CONSENT, ASSIGNMENT AND ASSUMPTION AGREEMENT

This CONSENT, ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Agreement”) is entered into as of March 18, 2022 (the “Effective Date”), by and among City of San José, a California municipality (“Buyer”), EDP CA Solar Park VI LLC, a Delaware limited liability company (“Assignor”) and RE Scarlet LLC, a Delaware limited liability company (“Assignee” and, collectively with Buyer and Assignor, the “Parties” and each, a “Party”).

WHEREAS, Assignor is party to that certain Renewable Energy Purchase Agreement dated August 6, 2019 (the “PPA”) with Buyer pursuant to which, among other things, Assignor has agreed to sell, and Buyer has agreed to purchase the Product from the Facility;

WHEREAS, Assignor desires to assign all of its right, title and interest in and to the PPA to Assignee, and Assignee desires to assume all of Assignor’s right, title and interest in and to the PPA, pursuant to the terms and conditions of this Agreement; and

WHEREAS, in connection with the Assignment (as defined below), the Parties desire to amend the PPA pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set out herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. **Definitions.** Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the PPA.

2. **Assignment.** From and after the Effective Date, Assignor herein irrevocably assigns to Assignee all of Assignor’s right, title and interest in and to the PPA (the “Assignment”). In connection therewith, Assignor (a) retains and releases Assignee from all costs, damages, expenses, liabilities and losses accruing before the Effective Date which arise out of any default or alleged default of Assignor under, or any breach by Assignor of, the PPA (“Pre-Assignment Liabilities”) and (b) shall indemnify Assignee and hold Assignee harmless from and against all Pre-Assignment Liabilities and such reasonable attorney’s fees and costs of court as Assignee may incur in relation thereto.

3. **Assumption.** From and after the Effective Date, Assignee (a) accepts the Assignment and agrees to assume all of Assignor’s liabilities and perform all of Assignor’s obligations under the PPA and (b) agrees to be bound by the terms and conditions of the PPA as though Assignee were a party to the PPA. In connection therewith, Assignee (i) releases Assignor from all costs, damages, expenses, liabilities and losses accruing on or after the Effective Date which arise out of any default or alleged default of Assignee under, or any breach by Assignee of, the PPA (the “Post-Assignment Liabilities”) and (ii) shall indemnify Assignor and hold Assignor harmless from and against all Post-Assignment Liabilities and such reasonable attorneys’ fees and costs of court as Assignor may incur in relation thereto.

4. **Consent to Assignment.** Subject to satisfaction of the Condition Precedent, Buyer hereby irrevocably consents to the Assignment of the PPA on the terms and conditions set forth herein, effective as of the Effective Date. “Condition Precedent” means the occurrence of both (a) Assignee’s execution and delivery of that certain First Amendment to Renewable Power Purchase Agreement and (b) Buyer’s receipt of cash or a Letter of Credit, in the amount of the Development Security (as defined under the PPA).
5. **Authority.** Assignee hereby represents and warrants to Assignor that, as of the Effective Date, Assignee has the legal authority and operational ability to satisfy the obligations of Assignor under the PPA. Each Party hereby represents and warrants to the other Party as of the Effective Date that it has all necessary power and authority to enter into this Agreement, that the person executing this Agreement on behalf of such Party is authorized to execute and deliver this Agreement and that this Agreement is binding upon and enforceable against such Party.

6. **Cooperation and Further Documentation.** At any time or from time to time after the Effective Date, at any Party’s request and without further consideration, the other Parties (or Party, as applicable) shall cooperate with the requesting Party, and shall execute and deliver to the requesting Party such other instruments, provide such materials and information, and take such other actions as the requesting Party may reasonably deem necessary or desirable in order to effectuate, carry out and comply with all of its obligations under this Agreement.

7. **Miscellaneous.**

   a. This Agreement is intended solely for the benefit of each Party and its successors and permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person or party. This Agreement is binding upon, inures to the benefit of and is enforceable by, the Parties and their respective successors and permitted assigns.

   b. Any and all notices, requests, certificates and other documents or instruments executed and delivered concurrently with or after the execution and delivery of this Agreement may refer to the PPA without making specific references to this Agreement, but all such references shall be deemed to include this Agreement, unless the context shall otherwise require. The terms and conditions of the PPA shall not be merged into, extinguished or otherwise affected by the delivery and execution of this Agreement, or any other document delivered pursuant to this Agreement, except to the extent contemplated thereby. Except as set forth herein, the PPA shall remain in full force and effect in accordance with its terms.

   c. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

   d. The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the State of California, without regard to conflicts of law principles.

   e. This Agreement constitutes the entire agreement between the Parties in relation to the subject matter hereof and supersedes all previous communications, representations or contracts, whether written or oral, which purport to describe or embody the subject matter of this Agreement.

