

**ENGINEERING AND DESIGN PLAN CHECK  
LETTER AGREEMENT**

**BETWEEN**

**THE CITY OF MORENO VALLEY**

**AND**

**SOUTHERN CALIFORNIA EDISON COMPANY**

**KITCHING STREET 115 KV LOAD PROJECT**

April 14, 2016

Jeannette Olko  
The City of Moreno Valley  
Electric Utility Division Manager  
14331 Frederick Street, Suite 2  
Moreno Valley, CA 92552-0805

Re: Engineering and Design Plan Check Letter Agreement for the Kitching Street 115 kV Load Project

Dear Ms. Olko:

**1. Recitals:**

The City of Moreno Valley (“Moreno Valley”), is proposing to construct and operate the Kitching Street 115 kV Load Project, which consist of distribution facilities located, on the west side of Kitching Street, north of Edwin Road in Moreno Valley, California, to serve 28,000 kW of Wholesale Distribution Load, (“Project”). Moreno Valley submitted an Interconnection Request to Southern California Edison Company (“SCE”) to provide interconnection and Distribution Service pursuant to SCE’s Wholesale Distribution Access Tariff (“WDAT”) to interconnect the Kitching Street 115 kV Load Project.

All capitalized terms used herein, and not otherwise defined, shall have the meaning ascribed to that term in the WDAT Tariff. Moreno Valley and SCE are hereinafter sometimes referred to individually as “Party” and collectively as “Parties.”

SCE and Moreno Valley intend to execute an Interconnection Facilities Agreement (“IFA”) and a Distribution Service Agreement, that would include the terms for SCE to engineer, design, license, permit, procure, construct, own, operate and maintain, and for Moreno Valley to pay for certain SCE Interconnection Facilities and Distribution Upgrades, and also for SCE to provide Distribution Service to Moreno Valley for the Project.

A Combined System Impact and Facilities Study was performed by SCE and provided to Moreno Valley on July 2, 2015. Subsequent to the submittal of the studies, Moreno Valley requested permission to design, engineer and construct the Kitching Street 115 kV Substation (“Substation”), necessary to interconnect the Project. SCE has determined that it would allow Moreno Valley to design, engineer and construct the Substation to SCE’s standards and specifications, using SCE approved Contractors, and, upon completion, deed ownership of the Substation to SCE.

SCE is currently re-evaluating the Facilities Study to allow for Moreno Valley to design, engineer and construct the Substation. Therefore, in order to expedite certain aspects of the Project, Moreno Valley desires for SCE to commence certain work prior to the execution of the IFA. Accordingly, the purpose of this letter agreement (“Agreement”) is to agree upon an interim arrangement pursuant to which SCE will commence, and Moreno Valley will pay for

SCE to review certain engineering plans, specifications and designs of the Substation, as outlined in Attachment A below and as follows:

**2. Effective Date:**

This Agreement shall become effective on the date assigned by FERC ("Effective Date"). If SCE does not receive the fully executed Agreement within thirty (30) calendar days of Moreno Valley's receipt of this Agreement, then the offer reflected in this Agreement will expire and this Agreement will be of no effect. SCE shall promptly file this Agreement with FERC following execution. Moreno Valley shall support acceptance of this Agreement as filed, including waiver of any necessary filing and notice requirements. Such support shall include a written statement of concurrence with such filing, if requested by SCE.

**3. Termination:**

- (a) This Agreement shall terminate upon the earliest of the following to occur: (i) completion of the work as described in Section 4; (ii) notice that this Agreement is not accepted for filing by FERC; (iii) the effective date of the IFA that supersedes this Agreement; (iv) written notice or a request to terminate this Agreement from Moreno Valley to SCE at any time; (v) written notice provided by SCE to Moreno Valley pursuant to Section 3(b); (vi) written notice provided by SCE to Moreno Valley if a default occurs; (vii) written notice provided by SCE to Moreno Valley, pursuant to Section 4(c); (viii) written notice provided by SCE to Moreno Valley pursuant to Section 5(b); or (ix) following the withdrawal of the Project interconnection application.
- (b) This Agreement is provided in order to expedite such work as described in Section 4 and Exhibit A, in advance of the execution of the IFA. However, Moreno Valley understands and agrees that the IFA shall be executed by the Parties, and the IFA shall supersede this Agreement upon its effective date, unless an extension is otherwise agreed upon by SCE in writing. If the IFA is not executed by date and timeline as specified in the WDAT Tariff, without written consent to delay execution by SCE, SCE shall have the right to terminate this Agreement at its sole discretion; in such event, termination will become effective two (2) Business Days after receipt by Moreno Valley of the termination notice.
- (c) In the event that either Party terminates this Agreement, in the absence of an IFA:
  - (i) SCE shall use commercially reasonable efforts to mitigate the costs, damages and charges arising as a consequence of such termination. To that end, SCE shall, to the extent possible, cancel any pending orders of, or return, any materials or equipment procured pursuant to this Agreement.
- (d) Moreno Valley's obligations to pay charges and expenses incurred or irrevocably committed to be incurred pursuant to this Agreement as of the termination date of this Agreement will survive termination of this Agreement, except insofar as payment of such charges and expenses is provided for in an IFA that is accepted for filing by FERC and becomes effective.

