

Memorandum of Understanding

Between

*The Regents of the University of California, Scripps Institution of Oceanography, UC San Diego
and Mendocino County*

This Memorandum of Understanding (“MOU”) is entered into by and between the The Regents of the University of California, UC San Diego, Scripps Institution of Oceanography, a University of California campus, (hereinafter “Scripps”), and Mendocino County, a political subdivision of the State of California (hereinafter “County”), for the purposes of obtaining, installing, monitoring, and maintaining a network of fire cameras. Scripps and County may be referred to individually as “Party” and collectively as “Parties.” This MOU has been created to clearly define the roles and expectations for Scripps and County.

I. Background

In collaboration with corporate entities and public agencies, Scripps has established fire camera networks in the Lake Tahoe region, the State of Nevada, and San Diego and Orange Counties. Scripps now has agreements with Pacific Gas & Electric (hereinafter “PG&E”) and other corporate sponsors to establish a similar network in Napa, Sonoma, and Marin counties (collectively hereinafter “North Bay Counties”).

Through its agreement with PG&E, Scripps would facilitate the provision of fire cameras and related installation equipment to each of the North Bay Counties. Each of the North Bay Counties would install the cameras in appropriate locations within their respective jurisdictions as decided at the August 15, 2018 meeting in Sonoma County. Each of the North Bay Counties first responders would have priority in the use and manipulation of the cameras within their respective jurisdictions. Scripps and PG&E would also have control to manipulate the cameras (i.e., liveview), but would defer priority to first responders (e.g., County OES and CalFire). Control of the cameras and priority will be addressed at camera workshops provided by Scripps. The camera footage would be broadcast publicly online, and any recordings made would be saved and maintained by Scripps.

II. Roles and Responsibilities

Scripps and County each agree to be direct and proactive with each other in raising any concerns relating to this MOU. The expectations of the Parties, individually and mutually, are specified below:

A. Scripps agrees to under its agreement with PG&E:

1. Provide to County fire cameras and related installation equipment.
2. Install, maintain, and update all software necessary for the full function of the provided cameras.

3. Provide unfettered access to any recordings or copies of recordings, in whatever format, made or kept resulting from any entity's use of the cameras provided to County.
4. Ensure that County First Responders always have priority in the use and manipulation of the cameras in County's jurisdiction.
5. Comply with any responsibilities or obligations assigned to Scripps as described in Paragraph IV.

B. County agrees to:

1. Properly install all cameras provided by Scripps to County such that they can be operated in accordance with this MOU.
2. Perform maintenance on the cameras in County's jurisdiction, other than software updates and maintenance as described in Section II.A.2, to ensure that the cameras in County's jurisdiction remain in good working order.
3. Comply with any responsibilities or obligations assigned to County as described in Paragraph IV.

C. The Parties mutually agree to:

1. Work in a collaborative and cohesive manner to support each other in carrying out the goals and terms of this MOU.
2. Comply with any responsibilities or obligations mutually assigned to the Parties as described in Paragraph IV.

III. Term of Agreement

This MOU shall be considered effective October 1, 2018, and shall remain in effect until September 30, 2021, unless otherwise mutually agreed upon in writing by the Parties. Any Party may terminate this MOU without cause by providing thirty (30) days' advance written notice to the other Party.

IV. Miscellaneous Terms and Conditions

A. Jurisdiction and Venue

This MOU shall be construed in accordance with the laws of the State of California and the Parties hereto agree that venue shall be in a mutually agreed upon location in California.

B. Confidentiality

1. Maintenance of Confidential Information. Confidential information may consist of information that is either oral or written or both. Any confidential information disclosed in writing shall be clearly marked by the Disclosing Party as "[Confidential Information.]" Any confidential information orally disclosed shall be reduced to writing by the Disclosing Party with a copy marked "[Confidential Information]" provided to the Receiving Party within thirty (30) days.

The Receiving Party hereby agrees:

- a. not to use the Confidential Information except in accordance with the Project,
- b. to safeguard Confidential Information against disclosure to others with the same degree of care as it exercises with its own confidential information of a similar nature; and
- c. not to disclose Confidential Information to others (except to its employees, agents, or consultants who are bound to by a like obligation of confidentiality) without the express written permission of the Disclosing Party.

