

LICENSE AGREEMENT
(PUBLIC SAFETY POWER SHUTOFF)

This License Agreement ("**License Agreement**") is made and entered into this 1st day of November, 2021 (the "**Effective Date**") by the CITY OF SAN JOSE, a California municipal corporation hereinafter called "**LICENSOR**," and PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called "**PG&E**." PG&E and LICENSOR are sometimes hereinafter each singularly referred to as "PARTY" and collectively as "PARTIES".

R E C I T A L S :

A. LICENSOR owns or leases that certain real property commonly known as Almaden Community Center and Almaden Branch Library, located at 6445 Camden Avenue, Assessor's Parcel Number 581-04-011, and Mayfair Community Center, located at 2039 Kammerer Ave, San Jose, CA 95116 hereinafter called the "**Property**," each located in the City of San José , County of Santa Clara, State of California. The Almaden Property includes a parking lot ("**Parking Lot**") containing approximately 160 parking spaces. The Mayfair Property includes a parking lot ("Parking Lot") containing approximately 24 parking spaces.

B. PG&E desires to partner with LICENSOR in connection with a Public Safety Power Shutoff Event ("**PSPS Event**"). For purposes of this License Agreement, a "**PSPS Event**" means the existence of one or more environmental conditions creating extreme fire danger that results in the shutoff of power for public safety. Examples of PSPS Events include red flag warnings issued by the United States National Weather Service, low humidity levels, high winds, and dry vegetation.

C. The PARTIES desire to memorialize this mutual understanding and agreement for making the Property available to PG&E in connection with a PSPS Event.

NOW, THEREFORE, for good and valuable consideration, LICENSOR and PG&E agree as follows:

1. Grant of License. Subject to the terms and conditions set forth in this License Agreement, LICENSOR grants PG&E, and its employees, contractors, agents, and representatives ("**PG&E's Representatives**") and PG&E's customers the right to use the License Area described in **EXHIBIT A** attached hereto (the "**License Area**") and designated areas of the Property in connection with a PSPS Event, together with rights of ingress and egress to and from the License Area, and the right to use certain exterior areas of the Property as set forth below. All of the activities of PG&E and PG&E's Representatives pursuant to this License Agreement are referred to herein as "**PG&E's Activities**."

2. Use of License Area and Interior Common Areas of the Property. During Use Days (as defined in Section 5 below), the LICENSOR agrees to provide PG&E and PG&E's Representatives and customers adequate space (License Area) to set up a customer resource center. Services to be provided in the License Area may include, among other things, providing PG&E customers with water and snacks and the ability to charge phones and get up-to-date information

on outages. PG&E and PG&E's Representatives shall have the right to set up tables and chairs in the License Area. In addition to the space for the Customer Resource Center, PG&E and PG&E's Representatives and customers shall have the nonexclusive right, during Use Days, to use lobbies, hallways, stairways, elevators (if operational), restrooms, and other interior common areas of the Property. PG&E and PG&E's Representatives shall also have the right to install temporary directional signage in the common areas of the Property.

3. Staging Area; Parking.

(a) Staging Area. During Use Days, PG&E and PG&E's Representatives shall be able to use the exterior area of the Property shown on **EXHIBIT A** (the "**Staging Area**") to support the operation of an indoor customer resource center in the case of a PSPS Event. PG&E and PG&E's Representatives shall have the right to set up tents, install trailers, portable toilets, fencing, and temporary signage, park mobile vehicle units and other vehicles, and deliver and stage equipment, supplies and materials in the Staging Area.

(b) Parking. PG&E and PG&E's Representatives and customers shall have the non-exclusive right to park vehicles in portions of the Parking Lot shown on **EXHIBIT A** during Use Days.

