agency subpoena) to be disclosed. If either Party or any of its Representatives is required by applicable law, regulation or legal process (by oral question, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any Proprietary Information of the other Party provided to it under this Agreement, such Party or its Representative shall promptly notify the other Party of such

requirement so that it may seek an appropriate protective order or elect, in its sole discretion, to grant a waiver of compliance with the provisions of this Agreement. If, in the absence of a protective order or the receipt of a waiver hereunder within a reasonable time after such notice, a Party or any of its Representatives is, in the reasonable opinion of such Party, compelled to disclose any Proprietary Information, then the disclosing Party may disclose only such of the Proprietary Information to the person compelling disclosure as is required by law. The Party being forced to disclose any Proprietary Information will provide all commercially reasonable assistance to enable the other Party to obtain a protective order or other reliable assurance that the Proprietary Information will be accorded confidential treatment. Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, Utility may without providing notice thereof to Company disclose Confidential Information to regulatory agencies with jurisdiction over Company and their staffs, including, but not limited to, the CPUC.

f. Either Party may disclose, without providing notice thereof to the other Party, to any governmental entity (including, without limitation, a court) or its representatives or other persons as required by such entity, the tax treatment and tax structure of any transaction arising at any time in connection with this Agreement or related hereto, as well as all materials provided to either Party of any kind (including opinions or other tax analyses) relating to the tax treatment or tax structure of such transaction.

7. If the Receiving Party breaches or defaults in the performance of any of its covenants contained herein or violates any of the restrictions set forth herein, the Disclosing Party shall be entitled to all remedies available at law or in equity. The Parties acknowledge that the Proprietary Information is valuable and unique, and that damages would be an inadequate remedy for breach of this Agreement and the obligations of each Party and its Representatives are specifically enforceable. Accordingly, the Parties agree that in the event of a breach or threatened breach of this Agreement by either Party, the Disclosing Party shall be entitled to seek an injunction limiting or preventing such breach, without the necessity of proving damages or posting any bond. Any such relief shall be in addition to, and not in lieu of, money damages or any other available legal or equitable remedy.

8. If either Party employs attorneys (in-house and/or outside counsel) to enforce any rights arising out of or related to this Agreement, the prevailing Party in such matter (as determined by the court) shall be entitled to receive its reasonable attorneys' fees, costs and disbursements.

9. The term of this Agreement shall begin on the Effective Date and continue for period of two (2) years from the date of the last disclosure of Proprietary Information in connection herewith; provided, however, that if the Parties enter into a Standard Renewable Gas Interconnection Agreement (Form No. 5501) with respect to the Project, the term of this Agreement shall continue for a period of two (2) years from the date of Release to Operations (as such term is defined in such Standard Renewable Gas Interconnection Agreement).

10. Neither this Agreement, nor the disclosure of Proprietary Information under this Agreement, nor the ongoing discussions and correspondence by the Parties regarding the Subject Matter of this Agreement, shall constitute or imply any promise or intention to make any purchase or use of the services, products, facilities, real property or other assets of either Party, or any commitment by either Party with respect to any other present or future arrangement. If, in the future, the Parties elect to enter into binding commitments relating to any of the matters stated herein, they must be stated in a separate executed written contract by the Parties.

11. The Parties agree that Proprietary Information shall not include, and the Parties shall not provide to each other, customer-specific information or “personal information” as defined in California Civil Code Section 1798.140(o).

12. This Agreement shall be governed by and construed under the laws of state the California, without reference to any principles on conflicts of laws. In the event of any litigation to enforce or interpret any terms of this Agreement, the Parties agree that such action will be brought in the Superior Court of the County of [_____] ¹, California (or, if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court for the [_____] ² District of California), and the Parties hereby submit to the exclusive jurisdiction of such courts.

13. Any notice, demand, or request required or authorized in connection with this Agreement shall be deemed properly and duly given when delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If To Company: [Contact Information To Be Supplied]
Mailing Address:

If To Utility: [Contact Information To Be Supplied]
Mailing Address:

In addition to the notice specified above, notice may also be provided by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below, but must be immediately followed up by a written notice delivered pursuant to the first paragraph of this subsection (a):

If to Company: [Contact Information To Be Supplied]
Telephone Numbers:
Facsimile:
Email Address:

If to Utility: [Contact Information To Be Supplied]
Telephone Numbers:
Facsimile:
Email Address:

Either Party may change the notice information in this Section 13 by giving notice within five (5) Business Days prior to the effective date of the change.

14. This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior discussions, communications and agreements, both oral and written. This Agreement shall not be amended or modified except by an agreement or amendment in writing signed by both Parties, and shall not be modified by course of performance, course of dealing, or usage of trade. No waiver of any right under this Agreement shall be deemed a subsequent waiver of the same right or any other right. To be effective, any

¹ For PG&E, insert “San Francisco.” For Southwest Gas, insert “San Bernardino.” For SDG&E, insert “San Diego.” For SoCalGas, insert “Los Angeles.”

² For PG&E, insert “Northern.” For Southwest Gas, insert “Central.” For SDG&E, insert “Southern.” For SoCalGas, insert “Central.”

waiver of the provisions hereof shall be in writing. Neither Party may assign (by operation of law or otherwise) any of its rights or obligations hereunder without the prior written consent of the other Party. If any provision of this Agreement or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of the Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.

The authorized signatories of the Parties have executed this Confidentiality Agreement as of the Effective Date.

[Company Name]

[Utility Name]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____