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**PUC Project No. 35077**

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**First Amendment to the Amended and Restated**

**ERCOT STANDARD GENERATION  
INTERCONNECTION AGREEMENT**

**Between**

**LCRA Transmission Services Corporation**

**and**

**CED Upton County Solar, LLC**

**And**

**CED Upton County BESS, LLC**

**Dated**

**November 16, 2020**

**FIRST AMENDMENT TO THE AMENDED AND RESTATED  
ERCOT STANDARD GENERATION INTERCONNECTION AGREEMENT**

This First Amendment ("Amendment") is made and entered into this 16<sup>th</sup> day of November 2020, by and among the LCRA Transmission Services Corporation ("Transmission Service Provider" or "TSP") and CED Upton County Solar, LLC ("Upton County Solar") AND CED Upton County BESS, LLC ("Upton County BESS"), Hereinafter individually referred to as "Party," and collectively referred to as "Parties."

**WHEREAS**, the Transmission Service Provider and Upton County Solar, LLC (f/k/a: SP-TexasSun2, LLC) entered into that certain ERCOT Standard Generation Interconnection Agreement executed October 29, 2015, as amended by that certain Amendment No. 1 to Interconnection Agreement, dated as of May 26, 2017, and as amended by that certain Amended and Restated ERCOT Standard Generation Interconnection Agreement, dated as of May 1, 2020 (collectively, as amended, the "Original Agreement");

**WHEREAS**, pursuant to Sections 4.2 and 4.3 of Exhibit "A" of the Agreement, Generator has provided TSP with written authorization and the financial security to proceed with the design, procurement, and construction of the TIF as detailed in Exhibit "C"; and

**WHEREAS**, the Generator notified TSP of a change in the Commercial Operation date as originally contemplated in the Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings herein set forth, the Parties agree to amend the Agreement as follows:

1. Exhibits "B" and "E" are deleted in their entirety and the Exhibits "B" and "E" attached to this First Amendment are hereby added to the Agreement in lieu thereof.
2. This Amendment will become effective upon execution by both Parties.

Except as otherwise expressly provided for herein, the Agreement will continue in full force and effect in accordance with its terms.

*[Signature page to follow]*

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed in several counterparts, each of which shall be deemed an original, but all shall constitute one and the same instrument.

CED UPTON COUNTY SOLAR, LLC

By: Mark Noyes

Signature: DocuSigned by:  
Mark Noyes  
C14135CDD4F6444

Title: President and Chief Executive Officer

Date: November 16, 2020

CED UPTON COUNTY BESS, LLC

By: Mark Noyes

Signature: DocuSigned by:  
Mark Noyes  
C14135CDD4F6444

Title: President and Chief Executive Officer

Date: November 16, 2020

LCRA Transmission Services Corporation

By: Sergio Garza, P.E.

Signature: DocuSigned by:  
Sergio Garza  
B6B56FA83932404

Title: Vice President, LCRA Transmission Design and Protection

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



## **Exhibit “B” Time Schedule**

Interconnection Option chosen by Upton County BESS (check one):   X   Section 4.1.A. or Section 4.1.B

If Section 4.1.B is chosen by Upton County BESS, the In-Service Date(s) was determined by (check one): (1)   N/A   good faith negotiations, or (2)   N/A   Designated by Generator upon failure to agree.

Date by which Upton County BESS must provide written notice to proceed with design, procurement and construction and provide security, as specified in Sections 4.2 and 4.3, so that TSP may maintain schedule to meet the In-Service Date: **April 30, 2020**

In - Service Date(s): **September 20, 2021**

Scheduled Trial Operation Date: **October 1, 2021**

Scheduled Commercial Operation Date: **October 31, 2021**

If Upton County BESS: i) notifies TSP that it does not intend to complete the full build-out of its Plant to achieve Commercial Operation as set forth in this Exhibit “B”; or ii) fails to complete the Commercial Operation of its Plant by October 31, 2021, then the Agreement shall be amended to define the Plant(s) in Exhibit “C” Item 4 to mean the Plants as then constructed and connected to the TIF and shall exclude any uncompleted portion of the Plant that remains to be built-out.

Due to the nature of the subject of this Agreement, Upton County BESS and TSP may mutually agree to change the dates and times of this Exhibit B.