(c) Personnel. During Use Days PG&E shall be provided adequate space in the License Area. The hours for use to PG&E customers shall be from 8:00 am to 9:00 pm. On Use Days, the License Area shall be fully staffed by PG&E and its representatives, at PG&E's sole cost and expense. PG&E, in its sole discretion, may elect to engage uniformed, unarmed personnel to be present in the Parking Lot and Staging Area during Use Days to ensure the protection of its equipment, the safety of the public and to prevent any damage to the Property

4. Term. This License Agreement shall be for a term of five (5) years, commencing upon execution (the "**Commencement Date**"), and expiring on December 31, 2027 (the "**Termination Date**"). Notwithstanding the term of this License Agreement, PG&E anticipates that it will use the License Area and the Staging Area during the PSPS events on an occasional basis, if at all, for periods of approximately 2-10 days at a time. The days (including any partial days) during which any of PG&E's Activities are occurring in or on the License Area or the Staging Area are referred to herein as "**Use Days.**" During Use Days, PG&E shall be able to use the License Area and the Staging Area 24 hours per day.

5. Fees and Payments For Use. PG&E agrees to reimburse the City at a daily rate of \$670. The daily rate will cover the City's staffing and supplies costs for the PSPS activations for each day activated. Payments shall be submitted to the CITY 30 days after each PSPS event.

6. PG&E shall give LICENSOR at least 24 hours' prior notice (the "**PSPS Notice**") of the dates and times that PG&E desires to access and use the Property in connection with a PSPS Event. Within four (4) hours after receipt of a PSPS Notice, LICENSOR shall confirm receipt of the PSPS Notice.

7. PG&E's use of the Property in connection with a PSPS Event shall take priority over other uses and events. LICENSOR acknowledges that PG&E may give LICENSOR multiple PSPS Notices during any calendar year.

8. Use of License Area and Staging Area.

(a) As Is. To LICENSOR'S current actual knowledge, the Property complies with all laws, including the Americans with Disabilities Act and other accessibility laws. PG&E accepts the License Area and the Staging Area "AS-IS," "WHERE-IS" and "WITH ALL-FAULTS," subject to all applicable zoning, municipal, county and state laws, ordinances, and regulations governing and regulating the use of the License Area and the Staging Area. PG&E may request LICENSOR to perform alterations, repairs, or improvements to the License Area and the Staging Area, but PG&E understands and agrees that LICENSOR shall not be obligated to make any such alterations, repairs, or improvements at any time. Except in the event of an emergency, PG&E shall not make any alterations, repairs, or improvements to the Property without the prior written consent of LICENSOR, which consent shall not be unreasonably withheld, conditioned, or delayed.

(b) Use. PG&E shall exercise reasonable care in the conduct of PG&E's Activities in the License Area and the Staging Area. Without limiting the generality of the preceding sentence, PG&E shall maintain the License Area and the Staging Area in reasonably neat and orderly condition during Use Days; provided, however, that LICENSOR, as part of the License Fee and without additional compensation, shall provide all necessary janitorial services to the License Area and common areas during Use Days, including, but not limited to, removing trash and stocking restrooms with supplies. PG&E shall not use the License Area or the Staging Area or permit anything to be done in or about the License Area or the Staging Area during Use Days that will in any way conflict with any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirement relating to the use or occupancy of the License Area or the Staging Area. During Use Days, PG&E shall not allow the License Area or the Staging Area to be used for any unlawful or objectionable purpose, nor shall PG&E cause, maintain or permit any nuisance in, on or about the License Area or the Staging Area.

(c) Mechanic's Liens. PG&E shall keep the Property free and clear of all mechanic's liens arising, or alleged to arise, in connection with any work performed, labor or materials supplied or delivered, or similar activities performed by PG&E or at PG&E's request or for PG&E's benefit. If any mechanic's liens are placed on the Property in connection with PG&E's use or PG&E's Activities, PG&E shall diligently pursue all necessary actions to remove such liens from title, either by payment or by recording a lien release bond in the manner specified in California Civil Code Section 8424 or any successor statute.

(d) Restoration. Upon PG&E's ceasing to use the License Area and the Staging Area in connection with a particular PSPS Event, PG&E shall remove all personal property of PG&E from the License Area, remove all vehicles, personal property, debris and waste material of PG&E and PG&E's Representatives from the Staging Area, and repair and restore the License Area and the Staging Area as nearly as reasonably possible to the condition that existed prior to PG&E's entry hereunder.

(e) Water Discharge. PG&E's activities may require potable water-filled equipment, such as barrels or water barriers to weigh down tents or other equipment, or to delineate outside areas on the Property. All potable water-filled equipment shall be cleaned prior to use and filled with water from a potable water source only. Any water discharged from the water-filled equipment shall be discharged to onsite unpaved land (i.e., soil) only. PG&E and PG&E's representatives shall ensure best management practices are implemented including but not limited to ensuring water is observed for any potential sediments, trash or other contaminants; the discharge area selected is 100 feet from a water body; and the discharge is done to avoid ponding and erosion. If the water needs to be discharged to a storm drain, PG&E will obtain local stormwater agency approval. This License Agreement authorizes the discharge of potable water from water-filled equipment on to the Property as described above. PG&E shall notify LICENSOR if water discharge is necessary.

9. Notices. All notices under this License Agreement shall be sent by email to the addresses set forth in **EXHIBIT B**. In addition, LICENSOR will provide PG&E with telephone or cellphone numbers of staff in calling order to contact in an emergency as set forth in **EXHIBIT B**. **EXHIBIT B** shall be updated as needed to reflect current names and contact information.

10. Indemnity. Except to the extent caused by the gross negligence or willful misconduct of LICENSOR, its officers, agents, or employees, PG&E shall indemnify, defend and hold harmless LICENSOR and its governing body, officers, agents, and employees from and against all claims, losses, actions, demands, damages, costs, expenses (including, but not limited to, reasonable attorneys' fees and court costs) (collectively, "**Claims**") that are caused by PG&E's Activities, or the entry on, occupancy or use of, the Property by PG&E or PG&E's Representatives under this License Agreement, including, but not limited to, Claims relating to (i) injury to or death of persons, including, but not limited to, employees of LICENSOR or PG&E; (ii) injury to the property of LICENSOR, and (iii) violation of any applicable federal, state, or local laws, statutes, regulations, or ordinances by PG&E or PG&E's Representatives. In no event, however, shall PG&E be liable for any indirect or consequential damages or for loss of profits or other revenue, loss of goodwill, or loss of use. The indemnification obligations of PG&E under this Section 10 shall survive the expiration or earlier termination of this License Agreement.

11. Insurance. PG&E shall at all times during the Term of this License Agreement, self-insure for PG&E's Activities pursuant to this License Agreement in accordance with **EXHIBIT C**.

12. Alterations to Property. LICENSOR hereby grants PG&E and PG&E's Representatives the right to perform, at PG&E's expense, the alterations to the Property described in **EXHIBIT D** attached hereto. PG&E or PG&E's Representatives will coordinate the scheduling of the performance of such alterations with LICENSOR. **NOTE:** Any proposed improvements and or alterations to the site(s) may require plans and or permits. Approval shall be sought prior to commencing any work through the City of San José Public Works Department, SECI Division.

13. Miscellaneous.

(a) Governing Law. This License Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California.

(b) No Waiver. Any waiver with respect to any provision of this License Agreement shall not be effective unless in writing and signed by the party against whom it is asserted. The waiver of any provision of this License Agreement by a party shall not be construed as a waiver of a subsequent breach or failure of the same term or condition or as a waiver of any other provision of this License Agreement.

(c) Counterparts. This License Agreement may be executed in identical counterpart copies, each of which shall be an original, but all of which taken together shall constitute one and the same agreement.

(d) Authority. Each party to this License Agreement warrants to the other that it has the right and authority to enter into and to perform its obligations under this License Agreement, without the consent of any third party, and that the person signing below is authorized to bind such party.

(e) Interpretation. This License Agreement shall be construed according to the fair meaning of its language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement.