**4. Performance of Work:**

- (a) Within thirty (30) calendar days following the Effective Date of this Agreement, Moreno Valley shall submit to SCE the items as listed in Exhibit A, Section I.
- (b) Within thirty (30) Calendar Days following the Effective Date of this Agreement, SCE will submit to Moreno Valley the protection requirements specific to the Kitching Street 115 kV Substation.
- (c) Within Sixty (60) Calendar Days following the later of 1) the Effective Date or 2) receipt of the items as specified in Exhibit A, Section I, SCE will provide to Moreno Valley the items as listed in Exhibit A, Section II. Moreno Valley understands and acknowledges that such sixty (60) Calendar Day timeline is only an estimate and that labor availability, or other unforeseen events could delay the actual completion dates of SCE's review beyond those specified. SCE shall not be liable for any cost or damage incurred by Moreno Valley because of any delay in the work provided for in this Agreement.
- (d) If SCE and Moreno Valley enter in to an IFA prior to completion of the work pursuant to this Agreement, such IFA shall supersede this Agreement upon its effective date, any applicable work product performed by SCE pursuant to this Agreement shall be reflected in the scope of the IFA, and this Agreement shall terminate.

**5. Charges:**

- (a) Moreno Valley shall and pay to SCE the following charges in accordance with this Agreement: (i) Estimated Amounts pursuant to the payment schedule as shown in Exhibit B; (ii) Actual costs pursuant to Section 6 and (iii) termination charges pursuant to Section 3.
- (b) SCE shall notify Moreno Valley in writing within a reasonable time if SCE learns that charges and expenses are likely to exceed the total estimated amount as shown in Exhibit B, which notification shall provide updated cost estimates in the format of Exhibit B. In such notification, SCE shall specify any additional amount required to be paid by Moreno Valley for SCE to continue work under the terms of this Agreement. Moreno Valley shall pay such additional amount within thirty (30) calendar days of receipt of such notification. If Moreno Valley does not pay the additional amount, or make any of the payments as described in Exhibit B by the due dates specified in this Agreement, SCE may stop all work and SCE shall tender a cure notice to Moreno Valley of such non-payment and a final deadline for making such payment, which shall be fifteen (15) Calendar Days from the receipt of the notice. Subject to the foregoing sentence, if the fifteen (15) Calendar Day cure timeline described above has expired and Moreno Valley has not cured the default, SCE may terminate this Agreement immediately upon written notice by SCE, subject to acceptance or approval by FERC.
- (c) If SCE and Moreno Valley enter in to an IFA prior to completion of the work pursuant to this Agreement, Moreno Valley's payments made and the Security Instruments under the terms of this Agreement, including any additional payments

and increases to the Security Instruments, would be credited to the amount due under the terms of the IFA.

**6. Final Invoice:**

- (a) Following Termination of this Agreement pursuant to Section 3(a)(i), (ii), (iv), (v), (vi), and (vii), or following completion of the work as described in Exhibit A, SCE shall submit a final invoice to Moreno Valley as soon as practicable, but within six (6) months, which will set forth the amount of SCE's charges and expenses actually incurred or irrevocably committed to be incurred pursuant to this Agreement ("Actual Costs") in sufficient detail to enable Moreno Valley to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates, and within thirty (30) days of receipt of the final invoice, Moreno Valley shall pay the Actual Costs.
- (b) In the event that Moreno Valley's amounts paid in accordance with Section 5(a) of this Agreement, including any additional amount paid pursuant to Section 5(b) of this Agreement, exceeds the Actual Costs, SCE shall return the excess amount to Moreno Valley without interest, within thirty (30) Calendar Days after the date of such invoice provided in accordance with Section 6 of this Agreement, without offset for any amount that may be in dispute. In the event of any such dispute, the Parties shall follow the dispute provisions in Section 11. In the event the Parties determine that Moreno Valley did not owe SCE the full amount paid, then SCE shall refund to Moreno Valley, without interest, the amount overpaid within thirty (30) Calendar Days of such determination.
- (c) In the event that Moreno Valley's amounts paid in accordance with Section 5(a) of this Agreement, including any additional amount paid pursuant to Section 5(b) of this Agreement, is less than the Actual Costs, then Moreno Valley shall pay the difference, without interest, within thirty (30) Calendar Days of the date of receipt of the invoice provided in accordance with Section 6 of this Agreement, without offset for any amount which may be in dispute. In the event of any such dispute, the Parties shall follow the dispute provisions in Section 11. In the event the Parties determine that Moreno Valley did not owe SCE the full amount paid, then SCE shall refund to Moreno Valley, without interest, the amount overpaid within thirty (30) Calendar Days of such determination.