   [Signature page follows]
IN WITNESS WHEREOF, this Agreement has been executed and delivered by the duly authorized representatives of each Party as of the Effective Date.

BUYER:

City of San José, a California municipality

By: Lori Mitchell
Name: Lori Mitchell
Title: Director of Community Energy

Approved as to form:

By: 
Name: Luisa Elkins
Title: Senior Deputy City Attorney

ASSIGNOR:

EDPR CA Solar Park VI LLC

By: 
Name: Approved as to form: BRS
Title: 

By: Kristofer D. Cheney
Name: Kristofer D Cheney
Title: Executive Vice President

By: 
Name: Sandhya Ganapathy
Title: Chief Executive Officer

ASSIGNEE:

RE Scarlet LLC

By: 
Name: Approved as to form: BRS
Title: 

By: Kristofer D. Cheney
Name: Kristofer D Cheney
Title: Executive Vice President

By: 
Name: Sandhya Ganapathy
Title: Chief Executive Officer

Signature Page
Consent, Assignment and Assumption and Amendment Agreement
FIRST AMENDMENT TO
RENEWABLE POWER PURCHASE AGREEMENT

This FIRST AMENDMENT TO RENEWABLE POWER PURCHASE AGREEMENT (this “Amendment”), is entered into as of March 18, 2022 (the “Effective Date”) by and between City of San José, a California municipality (“Buyer”) and RE Scarlet LLC (“Seller”), each individually a “Party” and collectively, the “Parties”.

RECITALS

WHEREAS, Buyer and EDPR CA Solar Park VI LLC (“EDPR”) entered into that certain Renewable Power Purchase Agreement, dated August 6, 2019 (the “Agreement”);

WHEREAS, Buyer, Seller, and EDPR entered into that certain Consent, Assignment and Assumption Agreement, by which EDPR assigned all of its right, title and interest in and to the Agreement to Seller, and Seller assumed all of EDPR’s right, title and interest in and to the Agreement and agreed to assume all of EDPR’s liabilities and obligations under the Agreement;

WHEREAS, Buyer consented to the assignment of the Agreement from EDPR to Seller, subject to the execution of this Amendment;

WHEREAS, the Parties desire to amend the Agreement as set forth herein; and

WHEREAS, the Parties are entering into this Amendment in accordance with Section 19.2 of the Agreement to implement such amendments.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Amendments to the Agreement.

   a. A new Section 4.13 is added as follows:

   “4.13 Interconnection Capacity. Seller shall have and maintain interconnection capacity available or allocable to the Facility that is no less than the Guaranteed Capacity during the Test Energy period and throughout the Delivery Term (the “Interconnection Capacity”). Seller shall be responsible for all costs of interconnecting the Facility to the Transmission System.”

   b. Section 6.3 (Shared Facilities) is hereby deleted in its entirety and replaced with the following:

   “6.3 Shared Facilities. The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller’s rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities or co-tenancy agreements to be entered into among Seller, the Participating Transmission Owner, Seller’s Affiliates, and/or third parties (“Shared Facilities Agreements”) pursuant to which certain Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements; provided that such Shared Facilities Agreements (a) shall permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder, including Seller’s obligations under Section 4.13, (b) continue to
provide for separate metering and a separate CAISO Resource ID for each of the Generating Facility and the Storage Facility, and (c) shall not allow any Seller Affiliate or third party to use the Interconnection Capacity or a portion thereof if such use would have an adverse impact on Buyer’s ability to dispatch the Facility in accordance with the PPA. Seller shall hold Buyer harmless from any penalties, imbalance energy charges, or other out of pocket costs or losses, including lost CAISO market revenues, assessed by CAISO against Buyer or incurred by Buyer under the Agreement resulting from the use of the Interconnection Capacity by a party to a Shared Facilities Agreement, except to the extent (i) as a direct result of Buyer’s failure to perform its duties as Scheduling Coordinator for the Facility in accordance with Exhibit D, (ii) arising from a Curtailment Order, or (iii) occurring during periods when Buyer was unable to use the Interconnection Capacity due to the unavailability of the Generating Facility or the Storage Facility.”

