



Council Agenda Report

To: Mayor Grisanti and Members of the City Council

Prepared by: Susan Dueñas, Public Safety Manager
Sarah Kaplan, Public Safety Specialist

Approved by: Steve McClary, Interim City Manager

Date prepared: August 24, 2021 Meeting date: September 13, 2021

Subject: License Agreement with Southern California Edison

RECOMMENDED ACTION: Authorize the Interim City Manager to execute a License Agreement between the City and Southern California Edison (SCE) for the rental of the Michael Landon Center at Malibu Bluffs Park for use as a Community Resource Center (CRC) in the event of a Public Safety Power Shutoff (PSPS).

FISCAL IMPACT: There is no cost associated with this agreement. However, in the event SCE sets up a CRC, a flat fee of \$1,500 per day for indoor and/or \$500 per day for outdoor use of the Bluffs Park site would be paid to the City by SCE.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2021-2022. This project is part of normal staff operations.

DISCUSSION: During high fire risk weather conditions, SCE may implement a PSPS to reduce the risk of a fire starting from its electrical lines. A PSPS remains in place as long as the dangerous weather conditions continue to pose a risk. Once the dangerous weather conditions subside, SCE crews must inspect the power lines before re-energizing them. Therefore, a PSPS event can last hours or days, depending on the situation.

To assist customers during an extended PSPS, SCE may open a CRC where residents may receive information, ice and ice vouchers to keep refrigerators and freezers cold, minimizing food loss, and the opportunity to charge personal mobile devices.

Currently, Malibu residents do not have access to a local CRC within the city limits. Recognizing this need, staff worked with SCE to identify a location in Malibu that could serve as a CRC. Minimum requirements for a CRC include:

- Available from 8:00 a.m. to 10:00 p.m.
- Space to accommodate at least 15 people in an open, comfortable area
- In compliance with the American Disabilities Act or handicap-accessible
- Equipped with air conditioning and heating
- Access to nearby restrooms
- Adequate electrical outlets that can charge multiple electronics
- A parking lot
- Two egress routes
- Strong cell signal

Since the Michael Landon Center at Malibu Bluffs Park meets all of these requirements, staff recommends that the City Council authorize the Interim City Manager to execute a License Agreement with SCE enabling SCE to provide a CRC at the Michael Landon Center during an extended PSPS.

ATTACHMENTS: License Agreement with Southern California Edison



SOUTHERN CALIFORNIA
EDISON

An *EDISON INTERNATIONAL* Company

COMMUNITY RESOURCE CENTER

LICENSE AGREEMENT

Between

SOUTHERN CALIFORNIA EDISON COMPANY

And

CITY OF MALIBU

This License Agreement, together with the exhibits attached hereto (as amended, restated, extended, renewed, modified, or supplemented from time to time, collectively, the “**Agreement**” is made and entered into as of this 13 day of September, 2021 (the “**Effective Date**”) by SOUTHERN CALIFORNIA EDISON, A California corporation (“**SCE**”) and the City of Malibu, an incorporated city government (“**Licensor**”). SCE and Licensor are sometimes referred to herein individually as a “**Party**” and jointly as the “**Parties**”.

RECITALS:

- A. Licensor owns or leases certain real property in the State of California and is willing to offer this real property and services for SCE’s use as a customer resource center in connection with SCE’s shutoff of power for public safety due to events such as wildfires, windstorms or high heat (“**Public Safety Events**”) as defined in Section 3 below, pursuant to the terms and conditions set forth in this Agreement.
- B. SCE is willing to secure space and services from Licensor to use as a customer resource center in connection with Public Safety Events pursuant to the terms and conditions set forth in this Agreement.
- C. The Parties desire to memorialize this mutual understanding and agreement for making certain of the availability of Licensor’s dedicated space and services to SCE in connection with Public Safety Events.