(f) Exhibits. The following exhibits are attached hereto and incorporated herein by this reference:

- EXHIBIT A** – License Area
 - Staging and Parking Lot Area
- EXHIBIT B** – Notices
- EXHIBIT C** – Statement of Self-Insurance Program
- EXHIBIT D** – ADA Alterations

(g) Electronic Signatures. This License Agreement may be executed by electronic signatures (e.g., using DocuSign or e-SignLive) or signatures transmitted in portable document format ("pdf"), and copies of this License Agreement executed and delivered by means of electronic or pdf signatures shall have the same force and effect as copies hereof executed and delivered with original manually executed signatures. The parties may rely upon electronic and pdf signatures as if such signatures were manually executed originals and agree that an electronic or pdf signature page may be introduced into evidence in any proceeding arising out of or related to this License Agreement as if it were an original manually executed signature page.

(h) Successors and Assigns. This License Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors, and assigns of each party.

(i) Entire Agreement. This License Agreement supersedes all previous oral and written agreements between and representations by or on behalf of the parties and constitutes the entire agreement of the parties with respect to the subject matter hereof. This License Agreement may not be amended, except by a written agreement executed by both parties.

IN WITNESS WHEREOF, the parties have executed this License Agreement as of the date set forth below each signature, effective upon the Effective Date first written above.

"PG&E"

PACIFIC GAS AND ELECTRIC COMPANY,
a California corporation

By: *Emad Gholami*
Emad Gholami (Oct 26, 2021 22:36 PDT)

Name: Emad Gholami

Title: Interim Manager, Land Acquisition

Date: Oct 26, 2021

"LICENSOR"

CITY OF SAN JOSE, a California municipal
corporation

By:  On behalf of

Name: JON CICIRELLI

Title: Director of Parks, Recreation and
Neighborhood Services

Date: 11/1/2021

Approved as to form:

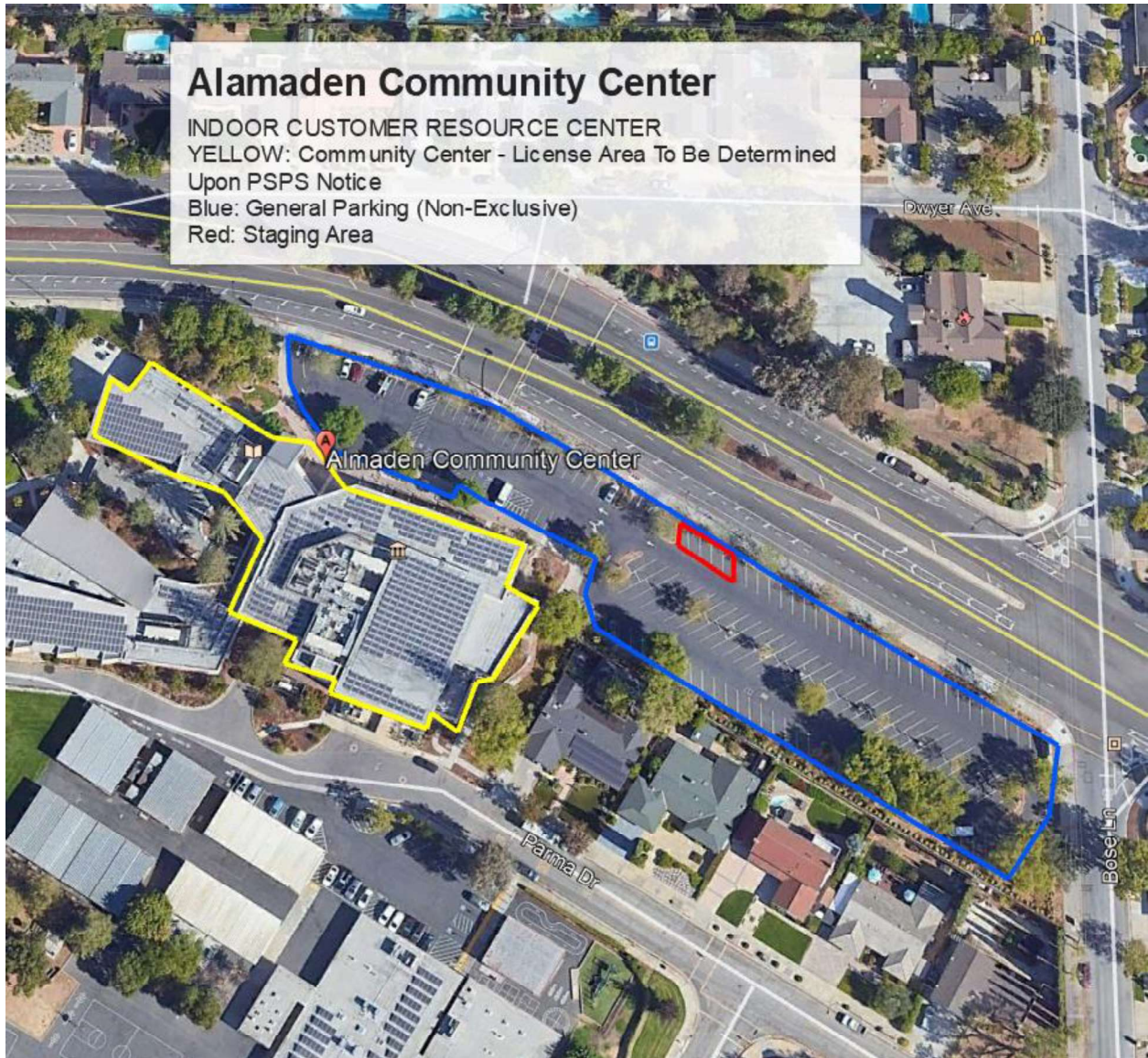
By: 

