

Central Coast Ambient Monitoring Program (CCAMP) Fund

**Memorandum of Agreement
Community Foundation for Monterey County
Pacific Gas & Electric Company and
California Regional Water Quality Control Board, Central Coast Region
For
Establishment of a Distributable Donor-Advised Fund**

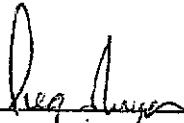
In compliance with a Consent Judgment entered on May 9, 2003 by the Superior Court of the County of Monterey ("the Consent Judgment"), Pacific Gas & Electric Company ("the Company") is, with this letter, delivering to the Community Foundation for Monterey County ("the Foundation") the amount of \$950,000 (nine hundred fifty thousand dollars). This property constitutes an irrevocable gift to the Foundation, a California non-profit corporation, upon your acceptance of the gift and the following terms and conditions:

1. A fund shall be established on the books of the Foundation and be known as the Central Coast Ambient Monitoring Program ("CCAMP") Fund ("the Fund"). The Fund will be used to support the monitoring components of CCAMP in the Monterey Bay area and associated watersheds. High priority shall be given to ensure that coastal confluences monitoring be continued, including routine sampling of creeks in the Monterey Bay area. Conventional water quality sampling through the CCAMP mussel sampling program in the Monterey Bay area is also an appropriate but less high priority use of the Fund than confluences monitoring.
2. The Fund shall include the property delivered by the Company and other property which later may be transferred to the Foundation from another source for inclusion in the Fund and accepted by the Foundation for inclusion in the Fund, and all undistributed income from all such property.
3. The Company designates the Regional Board to act as the sole Advisor of the Fund and the Company shall not influence in any way the administration or use of the Fund.
4. The Fund shall be the property of the Foundation and shall not be deemed a separate trust fund held by it in a trustee capacity. The Foundation shall have the ultimate authority and control over all property in the Fund, and the income derived therefrom, and the Fund may only be used for the charitable purposes of the Foundation as set forth in its organizational and governing documents. The Foundation shall not use or administer the Fund for purposes that conflict with the Consent Judgment. The Foundation will invest the Fund in conservative investments based upon minimal risk of loss of capital. The Foundation will furnish a regular accounting of the Fund and its investments to the Regional Board Executive Officer on a semi-annual basis or, if requested, more frequently. The Foundation will periodically review its investment strategy with the Regional Board Executive Officer on a semi-annual basis or, if requested, more frequently.

5. Regional Board staff will submit to the Foundation the Regional Board Executive Officer's monitoring funding selections, which shall be based on the CCAMP monitoring program criteria. The Foundation will approve all monitoring funding selections as approved by the Executive Officer as long as they are consistent with the CCAMP criteria and the charitable purposes of the Foundation.
6. The Fund shall be administered under the Guidelines for Administration of Distributable or Temporary Donor-Advised Funds approved by the Foundation, including any amendments, with the following exceptions:
 - a. The Fund fee will be 1.25% or \$5,000 per annum, whichever is greater. Fees shall be assessed at the establishment of the fund and annually thereafter; and
 - b. Net earnings on Fund balances will be credited back to the Fund;
 - c. The Fund fee will be taken first from investment earnings and if earnings are not sufficient, may be taken from Fund principal.
7. No person may receive any tangible benefit or privilege in return for a distribution from the Fund. No distributions will be used to discharge or satisfy a legally enforceable pledge or obligation of any person. To assure compliance with this requirement, monitoring shall be funded by disbursements to non-profit charitable organizations or governmental agencies. However, the Foundation may enter into contracts with and distribute payments directly to vendors or contractors who provide goods or services to implement an approved monitoring project, pursuant to the direction of the Regional Board Executive Officer.
8. Except as provided in Paragraph 12 below, it is understood that the Fund will operate as a **Temporary Donor-Advised Fund** for as long as a balance remains in the Fund and as long as the Regional Board exists as a unit of California State government. In the event of the dissolution of Regional Water Quality Control Board or in the event that it shall no longer be a unit of California state government or an organization described in section 170(c) of the Internal Revenue Code of 1954, as amended, the Foundation shall thereafter continue to hold the fund and shall distribute the income therefrom to such organizations as in the opinion of the Board of Directors of the Foundation most nearly serve the purposes and objectives of the Fund.
9. In the event of the dissolution of the Foundation, the funds constituting the Fund shall be distributed to the Regional Water Quality Control Board if it shall then be in existence and shall then be a unit of California state government or an organization described in section 170(c) of the Internal Revenue Code of 1954, as amended, or if it shall not then be in existence or shall not be an organization so described, then such funds shall be distributed to such organizations so described as in the opinion of the Board of Directors of the Foundation most nearly serve the purposes and objectives of the Regional Water Quality Control Board.
10. It is understood that the Fund shall be a component part of the Foundation and not a separate trust, and that nothing in this Agreement shall affect the status of the Foundation

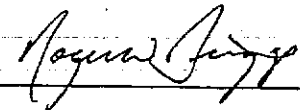
as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and as an organization which is not a private foundation within the meaning of Section 509(a) of the Code. This Agreement shall be interpreted to conform to the regulations issued pursuant thereto. The Foundation is authorized to amend this Agreement to conform to the provisions of any applicable law or government regulation in order to carry out the purposes of this Fund. Reference herein to provisions of the Internal Revenue Code of 1986, as amended, shall be deemed references to the corresponding provisions of any future Internal Revenue Code.

11. Once the Company delivers a check to the Foundation in the amount of \$950,000 (nine hundred fifty thousand dollars), the Company will have no further obligations related to funding, management, administration, formation of the Fund or any monitoring projects paid for from the Fund.
12. In the event of the decision by the Regional Board to transfer the entire then remaining balance of the Fund to a new fund with the same policies and purposes of the Fund in order to consolidate the then remaining balance with other funds the Regional Board manages for the purpose of ambient water quality monitoring in a region encompassing the Elkhorn Slough, Moss Landing Harbor and watersheds tributary to the Slough and Harbor, then the Foundation will transfer the remaining balance of the Fund to an appropriately established new fund either at the Foundation or another organization established in compliance with Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Signature 

Print Name and Title: GREG RUELER, SR. VICE PRESIDENT GENERATION

Organization: Pacific Gas & Electric Company

Signature 

Roger W. Briggs, Executive Officer

Organization: California Regional Water Quality Control Board, Central Coast Region

Accepted this 17th day of JULY, 2003. Receipt of the above-described property on this date is acknowledged.

By 
Todd Lueders, President/CEO, Community Foundation for Monterey County