## **Exhibit “E”**

### **Security Arrangement Details**

In accordance with the dates in Exhibit “B” Upton County BESS shall cause to be established pursuant to Section 8.3 of Exhibit “A”, and shall at all times through the earlier of (i) ten (10) Business Days after the date upon which TSP receives written notification from Upton County BESS that Commercial Operation has been achieved and TSP has verified the same or (ii) ninety (90) days after the termination of the Agreement in accordance with its terms (the earlier of which shall be the “Final Expiration Date”), cause to be maintained in full force and effect a cash deposit or other security reasonably acceptable to TSP (“Security Instrument”) for the benefit of TSP in a commercially acceptable form consistent with this Exhibit “E” and otherwise acceptable to TSP and Upton County BESS, which acceptance shall not be unreasonably withheld, in the amounts and for the periods set forth below.

In accordance with Section 8.3 of Exhibit “A”, any repayment or return of such cash deposit shall include interest at a rate applicable to customer deposits as established from time to time by the PUCT.

Business Day means any day other than a Saturday, a Sunday, or a holiday on which national banking associations in the State of Texas are permitted or required to be closed.

Upton County BESS may replace a cash deposit with a Letter of Credit after review and acceptance of a Letter of Credit from a bank acceptable to TSP. TSP shall return the cash deposit to Upton County BESS in exchange for the Letter of Credit once the Letter of Credit is fully acceptable to TSP.

Notwithstanding the Expiration Dates there shall be no obligation by Upton County BESS to establish or maintain the Security Instrument after the Final Expiration Date and any Security Instrument outstanding as of the Final Expiration Date shall be immediately surrendered by TSP.

The maximum stated amounts, Effective Dates, and Expiration Dates of the Security Instrument(s) shall be as follows:

<b>Maximum Stated Amount</b>	<b>Effective Date</b>	<b>Expiration Date</b>
Amount of <b>\$100,000</b> for Design, Procurement and Construction of the TIF	May 1, 2020	No earlier than fifteen (15) months after the Commercial Operation Date

Failure to deliver or maintain the Security Instruments in the amounts and for the periods set forth above shall be deemed a Default under Section 10.6 of the Agreement, notwithstanding any cure period otherwise provided for in Section 10.6.

“Letter of Credit” shall mean an irrevocable, transferable letter of credit, issued by a Generator-selected and TSP-approved (which approval shall not be unreasonably withheld), major U.S.

commercial bank or a major foreign commercial bank with a U.S. branch office with a credit rating of at least "A-" by Standard & Poor's or "A3" by Moody's Investor Service ("Bank"). A Bank approved by TSP for the initial Letter of Credit shall be deemed approved for a subsequent Letter of Credit absent any adverse change in credit rating between the initial Effective Date and the Effective Date for such subsequent Letter of Credit. An adverse change in credit rating shall be deemed to have occurred if the issuer of the then current Letter of Credit has a credit rating of less than "A-" by Standard & Poor's or "A3" by Moody's Investor Service. If the issuer of the current Letter of Credit suffers such adverse change in credit rating, it shall no longer be a TSP-approved Bank for purposes of issuing commercially acceptable security for this Agreement until its rating has been increased to at least "A-" by Standard & Poor's or "A3" by Moody's Investor Service.

TSP may, by written notice to Generator, require Generator to increase or replenish the Security Instrument from time to time if TSP determines in its reasonable discretion that the remaining Security Instrument amount is not adequate to cover the costs that TSP then reasonably estimates could become payable pursuant to this Agreement; provided, however, that TSP may not require additional Security Instrument amounts for costs that are caused by TSP's failure to comply with its obligations under this Agreement. Generator will tender any such increase or replenishment of the Security Instrument(s) to TSP within fifteen (15) days of the date of TSP's written notice to Generator of a necessary increase or replenishment.

If at any time during the term of this Agreement, the TSP-approved bank which has issued the then current Letter of Credit suffers a credit rating reduction to less than "A-" by Standard & Poor's or "A3" by Moody's Investor Service, Generator will replace such Letter of Credit with a Security Instrument meeting the requirements of this Agreement. Generator will tender any such replacement of the Security Instrument(s) to TSP within fifteen (15) days of the date of the reduction in bank credit rating.

Failure to deliver the increased, replenished or replacement Security Instrument(s) within the aforementioned time periods shall be deemed a Default under Section 10.6 of the Agreement, notwithstanding any cure period otherwise provided for in Section 10.6. No forbearance or delay on the part of TSP in requiring an increase, replenishment, or replacement of the Security Instrument will be considered a waiver of TSP's right to do so.

If the Security Instrument(s) are set to expire in sixty (60) days or less and the Generator has not provided alternate security in accordance with the Agreement the TSP is entitled to draw on the available amount of the Security Instrument(s).