Except that the Receiving Party shall not be prevented from using or disclosing any Confidential Information:

- a. which the Receiving Party can demonstrate by written records was previously known to it;
- b. which is now, or becomes in the future, public knowledge other than through acts or omissions of the Receiving Party; or
- c. which is lawfully obtained by the Receiving Party from sources independent of the Disclosing Party.
- d. which the Receiving Party can demonstrate was independently developed by employees of the Receiving Party
- e. which is required by law or the action of a court of competent jurisdiction to be disclosed.

It is further agreed that the furnishing of Confidential Information shall not constitute any grant or license to the Receiving Party under any legal rights now or hereinafter held by the Disclosing Party.

The parties agree to abide by all United States export control regulations. Notwithstanding the foregoing, no export-controlled materials or information/data shall be transferred from one party to the other under this Agreement.

2. Protection of Personally Identifiable Information and Protected Health Information. To the extent Scripps is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII),

or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), Scripps shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. Scripps shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of County Protected Information provided to, or accessed or created by, Scripps. Additionally, Scripps shall only access, use or disclose County Protected Information if such access, use, or disclosure is expressly permitted by the terms of its agreement with County. Any other access, use or disclosure of County Protected Information is prohibited.

C. Access to Records/Retention

For the purposes of auditing and compliance with the California Public Records Act (Govt. Code § 6250, *et seq.*), County shall have access to any records created or maintained by Scripps as a result of County's installation and use of cameras in County's jurisdiction. Except where longer retention is required by any federal or state law, Scripps shall maintain all required records for at least three (3) years after expiration of this MOU.

D. Indemnification

County agrees to defend, indemnify and hold Scripps harmless from and against any and all claims, liability, loss, expense, reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this MOU, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of County, its officers, agents or employees.

Scripps agrees to defend, indemnify and hold harmless County from and against any and all claims, liability, loss, expense, reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this MOU, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Scripps, its officers, agents, or employees.

E. Limitation of Liability

1. OTHER THAN AS EXPRESSLY PROVIDED IN THE MOU, NEITHER PARTY MAKES ANY WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

2. Notwithstanding any other provision in this MOU, Scripps shall have no liability and shall have no indemnity or defense obligation to County for any and all claims under any legal theory (including, but not limited to, claims for negligence and breach of contract) arising from or related to damage or injuries caused directly or indirectly by fires; provided however, if the claim arises from a fire negligently or intentionally started by Scripps during its operation or maintenance of the cameras provided for in this MOU, the limitation of liability in this sentence will not apply.

Acknowledged and agreed:

For Scripps:

Nancy A.F. Wilson
Nancy A.F. Wilson
Contract and Grant Officer

1/25/19
Date

For County:

Karla Van Hagen
Mendocino County
Deputy Clerk of the
Board

1-10-19
Date

IN WITNESS WHEREOF

DEPARTMENT FISCAL REVIEW:

Carmel J. Angelo 12-20-18
DEPARTMENT HEAD DATE

Budgeted: ☐ Yes ☐ No

Budget Unit: _____

Line Item: _____

Grant: ☐ Yes ☐ No

Grant No.: _____

CONTRACTOR/COMPANY NAME

By: Nancy Wilson

Date: 1/25/19

NAME AND ADDRESS OF CONTRACTOR:

Scripps Institution of Oceanography, UC San Diego

9500 Gilman Drive

La Jolla, CA 92093

COUNTY OF MENDOCINO

By: Carre Brown
Carre Brown, Chair
BOARD OF SUPERVISORS

Date: JAN 10 2019

ATTEST:

CARMEL J. ANGELO, Clerk of said Board

By: Karla Van Hagen
Deputy JAN 10 2019

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

CARMEL J. ANGELO, Clerk of said Board

By: Karla Van Hagen
Deputy JAN 10 2019

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

KATHARINE L. ELLIOTT,
County Counsel

By: Katharine L. Elliott
Deputy

Date: 12/20/2018

INSURANCE REVIEW:

By: Carmel J. Angelo
Risk Management

Date: 12-20-18

EXECUTIVE OFFICE/FISCAL REVIEW:

By: Jonelle Rame
Deputy CEO

Date: 12-20-18