**7. Addresses For Billing And Payment:**

- (a) All payments to be made by Moreno Valley to SCE shall be sent to:

Southern California Edison Company  
Accounts Receivable  
Box 600  
Rosemead, California 91770-0600

SCE may, at any time, by written notice to Moreno Valley, change the address to which

payments will be sent.

(b) All billings to be presented by SCE to Moreno Valley shall be sent to:

[Address]

Moreno Valley may, at any time, by written notice to SCE, change the address to which billings will be sent.

**8. Notices:**

Any notice or request made to or by either Party regarding this Agreement shall be made to the representative of the other Party as indicated below:

Southern California Edison Company  
Transmission & Distribution  
Manager, Grid Contract Management  
P. O. Box 800  
2244 Walnut Grove Avenue  
Rosemead, California 91770  
Telefax No. (626) 302-1152  
Telephone No. (626) 302-9640

Moreno Valley:  
[Address]  
Telefax No.  
Telephone No.

A Party may at any time designate different or additional persons or different addresses for giving of notices, demands or requests.

**9. Audit Rights:**

- (a) Moreno Valley shall have the right, during normal business hours, and upon prior reasonable notice to SCE, to audit at its own expense SCE's accounts and records pertaining to SCE's performance or either such Party's satisfaction of obligations owed to the other Party under this Agreement. Any audit authorized by this Section 9 shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to SCE's performance and satisfaction of obligations under this Agreement.
- (b) Accounts and records related to the work described in Exhibit A performed by SCE shall be subject to audit for a period of twenty-four (24) months following SCE's issuance of a final invoice in accordance with Section 6.
- (c) If an audit by Moreno Valley determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to Moreno Valley together with those records from the audit which supports such

determination. The Party that is owed payment shall render an invoice to the other Party and such invoice shall be paid pursuant to Section 6.

**10. Force Majeure:**

For the purposes of this Agreement, Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure. Economic hardship is not considered a Force Majeure event.

**11. Dispute:**

In the event of any dispute, the Parties shall promptly meet and attempt to resolve the dispute. Such dispute shall be referred to a designated senior representative of each party for resolution on an informal basis as promptly as practical in accordance with the dispute procedures set forth in the IFA, except that references to the Generator Interconnection Agreement shall be interpreted as references to this Agreement. In the event that the parties are unable to resolve the dispute on an informal bases and do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or law consistent with the terms of this Agreement.

**12. Suspension:**

This Agreement or work performed under this Agreement may not be suspended, unless approved in writing by the Parties.

**13. Default:**

No Party shall be considered to be in Default with respect to any obligation hereunder, other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. For the purposes of this Agreement, Default shall mean the failure of a breaching Party to cure its breach. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Section shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

**14. Indemnification:**

Each Party shall at all times indemnify, defend, and hold the other Party harmless from, any and all Losses arising out of or resulting from the other Party's action or inactions of its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party. For the purposes of this Agreement, Losses shall mean any and all damages, losses, and claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties.

**15. Limitation of Liability:**

- (a) SCE's liability for any action arising out of its activities relating to this Agreement shall be limited to refund of amounts received hereunder.
- (b) In no event shall either party be liability under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, consequential, or punitive damages included but not limited to loss of profit or revenue, or loss of use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability.

**16. Complete and Final Expression:**

This Agreement constitutes the complete and final expression of the agreement between the parties and is intended as a complete and exclusive statement of the terms of their agreement which supersedes all prior and contemporaneous offers, promises, representations, negotiations, discussions, communications, and other agreements which may have been made in connection with the subject matter of this Agreement. Nothing in this Agreement is intended or shall be deemed to require SCE or Moreno Valley to enter into any other agreement, including without limitation, any interconnection agreement.

