

SAMPLE FORMS - CONTRACTS
Standard Renewable Gas
Agreement to Transfer Ownership (Form 5503)

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(TO BE INSERTED BY UTILITY)

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

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ISSUED BY

Dan Skopec
Vice President
Regulatory Affairs

(TO BE INSERTED BY CAL. PUC)

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

AGREEMENT FOR TRANSFER OF OWNERSHIP OF
RENEWABLE GAS SELF-BUILD FACILITIES

between
[Interconnector]
and
[Utility]

This Agreement for Transfer of Ownership of Renewable Gas Self-Build Facilities (“Agreement”) is entered into this _____ day of _____, 20____, by and between [UTILITY] (“Utility”) and [INTERCONNECTOR] (“Interconnector”). Capitalized terms used but not defined in this Agreement shall have the meaning assigned to them in the SRGIA (as defined below).

RECITALS

A. Reference is made to the Standard Renewable Gas Interconnection Agreement between Interconnector and Utility (“SRGIA”), dated [SRGIA DATE], covering gas delivered through the Interconnection Point at meter [unique identifier for transfer of ownership, such as meter number], pursuant to which the Interconnector has elected to exercise the Self-Build Option for certain Utility Facilities, as specified in Appendix I of this Agreement (“Appendix I”).

B. The Appendix I facilities include, but are not limited to: pipes, valves, fittings, regulators, meters, and other associated facilities and materials to be transferred under this Agreement, and are referred to as the “Self-Build Facilities.”

C. Interconnector desires to transfer ownership of the Self-Build Facilities to Utility, and Utility is willing to accept the transfer of ownership of the Self-Build Facilities subject to the terms and conditions set forth in this Agreement (including its appendices) and the SRGIA.

NOW, THEREFORE, in consideration of the promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

1. SYSTEM LOCATION

Interconnector desires to transfer ownership of the Self-Build Facilities located on the property more particularly described as follows:

Address: _____

Legal Description:

2. LIENS AND ENCUMBRANCES

Interconnector represents and warrants that Interconnector is the sole owner of the Self-Build Facilities and that no part of the Self-Build Facilities are subject to any lien or encumbrance of any nature whatsoever, including, without limitation, any imposition(s) such as taxes or assessments by a Governmental Authority.

3. RIGHTS-OF-WAY

Where new formal rights-of-way, easements, land leases, permits, or other land rights are required by Utility, in its sole discretion, for the Self-Build Facilities on or over Interconnector’s property, or the property of others, Interconnector understands and agrees that Utility shall not be obligated to accept ownership of the Self-Build Facilities unless and until any necessary permanent rights-of-way, easements, land leases, and permits, satisfactory to Utility, are granted to Utility or obtained for Utility by Interconnector without cost to or condemnation by Utility.

4. TRANSFER OF OWNERSHIP OF SYSTEM

Upon completion of construction work and installation of the Self-Build Facilities, the satisfaction of Interconnector’s obligations under the SRGIA arising out of Interconnector’s election of the Self-Build Option (including, without limitation, Utility’s receipt of necessary rights-of-way, easements, land leases, permits, or other land rights, as well as any project documentation, licenses, permits, registrations, and certificates deemed necessary by Utility in its sole discretion, to accept the Self-Build Facilities), Utility’s inspection, review, testing, and other activities related to the acceptance of the Self-Build Facilities, as further described in the RGIOA, receipt of inspection approval from Utility and authorities having jurisdiction for the inspections, and Interconnector’s transfer to Utility of the value described in Appendix II, Utility shall own, operate, and maintain the Self-Build Facilities pursuant to the SRGIA. On such date, Utility shall accept the Self-Build Facilities by executing this Agreement (the “Transfer Date”), and title to the Self-Build Facilities and each and every component part thereof shall immediately pass from Interconnector to Utility free and clear of all liens and encumbrances, and Interconnector’s performance of its obligations under this Agreement shall be

deemed fulfilled except to the extent of any surviving representations, warranties, and other obligations, as further described in Section 20 herein or otherwise set forth in this Agreement (including Appendix III).

