

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into the 13th day of November 2024 (Effective Date), by and between the City of Nevada City (CITY) and the County of Nevada (COUNTY). CITY and COUNTY 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 credits are commonly referred to as Rule 20A Credits. The amount of said funds allocated by Pacific Gas and Electric Company (PG&E) to CITY is hereafter referred to as the "CITY Allocation."
- B. COUNTY has identified a need for Three Hundred and Forty Six Thousand, Seven Hundred and Forty Five Dollars (\$346,745) in additional RULE 20A Credits for the Red Dog Road undergrounding project.
- C. CITY currently has no active undergrounding projects that could make use of the CITY Allocation.
- D. On November 13, 2024, the CITY Council authorized the Mayor to execute this MOU with COUNTY to transfer \$346,745 Rule 20A Credits from CITY to COUNTY.

AGREEMENT

NOW, THEREFORE, the Parties hereto agree as follows:

- 1. **Assignment of Rights.** CITY agrees to assign, for use by COUNTY, its rights and interests in Three Hundred and Forty Six Thousand, Seven Hundred and Forty Five Dollars (\$346,745) of the CITY Allocation to COUNTY, and COUNTY agrees to acquire, for consideration, the CITY Allocation in accordance with the terms of this MOU. This MOU shall be subject to the approval of the Parties.
- 2. **Term.** COUNTY shall acquire for no cost \$346,745.00 of CITY Allocation Credits.
- 3. **Transfer and Assignment of County Allocation.** Within ten (10) business days of CITY's receipt of the fully executed agreement, CITY shall deliver a written request to PG&E, with a copy to COUNTY, making a formal request to transfer and assign \$346,745 of the CITY Allocation to and for the benefit of COUNTY. CITY shall cooperate in good faith with COUNTY to provide any additional documentation or information that is reasonably requested by PG&E to complete the transfer. If PG&E is unable to complete the transfer, CITY shall incur no cost from COUNTY.
- 4. **Representations.** COUNTY acknowledges and agrees that it has conducted its own investigation as to the applicability and transferability of CITY Allocation for use in COUNTY projects. CITY has not made

any representation or warranty to COUNTY with respect to same. The actual use of CITY Allocation by COUNTY shall be subject to the rules and procedures adopted by PG&E, the California Public Utilities Commission, and such other conditions or requirements as are set forth in the Public Utilities Code.

5. **Indemnification.** COUNTY shall indemnify, defend (with counsel reasonably acceptable to CITY), and hold harmless CITY, 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 CITY Allocation in connection with the construction of any COUNTY project. COUNTY'S indemnification of CITY from such claims and demands arising from the use of CITY 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.
6. **Acknowledgement.** COUNTY acknowledges, knows, and understands that it is signing the MOU freely and voluntarily.
7. **Termination for Breach.** In the event that either Party is in breach of its obligations as set forth in this MOU, then the non-defaulting Party shall have the right to terminate this MOU 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.
8. **Notices.** All notices to be given pursuant to this MOU 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 MOU on behalf of the Party.
9. **Headings.** Headings used in this MOU are for reference purposes only and shall not be considered in construing this MOU.
10. **Authority to Enter MOU.** Each person executing this MOU on behalf of the Parties represents and warrants that he or she is duly authorized to execute and deliver this MOU on behalf of CITY or COUNTY, and that this MOU is binding on CITY and COUNTY in accordance with its terms and conditions.
11. **Binding Effect.** This MOU shall inure to the benefit of and be binding upon the Parties hereto and their representative heirs, successors, and assigns.


- 12. No Assignment.** No Party shall assign or transfer, by operation of law or otherwise, any or all its rights or obligations under this MOU without the prior written consent of the other Party and formal written modification.
- 13. No Third-Party Beneficiaries.** Nothing contained in this MOU shall be construed to create any rights in third parties, and the Parties do not intend to create any such rights.
- 14. Modification.** This MOU may be modified or amended only by a writing duly authorized and executed by CITY and COUNTY.
- 15. Governing Law and Venue.** This MOU shall be governed and construed in accordance with the laws of the State of California, and any action brought relating to this MOU shall be adjudicated in a court of competent jurisdiction in the County of Nevada unless transferred by court order pursuant to Code of Civil Procedure section 394.
- 16. 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.
- 17. 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.
- 18. No Party Deemed to be Draftsperson.** The terms of this MOU 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 MOU or any other rule of construction which might otherwise apply.
- 19. Severability.** If any term or portion of this MOU is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this MOU shall continue in full force and effect.
- 20. Attorney's Fees.** In the event of any dispute or legal action arising under this MOU, the prevailing Party shall not be entitled to attorney's fees.
- 21. Counterparts.** This MOU 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.
- 22. Entire MOU.** This MOU contains the entire agreement between COUNTY and CITY relating to the services, rights, obligations, and covenants contained herein and assumed by the Parties respectively. Any prior or other agreements or representations between COUNTY and CITY regarding those matters

are null and void unless expressly set forth in this MOU. No oral understanding or agreement not incorporated in the MOU is binding on any of the Parties.

IN WITNESS WHEREOF, CITY and COUNTY have executed this Memorandum of Understanding effective on the date and year first herein above set forth.

CITY OF NEVADA CITY
317 Broad Street
Nevada City, CA 95959

COUNTY OF NEVADA
950 Maïdu Avenue
Nevada City, CA 95959

By: 
Sean Grayson
City Manager

By: _____
Heidi Hall
Chair of the Board of Supervisors

Date: 12/13/2024

Date: _____

Attest:

By: 
Gabrielle Christakes
Deputy City Clerk

Tine Mathiasen
Clerk of the Board

Approved as to form:

By: 
Legal Counsel to Nevada City

By: _____
Legal Counsel to Nevada County