Name: Aaron Yu

Title: City Attorney

EXHIBIT A

Almaden Community Center, 6445 Camden Ave, San Jose, CA 95120



Mayfair Community Center, 2039 Kammerer Ave, San Jose, CA 95116

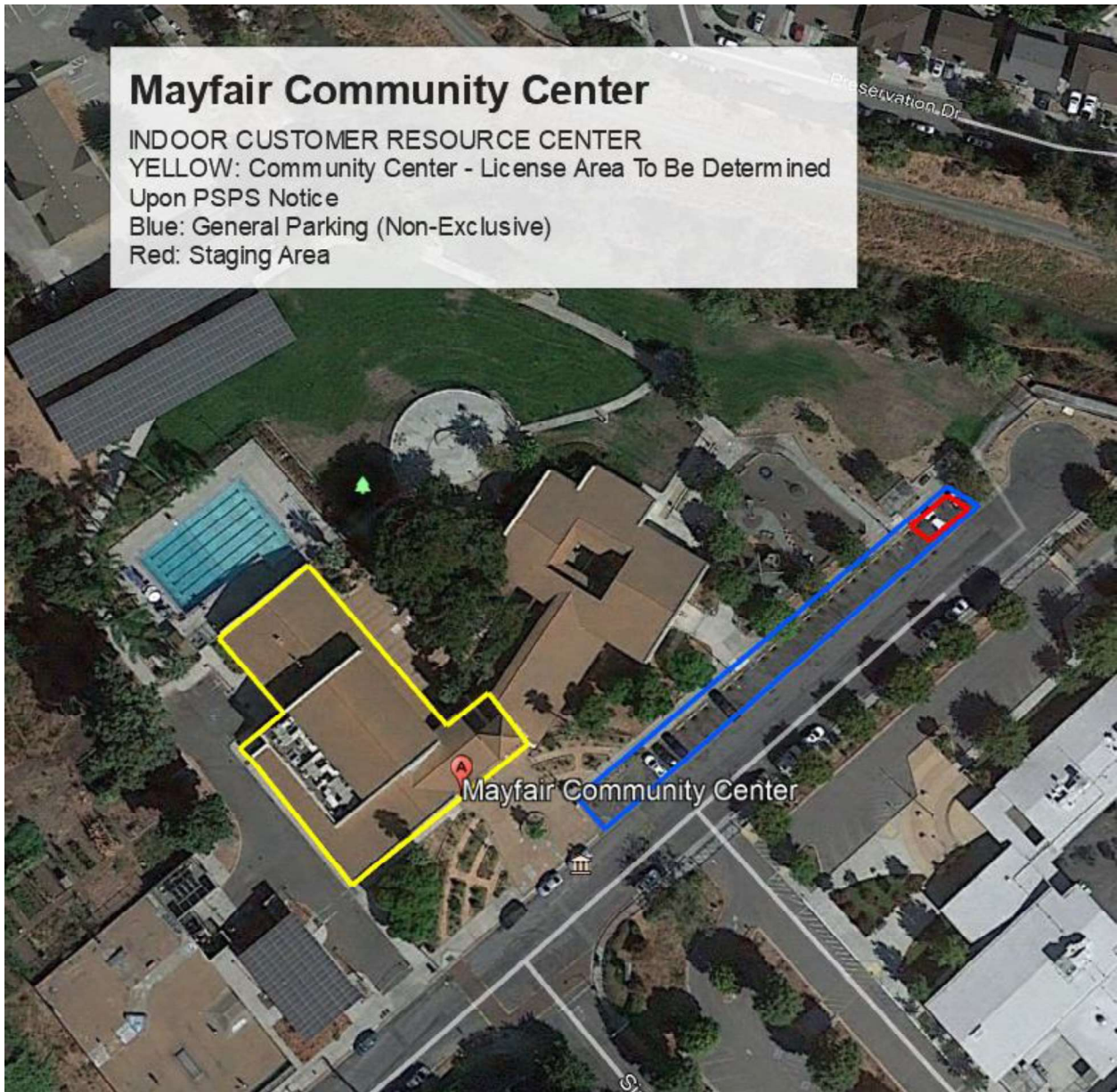


EXHIBIT B
NOTICES

TO LICENSOR:

Any notice to Licensor, including the notice to be given pursuant to Section 2 of the License Agreement, shall be sent to Jon Cicirelli, Director, Parks, Recreation and Neighborhood Services at the following address: 200 East Santa Clara Street, 9th Floor, San Jose CA 95113. Ph: 408.793.5553.

In addition, in the event of an emergency, PG&E shall contact the following persons in the order set forth below:

Neil Rufino, Assistant Director, Director, Parks, Recreation and Neighborhood Services
200 East Santa Clara Street, 9th Floor, San Jose CA 95113. Ph: 408-535-3572

Kendra Yarn, Emergency Preparedness Manager/DOC Director, 200 East Santa Clara
Street, 9th Floor, San Jose CA 95113 Ph: 408-535-8510

Anthony Ossenfort, Senior Maintenance Worker, 200 East Santa Clara Street, 9th Floor,
San Jose CA 95113 Ph: 408-793-5547

TO PG&E:

Any notice to PG&E, including the notice pursuant to Section 2 of the License Agreement shall be sent to Vanessa Brown at the following email address: vanessa.brown@pge.com, cc'ing CRCHelp@pge.com.

EXHIBIT C



EORM & Insurance Department
245 Market Street / N4S
4th Floor
San Francisco, CA 94105

STATEMENT OF SELF-INSURANCE PROGRAM

April 1, 2021

Issued to: Whom it May Concern

Re: Insurance requirements for Pacific Gas and Electric Company (PG&E) to use property for the purposes of establishing and operating a Community Resource Center in the case of a Public Safety Power Shutoff Event (PSPS).

This letter certifies PG&E is insured under a major risk management program with large self-insured retentions. The program provides coverage for the insurance types and limits reflected in the agreement which includes:

Commercial General Liability: \$5,000,000 each occurrence / \$10,000,000 aggregate
Employer's Liability: \$1,000,000 each accident
Business Auto Liability: \$1,000,000 each accident

Further, PG&E has qualified as a self-insurer under the laws of the State of California with respect to Workers' Compensation. Our identification number for this purpose is 2-0012-01-099.

*Please note a certificate of insurance is not applicable when an entity is self-insured, such as PG&E.

Stephen Cairns
Vice President and Chief Audit Officer



SI Certification Letter
File: PGE-246.01

EXHIBIT D

ADA ALTERATIONS

NOTE: Any proposed improvements and or alterations to the site(s) may require plans and or permits. Approval shall be sought prior to commencing any work through the City of San José Public Works Department, SECI Division.