5. CONTRIBUTIONS, ADVANCES, AND ALLOWANCES

5.1 VALUE OF SELF-BUILD FACILITIES. Utility, in its sole judgment, shall determine the value of the Self-Build Facilities, and Interconnector shall contribute such value to Utility. Interconnector shall provide an estimate of its cost to purchase and install the Self-Build Facilities, including any internal labor and overheads and all necessary invoices and records to document the value of the Self-Build Facilities. The value of the Self-Build Facilities is described in Appendix II.

5.2 INCOME TAX COMPONENT CONTRIBUTION (“ITCC”). The capital portion of all contributions and advances by Interconnector, to the extent they are taxable to Utility, shall include ITCC at the rate provided in the Preliminary Statement of Utility's California Public Utilities Commission (“Commission”) approved tariff schedules as adopted and implemented. If Interconnector desires to seek a private letter ruling from the IRS, Interconnector must first obtain consent from Utility and the cost will be borne by Interconnector. If Utility and Interconnector jointly agree that a private letter ruling is necessary or desirable, Interconnector and Utility agree to cooperate on the content of the request.

6. PERMITS AND LICENSES

Interconnector represents and warrants that all approvals, permits and licenses required for the efficient and intended operation of the Self-Build Facilities are in full force and effect.

7. AD VALOREM TAXES

Interconnector represents and warrants that all taxes or other assessments on or concerning the Self-Build Facilities for the current tax year and earlier have been paid in full and there are no penalties or delinquency charges owing. The current ad valorem taxes for the tax year in which the Self-Build Facilities are conveyed shall be prorated as of the date of conveyance. Interconnector shall pay to Utility on demand such part thereof as is attributable to the portion of the tax year prior to conveyance of the Self-Build Facilities.

8. THIRD PARTY CONSENTS

Interconnector represents and warrants that all requisite third party consents to sell, assign, and transfer the Self-Build Facilities and rights-of-way, easements, land leases, permits, or other land rights have been secured.

9. CONDITION OF SYSTEM

Interconnector represents and warrants that Self-Build Facilities (a) are in good operating condition, (b) are capable of providing the end users a safe and reliable source of gas service, (c) comply with the Commission's General Orders, (d) are compatible with, and meet Utility's then-current planning, design standards, design criteria, specifications for equipment and material, construction standards and methods, and operational and maintenance requirements, and (e) otherwise satisfy all of Interconnector's representations, warranties, and covenants set forth in the SRGIA arising out of Interconnector's election of the Self-Build Option.

10. LITIGATION, PROCEEDINGS, AND CLAIMS

Interconnector represents and warrants there are no investigations, charges, proceedings, actions, or suits pending, or threatened, before any Governmental Authority, or any other public forum, that could affect, encumber, or burden the Self-Build Facilities or the ability of Utility to operate the Self-Build Facilities, or could result in impairment to or loss of Utility's title to the Self-Build Facilities.

11. GOVERNMENTAL COMPLIANCE

Interconnector represents and warrants that the Self-Build Facilities have been designed, constructed, and operated by or on behalf of Interconnector in full compliance with all Applicable Laws and Regulations, including ordinances and codes, of all city, county, state, and federal Governmental Authorities, and including, but not limited to, laws, rules, and regulations relating to environmental matters; and further including all rulings and orders of the Commission, and no notice from any Governmental Authority has been served upon Interconnector or its agents or upon the Self-Build Facilities, claiming violation of any Applicable Law and Regulations calling attention to the need for any work, repairs, constructions, alterations, or installation on or in connection in any way with the operation of the Self-Build Facilities with which Interconnector has not complied.

12. ASSIGNMENT OF AGREEMENT

This Agreement may be 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.

Interconnector shall have the right to assign this Agreement, without the consent of Utility, for collateral security purposes to aid in providing financing for the

Interconnector's Facilities. Interconnector will promptly notify Utility of any such assignment for collateral security purposes. Any assignment for collateral purposes entered into by Interconnector shall require that upon any exercise of remedies by the financing party, the entity substituted for Interconnector shall have an equal or greater credit rating as Interconnector and have the legal authority and operational ability to satisfy the obligations of Interconnector 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 12 is void and ineffective.