**17. Waiver:**

Any waiver at any time by either Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising from this Agreement, shall not be deemed a waiver with respect to any subsequent default or other matter arising in connection therewith. Any delay, with the exception of the statutory period of limitation in assessing or enforcing any right, shall not be deemed a waiver of such right.

**18. Covenants, Obligations and Liabilities:**

The covenants, obligations, and liabilities of the parties are intended to be several and not joint or collective, and nothing contained in this Agreement shall ever be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation, or liability on or with regard to either Party. Each Party shall be individually responsible for its own covenants, obligations, and liabilities as provided in this Agreement. Neither Party shall be under the control of the other Party. Neither Party



shall be the agent of or have a right or power to bind the other Party without such other Party's express written consent.

**19. Rights or Remedies:**

The Parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary either of this Agreement or of any duty, covenant, obligation, or undertaking established herein.

**20. Interpretation:**

This Agreement shall be interpreted by and in accordance with the laws of the State of California, without regard to the principles of conflict of laws thereof, or the laws of the United States, as applicable, as if executed and to be performed wholly within the United States.

**21.** This Agreement shall be binding upon the Parties and their successors and assigns.

**22. Modification:**

- (a) This Agreement may be modified only through a written amendment executed by duly authorized representatives. However, nothing contained herein shall be construed as affecting in any way the right of SCE to unilaterally make application to FERC for a change in the rates, terms, and conditions of this Agreement under section 205 of the Federal Power Act and pursuant to FERC's rules and regulations promulgated thereunder.
- (b) SCE and Moreno Valley shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered.

**23. Assignment:**

This Agreement may be assigned by a Party only with the written consent of the other Party; provided that a Party may assign this Agreement without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement; and provided further that Moreno Valley shall have the right to assign this Agreement, without the consent of SCE, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that Moreno Valley will promptly notify SCE of any such assignment. Any financing arrangement entered into by Moreno Valley pursuant to this Section 23 will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify SCE of the date and particulars of any such exercise of assignment right(s) Any attempted assignment that violates this Section 23 is void and ineffective. Any assignment under this Agreement shall

not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

- 24. Ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against any Party, but shall be construed in the manner that most accurately reflects the parties' intent as of the date they executed this Agreement.
- 25. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

**SOUTHERN CALIFORNIA EDISON COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**THE CITY OF MORENO VALLEY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**DESCRIPTION AND ESTIMATED COST SUMMARY**  
**ENGINEERING AND DESIGN PLAN CHECK WORK**

**Description of Work:** The work to be performed under this Agreement are for the SCE Kitching Street 115 kV Substation as part of the interconnection of the proposed Moreno Valley 115 kV Wholesale Load Project.

**I. Moreno Valley Shall:**

- (a) Pursuant to Section 4(a) of this Letter Agreement, Moreno Valley shall submit to SCE the following:
  - (i) The complete engineering, design drawings and specifications, including, but not limited to:
    - 1. Grading Design
    - 2. Hydrology report and geotechnical report
    - 3. One-Line Diagram
    - 4. Plot Plan
    - 5. MEER building design layout
    - 6. Bill of materials (as required)
    - 7. MEER building structural drawings and associated calculations
    - 8. Electrical outdoor drawings and associated calculations
    - 9. Elementary diagrams
    - 10. Logic diagrams
    - 11. Relay rack elevation plans
    - 12. Wiring diagrams
  - (ii) Submit evidence to SCE's satisfaction that Moreno Valley has ownership of the land, land rights, easements, necessary to accommodate the Substation.
  - (iii) Allow SCE to inspect the site.
  - (iv) Revise any plans or drawings as directed by SCE pursuant to Exhibit A, Section II(c).

**II. SCE Shall:**

- (a) Provide to Moreno Valley the specific protection requirements associated with the Kitching Street 115 kV Substation.
- (b) Review the items submitted by Moreno Valley as indicated in Exhibit A, Section 1(a)(i) and provide comment and approval of the drawings and plans related to the

Kitching Street 115 kV Substation.

- (c) Submit to Moreno Valley any issues or suggested changes to Moreno Valley's proposed plans and drawings as necessary.

**EXHIBIT B**  
**ESTIMATED COST**

Estimated Cost:

The estimated cost for SCE to perform the work as described in Section 4 and Exhibit A, Section II is \$200,000.00.