ADA Scope of Work Almaden:

- Update existing ADA signs to non-glare and reflectorized signs that include tow-away language placed on a pole minimum of 80" above finished grade at Entrance to Parking Lot or adjacent to ADA Parking Space

ADA Scope of Work Mayfair:

- Remove existing asphalt at ADA stalls and replace with concrete approx. 26' x 18'
- Restripe 2 ADA stalls to new ADA code including signage.
- Install 1 EA tow away sign at the entrance to the parking lot.
- Remove overgrown vegetation on path of travel/truncated domes and fill in gaps with Sikaflex 1-A.
- Fill in gaps along access aisle from ADA parking stalls to main entrance.
- Adjust door closures at men's and women's restroom to under 5lbs of opening force.

STATEMENT OF SELF-INSURANCE PROGRAM

March 30, 2021

Issued to: City of San Jose
200 East Santa Clara St., 14th Floor
San Jose, CA 95113-1905

Re: Insurance requirements for Pacific Gas and Electric Company (PG&E) to obtain easements, licenses and encroachment permits and to repair and replace utility services, perform inspections and maintenance of existing facilities on City of San Jose, CA property from January 1, 2021 thru December 31, 2021

This letter certifies PG&E is insured under a major risk management program with large self-insured retentions. The program provides coverage for the insurance types and limits reflected in the agreement which includes:

Commercial General Liability: \$1,000,000 each occurrence / \$2,000,000 aggregate
Employer's Liability: \$1,000,000 each accident
Business Auto Liability: \$1,000,000 each accident

Further, PG&E has qualified as a self-insurer under the laws of the State of California with respect to Workers' Compensation. Our identification number for this purpose is 2-0012-01-099.

This letter shall remain in effect until the termination of the insurance agreement between PG&E and The City of San Jose in each individual contract, license, permit or easement issued in 2021.

*Please note a certificate of insurance is not applicable when an entity is self-insured, such as PG&E.



Stephen Cairns
Vice President Chief Audit Officer

City of San José Contract/Agreement Transmittal Form

Route Order

Attached / Completed

Electronically Signed

TO: City Attorney
 City Manager
 City Clerk **OR** Return to
Dept. (circle one)

Insurance Certificates / Waivers Electronically Signed: Yes
 Business Tax Certificate Audit Trail Attached (if applicable)
 Contacted Clerk re: Form 700 Scanned Signature Authorization
 Supplemental Memorandums (if applicable): Select One

Type of Document: New Contract

Type of Contract: Other

REQUIRED INFORMATION FOR ALL CONTRACTS:

Existing GILES # 667242-000

Contractor: PG&E

Address: 245 Market Street San Francisco, CA 94105

Phone: 628-205-0382

Email: Vanessa.Brown@pge.com

Contract Description: The purpose of this MOU between PG&E and the City of San Jose, as per which the Almaden Community Center and Branch Library will serve as a Community Resource Center during a Public Safety Power Shutoff (PSPS) event.

Term Start Date: Upon Execution Term End Date: 12/31/2027 Extension: No

Method of Procurement: N/A RFB, RFP or RFQ No.: N/A Date Conducted: N/A

Agenda Date (if applicable): 6/23/2020

Agenda Item No.: 2.25

Resolution No.: 79599

Ordinance No.: _____

Original Contract Amount: _____

Amount of Increase/Decrease: _____

Option #: ___ of ___ Option Amount: _____

NTE/Updated Contract Amount: \$65,000

Fund/Appropriation: 001/3692

Form 700 Required (Selection mandatory for processing): No

Revenue Agreement: Yes

Tax Certificate No.: N/A

Expiration Date: N/A

Department: PRNS (64)

Department Contact: Stephanie Duran x35996

Customer (Finance Only): _____

Notes: DB# 646782

Project Manager: Kendra Yarn kendra.yarn@sanjoseca.gov

Department Director Signature:  On behalf of Jon Cicirelli

11/1/2021

Date

Office of the City Manager Signature: _____

Date