13. AGREEMENT TERMINATION

Interconnector has the right to terminate this Agreement at any time before the transfer is complete upon written notice to Utility. Notwithstanding an event of termination, within 60 calendar days of receipt of Utility's itemized invoice, Interconnector shall reimburse Utility for its expenses covering any engineering, surveying, right-of-way acquisition, and other associated work incurred by Utility. If such expenses are greater or less than any contribution or advance made to Utility by Interconnector, Interconnector shall pay to Utility or Utility shall refund the balance to Interconnector, without interest, as the case may be. This Section 13 shall survive any termination of this Agreement.

14. INDEMNIFICATION

Without limiting the indemnification, defense, and hold harmless obligations set forth in the SRGIA, to the maximum extent permitted by Applicable Laws and Regulations, Interconnector shall be solely responsible for and shall release, indemnify, defend and hold harmless Utility, and Utility's parent and affiliates, including their officers, directors, agents, contractors, and employees thereof, against losses, costs, expenses (including in-house and outside attorneys' fees), claims, enforcement actions, judgments, suits or other obligations or liabilities, resulting from or arising out of or in any way connected with (a) physical injury or damage to property or person, arising from Interconnector's performance or nonperformance of its obligations under this Agreement, or from the performance or nonperformance of any individual or entity authorized on behalf of Interconnector, and (b) any inaccuracy in or breach of any representation or warranty made by Interconnector in this Agreement or any certificate delivered

pursuant to this Agreement. This Section 14 shall survive any termination of the Agreement.

15. JOINT AND SEVERAL LIABILITY

Where two or more individuals or entities have executed this Agreement and are jointly transferring the Self-Build Facilities under this Agreement, all such parties shall be jointly and severally liable to comply with all terms and conditions herein.

16. 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 Interconnector: [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 16:

If to Interconnector: [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 16 by giving notice within five (5) business days prior to the effective date of the change.

17. ADDITIONAL TERMS AND CONDITONS

Appendix III to this Agreement, if applicable, includes additional terms and conditions associated with Utility's acceptance of the transfer of ownership of the Self-Build Facilities.

18. COMMISSION JURISDICTION

This Agreement is subject to the applicable provisions of Utility's tariffs as filed and authorized by the Commission. This Agreement shall at all times be subject to such changes or modifications as said Commission may, from time to time, direct in the exercise of its jurisdiction.

19. INCORPORATION BY REFERENCE

All Appendices and other attachments are incorporated by reference.

20. BRING-DOWN OF REPRESENTATIONS AND WARRANTIES; SURVIVAL

All representations and warranties made by Interconnector are ratified and affirmed as of the Transfer Date. Notwithstanding the foregoing, Utility may, in its sole discretion, require Interconnector to execute a "bring-down certificate" as of the Transfer Date in form and substance acceptable to Utility in its sole discretion. Where the context permits, the terms and conditions of this Agreement shall survive termination.

21. GOVERNING LAW

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of California, without regard to its conflicts of law principles. Each party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

22. AMENDMENT

No amendment or modification to this Agreement shall be enforceable unless reduced to writing and executed by both parties.

23. DISPUTES

Any dispute arising between the parties regarding a party's performance of its obligations under this Agreement or requirements related to the interconnection of the Interconnector's Facilities shall be resolved according to the procedures in Utility's Gas Rule No. 45.

<< Signature Page Follows >>

24. SIGNATURE CLAUSE

The signatories have been appropriately authorized to enter into this Agreement on behalf of the party for whom they sign.

Interconnector hereby agrees to the terms and conditions of this Agreement, it being understood that Utility shall execute this Agreement upon its acceptance of the Self-Build Facilities in accordance with the terms of the SRGIA and this Agreement.

INTERCONNECTOR

Signature: _____

Name of Authorized Individual: _____

Title: _____

Mailing Address: _____

Telephone: _____

UTILITY ACCEPTS THE SELF-BUILD FACILITIES THIS _____ DAY OF _____, _____

Signature: _____

Name of Authorized Individual: _____

Title: _____

DATE EXECUTED: _____

For Utility's Use only:

DATE OWNERSHIP OF SELF-BUILD FACILITIES ARE TRANSFERRED TO UTILITY

TRANSFER DATE: _____

WORK ORDER NO.: _____

ASSOCIATED WORK ORDER NOs.: _____

APPENDIX I - DESCRIPTION OF INTERCONNECTOR SELF-BUILD
FACILITIES

APPENDIX II - COST ARRANGEMENTS

APPENDIX III - ADDITIONAL TERMS AND CONDITIONS