

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

APPROVAL OF LICENSE AGREEMENT BETWEEN THE TOWN OF APPLE VALLEY AND SOUTHERN CALIFORNIA EDISON (SCE)

Summary Statement:

As part of the Apple Valley Village Property and Business Improvement District (PBID) Association's (Association) efforts to enhance the Village Business District, in accordance with its adopted Management District Plan (Plan), the Association is creating and implementing key marketing programs. For example, the Association recently hired the Apple Valley Chamber of Commerce to perform advertising and marketing services for the benefit of the PBID property owners and merchants. The Association also successfully recommended to the Planning Commission that the Town Council adopt a kiosk sign program to improve business signage within the PBID boundaries.

Most recently, the Association wishes to install, display and maintain banners on streetlight poles within the PBID. The banners would promote seasonal and patriotic holidays, "Shop Local" campaigns, PBID branding, and other Town-sponsored and/or approved banners. Since the streetlight poles are owned by Southern California Edison (SCE), and installed in the Town right-of-way, SCE requires a License Agreement to be executed with the Town.

Per the License Agreement, Section 1 permits the Town or its "authorized agent" to "install, maintain, use, repair, renew, and remove" the banners (referred to as "attachments") in accordance with defined guidelines, Section 1.A-1.H. The Town may consider allowing the PBID Association to act as an "authorized agent". However, prior to permitting any third-member parties or "authorized agents" to install banners, Town staff shall prepare a list of conditions and/or guidelines that must be met in addition to Development Code and the SCE License Agreement standards.

A copy of the License Agreement, Attachment 1, is provided for your information.

Recommended Action:

That the Town Council Approve a License Agreement between Southern California Edison and the Town of Apple Valley to Install Signs, Flags and Banners on SCE Streetlight Poles within the Town's Right-of-Way.

Proposed by: Economic and Community Development Department Item Number _____

Town Manager Approval: _____ Budgeted Item Yes No N/A

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "License Agreement"), is made and entered into this _____ day of _____, 2011, by and between SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, (hereinafter called "Company") and the Town of Apple Valley, a political subdivision of the State of California, (hereinafter called the "Town").

WHEREAS, the Town has jurisdiction of certain streets and highways and has the right to regulate the use of such highways.

WHEREAS, Company has installed Company-owned composite, concrete, and steel street light electroliers ("Poles") at various locations within the said Town at the request of the Town.

WHEREAS, the Town desires a license to place non-electrified traffic regulating signs, American flags, and Neighborhood Watch signs, banners and related appurtenances on said Poles.

WHEREAS, Company shall permit the Town to install non-electrified traffic regulating signs, American flags, Neighborhood Watch signs, banners and related appurtenances on said Poles under this License Agreement.

NOW THEREFORE, in consideration of the mutual understandings and obligations of the parties as hereinafter set forth, Company and the Town hereby agree as follows:

1. Company hereby, subject to the terms and conditions provided in this License Agreement, licenses and permits the Town or the Town's authorized agent to install, maintain, use, repair, renew, and remove non-electrified traffic regulating signs, American flags, Neighborhood Watch signs and other Town – sponsored event banners and related appurtenances (collectively referred to as "Attachments") on the Poles in accordance with the following:

- A. Attachment shall be secured by means of stainless steel straps.
- B. No holes shall be punched, drilled, or burned in any Poles
- C. All Attachments shall be mounted so as to provide adequate clearance from traffic, pedestrians, and from all electrical facilities, and secured to Poles to avoid dislodging.
- D. The total surface area of all Attachments on any one Pole shall not exceed 18 square feet at any one time.
- E. Banners for use on poles in high wind areas (90 mph) must be mounted with break-away, or bend-away banner supports.
- F. No Attachment shall be suspended between Poles or between Poles and structures.
- G. No Attachment shall be installed on any wooden Poles.
- H. No Corporate Trademarks, Logos or other corporate identifiers shall be allowed on the Town sponsored banners.

2. Except as otherwise herein provided, the use by the Town of such Pole as herein provided for shall be without charge. The Town and/or the Town's agent shall not derive any revenues in connection with the license issued hereby that exceeds the direct expenses incurred in generating such revenues. The Town and/or the Town's agent shall maintain complete and accurate records in accordance with generally accepted methods of accounting for all transactions involving payment from a third-party for placement of an Attachment for three (3) years after the corresponding payment. Company shall have access to such records, upon reasonable notice, for the purposes of audit during normal business hours, for so long as such records are required to be maintained.

3. The Attachments shall be installed and maintained by the Town, or the Town's authorized agent, in a safe and workman-like manner in compliance with all applicable laws, rules, regulations, ordinances, including but not limited to General Order No. 95 of the Public Utilities Commission of the State of California.

4. Should Company, in its sole and absolute discretion, determine that it is necessary to relocate or replace a Pole on which a Town-owned Attachment is in place, the Town or the Town's agent shall, upon reasonable notice from Company promptly relocate, replace or transfer said Attachment to a substitute Pole, if any, as required at the Town's sole cost and expense.

5. The Town shall indemnify and hold harmless Company against all losses, expenses, claims, actions, causes of action, damages, costs or liabilities, directly or proximately resulting from or caused by the installation, placement, use, presence, operation, maintenance, and/or removal of said Attachments on any Poles, as herein provided. The termination of this License agreement shall not relieve the Town of any liabilities which occurred prior thereto or which are occurring at that time. This paragraph shall not be construed to impose liability on either the Company or the Town, in favor of any third party, unless such liability would have existed in the absence of this paragraph.

6. The failure of Company to enforce any provision of this License Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provisions; however, the same shall nevertheless remain in full force and effect.

7. This License Agreement shall continue in effect for a term of one (1) year from the date hereof and from year to year thereafter, unless terminated sooner. This License Agreement may be terminated by either party hereto by written notice given not less than sixty (60) days prior to the intended termination. In the event of such termination, the Town shall remove all of said Attachments from the Poles prior to the termination of this License Agreement.

8. This License Agreement shall not be assignable by the Town.

IN WITNESS WHEREOF, the Town and Company have executed this License Agreement by and through their respective officers thereunto authorized as of the day and year first herein above written.

CUSTOMER:

COUNCIL OF THE
TOWN OF APPLE VALLEY
ACTING FOR AND ON BEHALF
OF THE TOWN OF APPLE VALLEY

COMPANY:

SOUTHERN CALIFORNIA EDISON COMPANY

BY: _____

TITLE: _____

ATTEST: _____

TITLE: _____

BY: _____

TITLE: _____

ATTEST: _____

TITLE: _____

DATE: _____