c. **Exhibit A** to the Agreement is hereby deleted in its entirety and replaced with the version of Exhibit A attached hereto.

d. **Exhibit N** to the Agreement is hereby deleted in its entirety and replaced with the version of Exhibit N attached hereto.

e. **Exhibit R** to the Agreement is hereby deleted in its entirety and replaced with the version of Exhibit R attached hereto.

f. **Exhibit O** to the Agreement is hereby amended by deleting Section D(4) of Part II thereof in its entirety and replacing it with the following:

“The measurement of Energy, as measured by the Storage Facility Meter, that is required to charge the Storage Facility until 100% Storage Energy Level is achieved;”

2. **General.**

a. **Definitions; Interpretation.** All capitalized terms used in this Amendment (including the recitals hereof) and not otherwise defined herein shall have the meanings assigned to them in the Agreement.

b. **Agreement Otherwise Not Affected.** Except for the amendments pursuant hereto, the Agreement remains unchanged and in full force and effect and is hereby ratified and confirmed in all respects. The execution and delivery of, or acceptance of, this Amendment and any other documents and instruments in connection herewith by either Party shall not be deemed to create a course of dealing or otherwise create any express or implied duty by it to provide any other or further amendments, consents, or waivers in the future.

c. **Entire Agreement.** This Amendment constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all oral communication or prior writings related thereto.

d. **Binding Effect.** This Amendment shall be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their respective successors and assigns.

e. **No Reliance.** Each Party hereby acknowledges and confirms that it is executing this Amendment on the basis of its own investigation and for its own reasons without reliance upon any agreement, representation, understanding or communication by or with the other Party or its agents, representatives or attorneys not set forth within the Agreement or this Amendment.
f. **Costs and Expenses.** Each Party shall be responsible for any costs and expenses incurred by such Party in connection with the negotiation, preparation, execution and delivery of this Amendment and any other documents to be delivered in connection herewith.

g. **Governing Law.** THIS AMENDMENT SHALL BE GOVERNED BY, CONSTRUED, AND ENFORCED UNDER THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO ITS CONFLICTS OF LAW PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER STATE.

h. **Amendments.** This Amendment may not be modified, amended or otherwise altered except by written instrument executed by the Parties’ duly authorized representatives.

i. **Interpretation.** This Amendment is the result of negotiations between and has been reviewed by counsel to each of the Parties and is the product of all Parties hereto. Accordingly, this Amendment shall not be construed against either Party merely because of such Party’s involvement in the preparation hereof.

j. **Counterparts.** This Amendment may be executed and delivered in counterparts, all of which taken together shall constitute one and the same instrument. Delivery of an executed signature page of this Amendment by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

[Signatures appear on the following page.]
IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be duly executed as of the Effective Date.

RE SCARLET LLC

Approved as to form: BRS
Sign: Kristofer D Cheney (Mar 18, 2022 19:32 PDT)
Print: Kristofer D Cheney
Title: Executive Vice President

CITY OF SAN JOSÉ, a California municipality

Approved as to form: BRS
Sign: Sandhya Ganapathy (Mar 18, 2022 19:54 CDT)
Print: Sandhya Ganapathy
Title: Chief Executive Officer

Print: Lori Mitchell
Title: Director of Community Energy

Print: Luisa Elkins
Title: Senior Deputy City Attorney

Sign: Lori Mitchell (Mar 21, 2022 17:27 PDT)
EXHIBIT A

FACILITY DESCRIPTION

Site Name: Scarlet I Solar Park

Site includes all or some of the following APNs: A full listing of Site APNs and a map of the Site shall be provided by Seller to Buyer on or prior to the date on which Seller provides an executed Form of Construction Start Date Certificate to Buyer.

County: Fresno County, CA

CEQA Lead Agency: County of Fresno Department of Public Works and Planning

Type of Generating Facility: Solar Photovoltaic

Operating Characteristics of Generating Facility: 10 MW AC as-available Solar Photovoltaic

Type of Storage Facility: Electrochemical battery energy storage facility

Operating Characteristics of Storage Facility:
  - Maximum Stored Energy Level at COD (MWh): 3 MWh
  - Maximum Charging Capacity at COD: 10 MW AC
  - Maximum Discharging Capacity at COD: 10 MW AC

Operating Restrictions of Storage Facility: See Exhibit Q

Guaranteed Capacity: See definition in Section 1.1

Storage Contract Capacity: See definition in Section 1.1

Maximum Output: 10 MW AC

Delivery Point: Pacific Gas and Electric Company’s Tranquility Switching Station 230kV Bus, specifically, the point of interconnection identified in Seller’s Interconnection Agreement.

Facility Meter: See Exhibit R

Storage Facility Meter Locations: See Exhibit R

P-node: To be assigned by CAISO

Participating Transmission Owner: Pacific Gas and Electric Company
## EXHIBIT N
### NOTICES

<table>
<thead>
<tr>
<th>RE Scarlet LLC, a Delaware limited liability company (&quot;Seller&quot;)</th>
<th>CITY OF SAN JOSE, a California municipality (&quot;Buyer&quot;)</th>
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<td>Attn: Executive Vice President – Asset Operations</td>
<td>Attn: Deputy Director of Power Resources</td>
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<td>ED P Renewables North America LLC</td>
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<td>General Counsel</td>
<td>Office of the City Attorney</td>
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<td>[REDACTED]</td>
<td>Attn: Deputy City Attorney, Community Energy</td>
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<td>Hall Energy Law PC</td>
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<td>Attn: Stephen Hall</td>
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<td>Attn: Stephen Hall</td>
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<td>Attn: Director of Finance</td>
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<td>Office of the City Attorney</td>
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Exhibit N - 3
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<td>Attn: Executive Vice President – Asset Operations</td>
<td>Attn: Principal Power Resources Specialist</td>
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<td>Attn: Director of Health and Safety</td>
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EXHIBIT R

METERING DIAGRAM

Seller may, by written notice to Buyer, update this Agreement at any time following the Effective Date with an updated draft of Exhibit R, provided that (a) the updated metering configuration will comply with the requirements of this Agreement, including that the Facility shall continue to be separately metered, and (b) Seller shall provide the final form of Exhibit R no later than the Guaranteed Construction Start Date. Subject to the foregoing requirements, upon Seller’s delivery of such notice to Buyer, Seller’s proposed draft or form shall constitute Exhibit R for all purposes hereof.
Pricing information within this Contract is confidential and may not be subject to disclosure under the California Public Records Act, and has been redacted.

Unredacted versions of Power Supply Contracts and Energy Confirmations are with the Community Energy Department.

For additional information, contact the Community Energy Department at:

- Email: Invoices@sanjosecleanenergy.org
- Phone: (408) 535-4898
City of San José Contract/Agreement Transmittal Form

**Route Order**

- TO: City Attorney
- City Manager
- City Clerk OR Return to Dept. (circle one)

**Attached / Completed**

- Electronic Signature: Yes
- Audit Trail Attached: No
- Scanned Signature Authorization: No
- Insurance Certificates / Waivers
- Business Tax Certificate
- Contacted Clerk re: Form 700
- Supplemental Memorandums (if applicable): Select One

**Electronically Signed**

- Electronically Signed: Yes
- Audit Trail Attached: No
- Scanned Signature Authorization: No

**Type of Document:**

- Insurance Certificates / Waivers

**Type of Contract:**

- Other

**REQUIRED INFORMATION FOR ALL CONTRACTS:**

- Contractor: EDPR CA Solar Park VI LLC
- Address: 
- Phone: ___________________________ Email: ___________________________
- Contract Description: Contract ID: 19-108-10

**Term Start Date:** 03/21/2022  
**Term End Date:** 12/31/2042  
**Extension:** No

**Method of Procurement:** Select one

- RFB, RFP or RFQ No.: _____________ Date Conducted: _______
- Agenda Date (if applicable): _________________
- Resolution No.: _________________
- Original Contract Amount: _________________
- Option #: ___ of ___  
- Option Amount: _________________
- Fund/Appropriation: _________________
- Amount of Increase/Decrease: _________________
- NTE/Updated Contract Amount: _________________

**Form 700 Required:** Select one

- Tax Certificate No.: _________________
- Expiration Date: _________________

- Department: Community Energy
- Department Contact: angela.sato-anderson@sanjoseca.go
- Customer (Finance Only): _________________

**Notes:**

**Department Director Signature:** ___________________________  
**Date:** _________________

**Office of the City Manager Signature:** ___________________________  
**Date:** _________________

**Updated October 2019**