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. **License Area.** The dedicated space that is the subject of this Agreement is located at 24250 Pacific Coast Highway.
2. **Grant of License.** Subject to the terms and conditions set forth in this Agreement, Licensor grants SCE, SCE's Representatives, and SCE's customers, the right to use the License Area as a customer resource center in connection with a Public Safety Event, provided such License Area has regular power service at the time of the Public Safety Event, together with rights of ingress and egress to and from the License Area.
3. **Use.** The License Area shall be available every day from 8:00 AM to 10:00 PM for up to five (5) consecutive days per Public Safety Event. The days (including any partial days) during which any of SCE's Activities are occurring in or on the License Area are referred to herein as (“**Use Days**.”) During Use Days, SCE shall have the shared right with Licensor to use the License Area during the time period specified in this Section 3. SCE and its employees, contractors, agents, and representatives (“**SCE's Representatives**”) may enter the License Area for purposes of establishing and operating a customer resource center in the case of a Public Safety Event, (“**Public Safety Event Activities**”). Licensor acknowledges that Public Safety Event Activities may include the following: setting up signage, providing a smart phone charging kiosk, providing water and snacks, as well as

providing up-to-date information on outages to customers; and staging of equipment, supplies and materials.

4. Event Notification. SCE shall give Licensor a minimum of 24 hours' prior notice of the date and time that SCE needs to access and use the License Area to the contacts identified by Licensor in Exhibit A. Licensor must respond to SCE's notice and confirm availability for access and use by SCE no later than 4 hours after receipt of SCE's notice of a Public Safety Event. Licensor, at its sole discretion, reserves the right to determine and notify SCE that the License Area is not suitable for Public Safety Event Activities and deny access to the License Area.
5. Term. This License Agreement shall be for a term of five (5) years, commencing on September 13, 2021 and expiring September, 13, 2026. Either Party may terminate the Agreement on Notice, which will be effective thirty (30) days after such Notice is given to the other Party.
6. License Fee. Upon the end of each month, Licensor shall send an electronic copy of the invoice to the SCE Contract Representative identified in Exhibit A for the payment of the License Fee. For the use of indoor space, including the obligations in Sections 7(a) and 7(b) and the provision of equipment in Section 8(c), SCE shall, within forty-five (45) days of Licensor's invoice to SCE, pay Licensor a fixed fee of One Thousand Five Hundred Dollars (\$1,500.00) per Use Day per Public Safety Event. For the use of outdoor space, SCE shall pay Licensor a fixed fee of Five Hundred Dollars (\$500) per Use Day per Public Safety Event. If Licensor is not able to make License Area available for SCE's use during any portion of the time period or hours specified in Section 3, then License Fee will be prorated accordingly. SCE shall send payment to Licensor via wire transfer or ACH.
7. Licensor's Obligations. Licensor shall be responsible for the following:
 - (a) Provision of the License Area including air conditioning, heating, wireless internet access, and reasonable access to restrooms;
 - (b) Labor, equipment and materials to prepare the License Area and any necessary support elements upon notice of Public Safety Event including but not limited to setup of tables, chairs, TV monitors, refrigerators, and temporary electrical outlets as identified and required in Section 8.
 - (c) Labor required to revert the License Area space back to the condition it was in prior to its use for the Public Safety Event, reasonable wear and tear excepted;
 - (d) Security personnel as needed;
 - (e) Incremental utility use for any extended opening hours during Public Safety event;

8. Use of License Area.

(a) As Is. To Licensor's current actual knowledge, the License Area and the property on which License Area resides comply with all laws, including the Americans with Disabilities Act and other accessibility laws. SCE accepts the License 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. SCE may request Licensor to perform alterations, repairs, or improvements to the License Area unrelated to applicable laws, but SCE understands and agrees that Licensor shall not be obligated to make any such alterations, repairs or improvements at any time.

(b) General Provisions. The demised License Area shall be of sufficient size to comfortably accommodate up to forty (40) people at any time. Licensor shall ensure the space is clean, with appropriate lighting and ventilation including air conditioning, heating, and access to restrooms.

(c) Operation During Public Safety Event. Licensor shall have at least one point of contact on site for SCE staff with whom to coordinate Public Safety Event Activities. SCE may provide five (5) eight-foot folding tables and forty (40) folding chairs to be stored at the License Area for use only during the Public Safety Event. Licensor shall replace these tables and chairs if they are damaged during storage or outside of a Public Safety Event. Licensor should be responsible for providing all other necessary equipment including air conditioning, heating, adequate electrical service, two (2) refrigerators, two (2) televisions, and two (2) DVD players hooked up to the televisions for use by SCE and SCE Public Safety Event customers.

(d) Restoration. SCE shall exercise reasonable care in the conduct of Public Safety Event Activities in the License Area. Upon SCE's ceasing to use the License Area in connection with a particular Public Safety Event, SCE shall remove all SCE signage, charging kiosk(s) and other supplies and materials and personal property of SCE and SCE's Representatives.

(e) Safe Condition. Licensor shall maintain the License Area in a good, clean, safe and sanitary condition during Use Days.

(f) Lawful Use Only. SCE shall not use the License Area or permit anything to be done in or about the License 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. During Use Days, SCE shall not allow the License Area to be used for any unlawful or objectionable purpose, nor shall SCE cause, maintain or permit any nuisance in, on or about the License Area.

(g) Mechanic's Liens. SCE 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 SCE or at SCE's request or for SCE's benefit. If any mechanic's liens are placed on the Property in connection with SCE's use or SCE's Activities, SCE 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.

9. Notices. All notices under this Agreement shall be made in accordance with Exhibit A. Notices must, unless otherwise specified herein, be in writing and may be delivered by hand delivery, first class United States mail, overnight courier service, or e-mail. Notice provided in accordance with this Section 10 will be deemed given as follows:
- (a) Notice by e-mail or hand delivery will be deemed given at the close of business on the day actually received if received during business hours on a business day, and otherwise will be deemed given at the close of business on the next business day.
 - (b) Notice by overnight United States mail or courier service will be deemed given on the next business day after such Notice was sent out;
 - (c) Notice by first class United States mail will be deemed given two (2) business days after the postmarked date;

Notices will be effective on the date deemed given, unless a different date for the Notice to go into effect is stated in another section of this Agreement.

A Party may change its designated representatives, addresses and other contact information by providing Notice of same in accordance herewith.

All Notices, requests, invoices, statements, or payments related to this Agreement must clearly identify the fact, circumstance, request, issue, dispute or matter to which such Notice relates.

10. Limitation of Liability. In no event shall either Licensor or SCE or any of their employees, contractors, agents or representatives be liable to the other Party for any indirect, consequential, special, incidental, or punitive damages under any theory of liability, including, but not limited to, tort, contract, breach of warranty, or strict liability in connection with this Agreement. In addition, the aggregate amount of each Party's liability or damages to the other Party in connection with this Agreement shall not exceed Three Thousand Dollars (\$3,000). This Section 10 shall survive the expiration or earlier termination of this License Agreement.
11. Mutual Indemnity. Each Party shall indemnify, defend and hold harmless the other Party and its governing body, officers, agents, and employees from and against all third-party claims, losses, actions, demands, damages, costs, expenses

(including, but not limited to, reasonable attorneys' fees and court costs) (collectively, "Claims") to the extent such Claims result from the indemnifying Party's negligence or intentional or unlawful misconduct related to the indemnifying Party's performance of this Agreement. This Section 11 shall survive the expiration or earlier termination of this License Agreement.

12. Insurance. Throughout the Term of this Agreement, SCE, and to the extent not covered by SCE's insurance policies, its contractors and subcontractors, shall, at its own expense, provide and maintain in effect the insurance policies and limits of coverage specified in this Section 12, and such additional coverage as may be required by applicable laws, with insurance companies which are authorized to do business in the state in which the services are to be performed and which have an A.M. Best's Insurance Rating of not less than A-, VII. The insurance requirements specified herein do not in any way limit or relieve SCE of any obligation assumed elsewhere in this Agreement, including its defense and indemnity obligations.
- (a) Workers' Compensation Insurance with the statutory limits required by the state having jurisdiction over SCE's employees. Such insurance shall include a waiver or subrogation in favor of Licensor;
 - (b) Commercial General Liability Insurance covering all operations by or on behalf of SCE arising out of or connected with this Agreement, including coverage for bodily injury and property damage. Such insurance shall bear a per occurrence limit of One Million dollars (\$1,000,000), and annual aggregate of Two Million dollars (\$2,000,000). Such insurance shall (1) name Licensor as an additional insured, (2) include a waiver or subrogation in favor of the other Party, and (3) contain standard cross-liability and severability of interest provisions.
 - (c) Commercial Automobile Liability Insurance covering bodily injury and property damage with a combined single limit of One Million dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of SCE's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers, in the performance of this Agreement.
 - (d) Certificates of Insurance.

Within fourteen (14) days after the Effective Date, and within fourteen (14) days after coverage is renewed or replaced, SCE shall furnish to Licensor certificates of insurance evidencing the coverage required in this Section 12. All deductibles and self-insured retentions applicable to the insurance in Section 12 shall be paid by SCE. SCE, or its insurance broker or agent, shall provide Licensor with at least thirty (30) days' prior written Notice in the event of cancellation of coverage. Receipt of documents that do not comply with the requirements stated herein, shall not limit or relieve SCE of the duties and responsibility of maintaining insurance in

compliance with the requirements in this Section 12 and shall not constitute a waiver of any of the requirements in this Section 12.

- (e) SCE may self-insure the insurance requirements of this Section and shall provide proof of self-insurance.

13. Miscellaneous.

- (a) Governing Law. This 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 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 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 Agreement.
- (c) Counterparts. This 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 Agreement warrants to the other that it has the right and authority to enter into and to perform its obligations under this Agreement, without the consent of any third Party, and that the person signing below is authorized to bind such Party.
- (e) Rules of Construction. All references to time shall be in Pacific Daylight Time when California observes Daylight Savings time and Pacific Standard Time otherwise, unless otherwise stated.
- (f) Exhibits and Entire Agreement. Exhibit A attached to this Agreement are a part hereof and incorporated herein by this reference. This Agreement may not be amended, except by a written agreement executed by both Parties.
- (g) Electronic Signatures. This 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 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 Agreement as if it were an original manually executed signature page.

- (h) Successors and Assigns. This 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 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 Agreement may not be amended, except by a written agreement executed by both Parties.

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

LICENSEE

LICENSOR

SOUTHERN CALIFORNIA EDISON, a
California corporation

CITY OF MALIBU
an incorporated city government

By: _____

By: _____

Name: Ranbir Sekhon

Name: Steve McClary

Title: Director, PSPS Readiness

Title: Interim City Manager

Date: _____

Date: _____

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

EXHIBIT A

NOTICES

CITY OF MALIBU (“Licensor”)	SOUTHERN CALIFORNIA EDISON COMPANY (“SCE”)
Unless otherwise specified, all Notices are deemed provided in accordance with Section 9 if made to the address and phone numbers provided below:	Unless otherwise specified, all Notices are deemed provided in accordance with Section 9 if made to the address and phone numbers provided below:
Contract Administration: Attn: Susan Duenas Street: 23825 Stuart Ranch Road City: Malibu, CA 90265 Phone: (310) 456-2489 x313 e-mail: sduenas@malibucity.org	Contract Administration: Attn: Janice Wang Street: 1515 Walnut Grove Ave, 2B7-06 City: Rosemead, CA 91770 Phone: (626) 302-0271 e-mail: janice.wang@sce.com
Payments and Invoicing: Attn: Susan Duenas Street: 23825 Stuart Ranch Road City: Malibu, CA 90265 Phone: (310) 456-2489 x313 e-mail: sduenas@malibucity.org	Payments and Invoicing: Attn: Janice Wang Street: 1515 Walnut Grove Ave, 2B7-06 City: Rosemead, CA 91770 Phone: (626) 302-0271 e-mail: janice.wang@sce.com
ACH Routing Information: Financial Institution: Address: City, State, & Zip: Routing Number: Account Number:	ACH Routing Information: N/A
Wire Transfer: Bank: Branch: ABA: ACCT:	Wire Transfer: N/A Bank: Branch: ABA: ACCT:
Public Safety Event Notification Attn: Susan Duenas Phone: (310) 456-2489 x313 e-mail: sduenas@malibucity.org <i>with a copy to:</i> Attn: Steve McClary e-mail: smcclary@malibucity.org Attn: Rob Duboux e-mail: rduboux@malibucity.org	Public Safety Event Notification Attn: David Kaintz Phone: (626) 484-7844 e-mail: David.kaintz@sce.com <i>with a copy to:</i> Attn: Janice Wang e-mail: janice.wang@sce.com Attn: Jessica Lim e-mail: jessica.lim@sce.com