

**AMENDMENT NO. 1 TO
ENERGY SERVICES AGREEMENT – ENERGY STORAGE
(County of Ventura – Ventura Government Center)**

This Amendment No. 1 to Energy Services Agreement – Energy Storage (this “*Amendment*”) is entered into as of _____ and is by and between **FFP BTM Solar, LLC**, a Delaware limited liability company (“*Provider*”), and County of Ventura, a political subdivision of the state of California (“*Purchaser*”). In this Amendment, Provider and Purchaser are sometimes referred to individually as a “*Party*” and collectively as the “*Parties*.” Terms not otherwise defined herein shall have the meanings set forth in the Original Agreement.

RECITALS

WHEREAS, the Parties entered into that certain Energy Services Agreement – Energy Storage (the “*Original Agreement*”) dated July 19, 2023 (the “*Effective Date*”), and the Original Agreement incorporates the terms of the General Terms and Conditions of Energy Service Agreement between the Parties dated July 12, 2022;

WHEREAS, since the Effective Date, the Battery Energy Storage System (BESS) interconnection configuration has changed from a grid-charging arrangement to solar-only charging arrangement to avoid additional SCE interconnection upgrades, and Provider needing to change BESS vendor as a result of departure of BESS vendors from the market, for which Purchaser has agreed to an update in the Early Termination Fee and restructure the Performance Guarantee to a savings based Performance Guarantee.

WHEREAS, pursuant to Section 5 “Milestone Dates” of the Special Conditions, the Parties agreed to a Guaranteed Construction Start Date and Guaranteed Commercial Operation Date; and

WHEREAS, the Parties now desire to make further amendments to the Original Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, and the mutual promises, representations, warranties, covenants, conditions herein contained, the Original Agreement is amended as follows.

1. Amendment.

- (a) Recital 2 (Initial Term) of the Special Conditions is hereby amended by deleting “Minimum Guaranteed Demand Reduction” and replacing it with “Minimum Guaranteed Savings Amount”.
- (b) Section 5.1 of the Special Conditions is hereby amended by deleting it in its entirety and replacing it with “April 24, 2025”.
- (c) Section 5.2 of the Special Conditions is hereby amended by deleting “550 days from Guaranteed Construction Start Date.” and replacing it with “(i) 60 days from

the date on which the Local Electric Utility authorizes the Provider to schedule an inspection to energize the System after confirming completion of installation, and testing, or (ii) May 29, 2026, whichever occurs later.”

- (d) The tables in Schedule 3 of the Special Conditions are hereby deleted in their entirety and replaced with the following tables:

The Early Termination Fee with respect to the System under this Agreement shall be calculated in accordance with the following:

Early Termination Fee (\$) = Applicable \$/Wac value (from tables below) * Energy Storage System Size (set in Schedule 1) * 1000

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Purchaser does <u>not</u> take Title to the System (\$/Wdc including costs of removal)	Purchase Date Occurs on the 91st day following: (Each “Anniversary” below shall refer to the anniversary of the Commercial Operation Date)	Column 2 Early Termination Fee where Purchaser takes Title to the System (\$/Wdc, does <u>not</u> include costs of removal)
1*	\$3.03		--
2	\$2.51		--
3	\$2.26		--
4	\$2.04		--
5	\$1.81		--
6	\$1.59	5 th Anniversary	\$1.09
7	\$1.50	6 th Anniversary	\$1.00
8	\$1.49	7 th Anniversary	\$0.99
9	\$1.47	8 th Anniversary	\$0.97
10	\$1.46	9 th Anniversary	\$0.96
Thereafter	N/A	Thereafter	Fair Market Value

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

*Includes Early Termination prior to the Commercial Operation Date.

- (e) Schedule 4.1 (Energy Services) of the Special Conditions is hereby deleted in its entirety and replaced with the following:

4.1 Energy Services. Provider shall operate the System to, when feasible, reduce Purchaser’s electricity charges from the Local Electric Utility, including but not limited to changes in demand charges, energy charges, utility usage taxes, and revenues earned from other grid services programs (“Energy Services”).

- (a) Savings Performance Guarantee. Provider shall perform the Energy Services such that the Purchaser receives savings at a minimum as follows for each True-Up Period (such amount, the “Minimum Guaranteed Savings Amount”):

True-Up Period	Term Years	Minimum Guaranteed Savings Amount
1	1-2	\$415,350
2	3-4	\$415,350
3	5-6	\$415,350
4	7-8	\$415,350
5	9-10	\$415,350

- (b) Lost Savings. For each True-Up Period, if Provider does not provide at least the Minimum Guaranteed Savings Amount, Provider shall credit Purchaser an amount equal to Purchaser’s Lost Savings on an invoice or invoices within ninety (90) days after the end of such True-Up Period. Upon Provider’s payment of any Lost Savings, Provider shall be deemed to have met the Minimum Guaranteed Savings Amount for such True-Up Period.
- (c) The Parties acknowledge and agree that Purchaser’s purchase under this Agreement does not include any right or title to seek any capacity payments that may be attributable to the System, and that all such rights are reserved and retained by Provider, subject to Applicable Law.
- (f) Schedule 4.2 of the Special Conditions referencing “Minimum Guaranteed Demand Reduction and the Minimum Guaranteed Energy Arbitrage” is hereby amended by deleting “Minimum Guaranteed Demand Reduction and the Minimum Guaranteed Energy Arbitrage” and replacing it with “Minimum Guaranteed Savings Amount”.
- (g) Schedule 4.4 (Additional Defined Terms) of the Special Conditions is hereby amended by deleting the following terms:

“Actual Annual Demand Reduction” or “AADR”

“Actual Demand Reduction” or “ADR”

“Actual Annual Shifted Energy” or “AASE”

“Actual Shifted Energy” or “ASE”

“Demand Reduction Guarantee Rate” or “DR”

“Energy Arbitrage Guarantee Rate” or “ER”

“Lost Savings Cap”

“Minimum Guaranteed Energy Arbitrage” or “MGEA”

“Minimum Guaranteed Demand Reduction” or “MGDR”

- (h) Schedule 4.4 (Additional Defined Terms) of the Special Conditions is hereby by deleting “Actual System Savings” and “Lost Savings” and replacing the definitions with the following:

“Actual System Savings” means the gross aggregate savings that accrues to Purchaser’s Local Electric Utility bill resulting from the operation of the System, calculated based on Purchaser’s load and the Energy Services metered data, and shall include, but is not limited to, changes in demand charges, energy charges, utility usage taxes, and revenues earned from other grid services programs, calculated based on Purchaser’s actual Local Electric Utility bill compared with the bill that would have been payable had the System not been installed.

“Lost Savings” means the dollar amount Provider will credit to Purchaser in accordance with the terms of this Agreement for any True-Up Period for which Minimum Guaranteed Savings Amount exceeds Actual System Savings, calculated as the positive difference between the Minimum Guaranteed Savings Amount and Actual System Savings.

2. Status of Original Agreement. All provisions of the Original Agreement that are not expressly amended by this Amendment shall continue in full force and effect.
3. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.
4. Severability. Whenever possible, each provision of this Amendment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Amendment shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Amendment.
5. Governing Law. THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED IN

ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.

6. Successors and Assigns. This Amendment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns.

[signatures follow]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their respective duly authorized representatives on the date hereof.

PROVIDER:

FFP BTM Solar, LLC

By: 
Name: Ruben Fontes
Title: CEO

PURCHASER:

County of Ventura

By: _____
Name:
Title: