

MEMORANDUM

TO: GOVERNING BODY

**FROM: CITY ADMINISTRATOR MIKE BRUNGARDT
CITY ATTORNEY PATRICK REAVEY**

**RE: PUBLIC HEARING ON INTENT TO ISSUE UP TO \$50 BILLION
IN INDUSTRIAL REVENUE BONDS, AND APPROVAL OF
DEVELOPMENT AGREEMENT AND RESOLUTION NO. 2073,
FOR DATA CENTER PROJECT**

DATE: AUGUST 15, 2025

Staff Recommendation

For the reasons detailed below, Staff recommend motions to approve the Development Agreement (*See Ex. 1*) and Resolution No. 2073 (*See Ex. 2*).

Summary of Agenda Items

There are three items for you to take up as part of Mount Sunflower Properties, LLC's ("Developer") data center project ("the Project"): (1) Public Hearing on the City's Intent to provide property tax abatement -- and sales tax exemption on construction materials, equipment (including servers), furnishings, and certain labor services -- on up to \$50 billion in Industrial Revenue Bonds ("IRBs"); (2) Consideration of a Development Agreement ("DA") addressing the details of the Project; and (3) Consideration of Resolution No. 2073 stating the City's intent to grant future property tax abatements as phases of the Project are presented to the Council.¹ Importantly, consistent with the City's approach with Panasonic, the Project does not include expenses or out-of-pocket money from the City, rather the City is simply issuing its bonds (to be paid back by Developer and/or its investors and financial institutions) and sales tax exemptions for construction materials, equipment (including servers), furnishings, and certain labor services that are part of the Project. By approving the Resolution of Intent and Development Agreement, the City's credit rating is not affected.

¹ Legally, each tax abatement (i.e., Phase of the Project) presented to the City Council must be accompanied by a public hearing and then the City Council making a legislative decision on whether to grant the tax abatement. By approving Resolution No. 2073, you are simply indicating it is the City's intent (not a binding obligation on future Councils) to grant tax abatements as to each phase of the Project, after subsequent public hearings. Please note, though, that your approval of Resolution No. 2073 will authorize the sales tax exemption for the Project (on construction materials, equipment [including servers], furnishings, and certain labor services for the entire life of the Project.

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In essence, the City (by approving the Agenda items) is:

- Indicating its intent to forego a portion of future property tax revenue and sales tax (but only on construction materials, equipment [including servers], furnishings, and certain labor services) generated by the Project²; and
- Granting a 25-year cap of \$1 million on future City fees (the capped fees are limited and specified, and do not include fees such as building permit or City consultant or inspection fees, utility fees, etc.); and
- Agreeing to enter into an amended Franchise Agreement with Evergy that will reduce the franchise fee rate from 5% to 3.75% and impose an escalating annual cap on franchise fees from electric power distributed to the Project. The same capped fee structure will need to apply to other large-scale projects using electric power of the same magnitude, or greater, than this Project. For all other electric users in the City, the 5% franchise fee will remain; and
- Agreeing to implement, in coordination with Rural Water District #7, substantial water and wastewater infrastructure improvements to support the Project, with full and direct funding from the Developer.

Overview of the Project

Your approval of the DA and Resolution No. 2073 will facilitate the construction and operation of a large-scale, multi-phase data center campus. The Project is to be located within City limits just to the west of the existing Flint warehouse and generally bounded by Edgerton Road, 103rd Street, Kansas Highway 10, and 95th Street. Your approval of the DA will enable you to approve Agenda Item 4b, which is a “close-out” agreement with PBP Logistics LLC (an entity formed by Flint) to make clear that -- as to the site of the Project which was formerly governed by the Flint development agreement, it will now be governed by the DA for this Project.

² You will recall that you previously granted a tax abatement for the entire Flint Commerce Center that, instead of a specific percentage, had set annual payments [Payment in Lieu of Taxes – “PILOT Payments”] based on the square footage of buildings that Flint was required to pay, which would then be distributed to all taxing jurisdictions (e.g., City, County, Fire District, State). Because the assessed valuation of the data center buildings are expected to be higher than the warehouse or manufacturing buildings Flint had planned, the annual PILOT Payments for this Project are expected to be higher than those negotiated for the Flint project.

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Capital Investment and Phasing of the Project

- Minimum Investment: \$700 million in private capital over a 7-year period from the effective date, inclusive of land acquisition, infrastructure, equipment, and related costs.
- Development Scope: One or more data center buildings plus ancillary structures, constructed in phases according to market demand.
- Design and Compliance: All construction to comply with the City's Development Plan, applicable laws, and industry standards for large-scale data operations.

Financing Structure and Incentives

- Industrial Revenue Bonds (IRBs): The City will consider issuance of IRBs up to a principal amount not to exceed \$50 billion over the life of the Project. IRBs provide:
 - **Ad valorem property tax abatements** for eligible buildings (per a set PILOT schedule in Exhibit G of the DA). Abatements are time-limited (i.e., 10 years), begin the year after each building's substantial completion, and are tied to compliance with all agreement terms.
 - **Sales tax exemptions** on construction materials, equipment (including servers), furnishings, and certain labor services.
 - **PILOT Payments**: Payments in lieu of taxes are established on a per-square-foot basis for each building and continue through the abatement period. Columbia Capital has prepared a Cost-Benefit analysis (*see Ex. 3*) for the overall \$50 billion Resolution of Intent and will prepare subsequent analyses for each tax abatement requested with each phase of the Project. The PILOT Payments are established on a per-square-foot basis for each building and continue through the abatement period.
- Electric Franchise Revenues: Based on the anticipated power consumption at the Project, it is estimated that the City will receive approximately \$1.5 Million in franchise fees annually from each of the four phases of the Project. This fee is capped at \$5.5 Million annually, but the cap is not expected to be reached until the final phase of the Project.

Utility Infrastructure Commitments

- Water Service: The City and Rural Water District #7 will coordinate service delivery, with the City providing treated and/or raw water via new mains along 95th, Edgerton, and 103rd Streets. Developer may initially connect to existing capacity of

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RWD #7 for up to 50,000 gallons/day without triggering new infrastructure requirements.

- Sewer Service: Developer's wastewater needs will be met through City infrastructure improvements, with phased capacity expansion to match build-out.
- Funding for Water and Sewer Service: Developer will fund agreed-upon water and sewer improvements per a mutually approved scope and schedule. The City will provide cost estimates and engineering documentation for transparency and accountability.

City Protections and Cost Controls

- Cap on City Fees: All City fees related to the Project (excluding permits, utilities, special assessments, and certain third-party costs) are capped at \$1 million over the first 25 years.
- Environmental and Safety Responsibility: Developer assumes all liability for environmental compliance, remediation, and hazardous substance management.
- No Financial Obligation for Construction: The Project development and construction costs are privately funded, no City revenues or City financing is pledged.
- City Retains Legislative Discretion: IRB issuance, abatements, and related tax exemptions require separate City Council action for each phase.

Economic and Community Benefits

- Job Creation: Direct construction jobs during multi-year build-out and long-term high-skill technology jobs for facility operations. Developer will make commercially reasonable efforts to hire local contractors and vendors. Following completion of construction, employee headcount at the Project will be fairly low, therefore, added traffic to and around the Project will be minimal when contrasted with the significant additional revenue to be received by the City from the Project.
- Organizational Participation: Developer will join and actively participate in the De Soto Chamber of Commerce and Economic Development Council, contributing at the "Visionary" membership level.
- Long-Term Tax Base Growth: After abatements expire, the City will receive full property tax revenue from a multi-hundred-million-dollar asset.
- Infrastructure Upgrades: All water and sewer system upgrades needed to support the service demands of the Project will be fully funded by the Developer. These

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improvements will modernize existing systems and add redundancy and resiliency to critical City infrastructure.

Term and Compliance

- Term of Agreement: Up to 50 years, expiring upon the later of the last abatement, the expiration of the resolution of intent, or the last day the project is served by City utilities.
- Annual Reporting: Developer must submit an annual report by March 31 of each year detailing tenants, operations, occupancy, employment estimates, and investment progress.
- Performance Requirements: Failure to meet obligations, including the \$700M minimum investment, may result in loss of abatements and other incentives.

EXHIBIT 1

DEVELOPMENT AGREEMENT

between the

CITY OF DE SOTO, KANSAS

and

MOUNT SUNFLOWER PROPERTIES, LLC

DATED AS OF _____, 2025

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made as of _____, 2025 between the City of De Soto, Kansas (the "City"), and Mount Sunflower Properties, LLC, a Delaware limited liability company (together with its successors and assigns, the "Developer," and together with the City, the "Parties").

RECITALS:

A. Developer is under contract to purchase certain real property located within the City and generally bounded by Edgerton Road to the east, 103rd Street to the south, Kansas Highway 10 to the west, and 95th Street to the north (the "Project Site"), as legally described on Exhibit A-1 and generally depicted on Exhibit A-2, and wishes to facilitate the financing, development and operation of one or more data center buildings and ancillary buildings (collectively, the "Project," as further defined in Section 2.1 below).

B. Developer acknowledges that, currently, the Project Site is subject to that certain Development Agreement between the City of De Soto, Kansas and Flint Commerce Center, LLC ("Flint") dated as of April 7, 2022, as amended (the "Original Agreement").

C. This Agreement was presented to City Council and approved via City Ordinance No. _____ on August __, 2025, which authorized the Mayor to enter into this Agreement and any ancillary documents on behalf of the City in substantially the same form as presented to City Council, with such corrections, supplements or amendments hereto as the Mayor, upon recommendation of the City Attorney, may approve.

D. The Parties acknowledge that until the time that Developer closes its purchase of the Project Site from Flint (the "Closing") this Agreement shall not be binding upon the Project Site.

E. Upon Closing, this Agreement shall become binding upon the Project Site and, within ninety (90) days of Closing, Flint and the City will finalize an amendment to the Original Agreement reducing the scope of the Original Agreement and terminating the Edgerton Road Benefit District, and Developer shall have no obligations under the Original Agreement.

F. In connection with the development of the Project, Developer has requested industrial revenue bond ("IRB") financing in order to pay certain project costs pursuant to K.S.A. §12-1740 *et seq.* (the "IRB Act"). Pursuant to the terms and conditions set forth herein, the Parties agree that Developer (or permitted assigns) may use IRB financing to obtain an exemption on ad valorem property taxes and to obtain an exemption on sales taxes for construction materials, equipment (including, but not limited to, servers), furnishings and other tangible personal property and labor services at the Project Site for Developer itself and for its tenants.

G. The Parties agree that the Project is not financially feasible without the public-private partnership as set forth in this Agreement, and therefore the Parties wish to enter into this Agreement to provide the necessary financing for the Project.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Developer hereby agree as follows:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

- 1.1 Interpretation. In this Agreement, unless a clear contrary intention appears:
- (a) the singular number includes the plural number and vice versa;
 - (b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
 - (c) reference to any gender includes each other gender;
 - (d) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
 - (e) reference in this Agreement to any article, section, appendix, annex, schedule or exhibit means such article or section thereof or appendix, annex, schedule or exhibit thereto;
 - (f) each of the items or agreements identified on the attached Index of Exhibits are deemed part of this Agreement to the same extent as if set forth herein;
 - (g) "hereunder", "hereof", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article, section or other provision thereof;
 - (h) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and
 - (i) relative to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding."
- 1.2 Definitions. All capitalized terms used in this Agreement shall have the meanings ascribed to them in **Annex 1** attached hereto and made a part hereof, or as otherwise provided herein.
- 1.3 Recitals. The Recitals are incorporated as if set forth again here.

**ARTICLE 2
THE PROJECT**

2.1 Development of the Project Site. Developer contemplates that all of the buildings, parking facilities, and other improvements constituting the Project, as specifically described in this Section and as generally depicted (for indicative and illustrative purposes only) on **Exhibit B** attached hereto, shall be developed, constructed, completed, and operated on the Project Site in substantial accordance and compliance with the terms and conditions of this Section and the final site plan approvals as may be granted or amended from time to time by the City's Planning Commission or other relevant bodies and Governmental Authorities, if any (collectively, the "Development Plan"). On and subject to the terms and provisions set forth in this Agreement, Developer shall have the sole right to, and shall be responsible for, design, construction, equipment and completion of the Project, and shall operate and use the Project in the

manner described herein, all in accordance with the terms of this Section and all other Applicable Laws and Requirements. The Parties further agree as follows:

(a) The Project shall be designed, developed and constructed as a data center, consisting of one or more buildings and shall include a capital investment by Developer (and its various tenants and assignees) at full build-out, as approximately set forth on **Exhibit C**, including the total investment by Developer, Affiliates, tenants, and other owners or similar entities with the Project including but not limited to acquisition costs, reasonable and customary soft costs (brokerage fees, engineering and design fees, etc.), personal property, building costs, equipment, information technology costs, infrastructure (including the Water Project, the Sewer Project and similar infrastructure), and fixtures of not less than \$700,000,000 over a period of seven years from the Effective Date (the "**Minimum Investment**"). Developer shall be permitted to document its attainment of the Minimum Investment by providing such sufficient records in an on-site or in camera review as may be reasonably required by a representative of the City, including but not limited to its financial advisor or outside counsel.

(b) Each building constructed in connection with the Project shall include (or have shared access rights to) parking improvements, which will be coordinated with the City during the approval of the Development Plan.

(c) Developer's design, development, and construction of the Project shall in all material respects comply with the Plans and Specifications (as defined herein).

(d) The Project described in this Section and Section 2.2 below shall not be materially amended or modified, other than in accordance with a revised final site plan(s) approved in compliance with the Code of the City of De Soto, Kansas, without: (i) the prior written consent of the City, which consent shall not be unreasonably withheld or delayed, and (ii) full compliance with all Applicable Laws and Requirements.

(e) The City does not have specific concerns or objections to the preliminary concept plan attached hereto as **Exhibit B** or the uses proposed to be operated on the Project Site as described in this Agreement.

Notwithstanding the foregoing or anything in this Agreement to the contrary, nothing herein will be construed to require the commencement or completion of any portion of the Project, other than the Minimum Investment.

2.2 **Phasing of the Project.** The Parties agree that the Project is contemplated to be constructed in multiple phases, on a building-by-building basis as dictated by market demand. The Parties agree that Developer may proceed with a facility within the Project in any order and/or square footage that Developer sees fit based on market demand. Notwithstanding this flexibility, Developer is obligated to meet the Minimum Investment requirement described herein.

ARTICLE 3

FINANCING; SOURCE OF FUNDS; INDUSTRIAL REVENUE BONDS; FRANCHISE FEES

3.1 **Financing: Source of Funds.** Reference is hereby made to the Total Project Budget attached hereto as **Exhibit C**. However, it is understood and agreed by the Parties that the Total Project Budget is for illustrative purposes only and is intended only to describe and identify the general scope of the Project. The Parties agree that the Total Project Budget will evolve and be modified as the Project progresses and one or more specific tenants come to the Project. Provided the Minimum Investment test is met, Developer shall

not be deemed to be in default of this Agreement if the actual costs and investments in particular elements of the Project are less or more than those sums reflected on the attached Total Project Budget. The costs of the Project will generally be funded by private equity and debt. Developer, using private equity and debt, shall be the sole party responsible for paying (or causing to be paid) all of the costs for the design, development and construction of the Project.

Developer has provided the City, or representatives of the City, including but not limited to its financial advisor or outside counsel, detailed information evidencing Developer's financial capacity to undertake the Project as contemplated by this Agreement.

3.2 Industrial Revenue Bonds. Developer has requested IRB financing in order to pay certain Project costs pursuant to K.S.A. §12-1740 *et seq.* For any facility constructed on the Project Site during the Term, which is otherwise consistent with this Agreement and subject to compliance by Developer with all of the City's current requirements for the issuance of IRBs (as set forth in the City's economic development policy, except as otherwise provided in this Agreement, including without limitation the Cap on City Fees described in Section 9.1) and all other Applicable Laws and Requirements (including providing financial information as required), the Parties hereby state the intent to utilize IRB financing to obtain certain property tax abatements for such facilities (including the applicable tax parcels and improvements thereon) as set forth below and to obtain an exemption on sales taxes for construction materials, equipment (including, but not limited to, servers), furnishing and other tangible personal property for the Project.

(a) Abatements and PILOT. The parties hereby recognize and agree that Developer will request abatements and make PILOTs as further set forth in **Exhibit G** of all eligible¹ ad valorem property taxes for each of the buildings that it intends to develop in the Project and the applicable portion of underlying real property (the "Abatements") and sales tax exemption on construction materials, equipment (including, but not limited to, servers), furnishing and other tangible personal property for the Project including each such building (the "Exemptions"). Therefore, the City will consider the adoption of a resolution of intent in a principal amount not to exceed \$50,000,000,000 (the "Resolution of Intent") indicating its intention to abate such taxes and set forth a schedule of payments-in-lieu of taxes ("PILOT" or collectively "PILOTs") on a per-square-foot basis of each eligible building via the issuance of individual IRBs, and such PILOTs shall be as scheduled as set forth on **Exhibit G** attached hereto for each eligible building developed on the Project Site during the Term. The City will commission at Developer's cost, and Developer agrees to provide reasonable cooperation in preparing, a master cost-benefit analysis to be considered with such Resolution of Intent. The Resolution(s) of Intent will provide that the City will not consider the issuance of IRBs after year 2040 for the purpose of providing the Abatements, and will not consider the issuance of IRBs after forty years from the effective date of such Resolution of Intent for purposes of providing the Exemptions.

(b) Approval of IRBs. The Parties hereby understand and agree that the individual IRBs shall be considered for issuance by the City Council at approximately Substantial Completion of each such building for which Abatements are sought (as determined by the earlier of issuance of a certificate of occupancy or as determined by the Developer). Abatements for each building shall begin in the calendar year following issuance of IRBs for such building, and IRBs shall mature and be redeemed no later than ten (10) years after the commencement of the abatement related to such IRBs. Developer (or its lender or an Affiliate, successor, assign or other approved third-party) will be solely responsible for purchasing each series of IRBs or otherwise providing for a purchaser. In

¹ Pursuant to K.S.A. §72-53,127, the City may not abate any property from the school district's capital outlay levy, which the school district may impose, in its sole discretion from year to year, up to 8 mills.

the event that a series of IRBs for any phase of the Project is not approved by a future governing body of the City following the approval of the Resolution of Intent, the City agrees to reduce or rebate other fees, taxes, charges, assessments or other impositions proportionately for such phase so that Developer's cost of operation would be the same had such IRBs been approved.

(c) Sales Tax Exemption Certificates. Following the adoption of the Resolution of Intent (and provided that Developer is not in default beyond any applicable grace, notice or cure periods) the City will, upon receipt of the Developer's (or its designee's) request therefor, promptly obtain and provide to Developer (for use by Developer and/or the tenants of Developer) an IRB project exemption certificate for use on the purchases of all construction materials, equipment (including, but not limited to, servers), furnishings and other tangible personal property and labor services in connection with the eligible facilities constructed in connection with the Project (the "Project Exemption Certificate"). In the event the tenants of the Developer are unable to use the Project Exemption Certificate for any reason, the City agrees to use best efforts to coordinate with Developer (and Developer agrees to cooperate with the City) to obtain and provide a similar IRB project exemption certificate for use by such tenants. Developer acknowledges that, pursuant to the State's form Request for Project Exemption Certificate, if IRBs have not been issued by the time the Project (or portion thereof) is completed then Developer will remit to the Kansas Department of Revenue the sales or compensating tax and applicable interest on tax which is due based upon the cost of tangible personal property or services used or consumed in the construction of the Project (or portion thereof), and the Secretary of Revenue shall have the right to demand from the Developer payment of the sales and compensating tax and applicable interest due the state should the Kansas Department of Revenue not receive such payment within thirty (30) days after the Project (or portion thereof) has been completed.

(d) IRB Costs of Issuance and Other City Fees. In connection with each individual IRB, the Parties hereby agree that the City shall assess and collect, and Developer shall pay (or cause to be paid), the City's customary fees and any normal and customary costs of issuance, including the costs of any third-party consultants (including related to the City's commissioning of the statutorily-required cost-benefit analysis), all subject to the Cap on City Fees described in Section 9.1.

(e) Acknowledgement: Pirating. Developer acknowledges that the granting and administration of any incentives, including the IRBs, is subject to (i) the City's policy on Economic Development Incentives updated June 20, 2024 (subject to the terms and conditions of this Agreement); (ii) compliance with applicable State law; (iii) with specific regard to the issuance of IRBs, the legislative act of passing an ordinance issuing such IRBs made at the discretion of the then-current City Council; (iv) with regard to real property tax abatement, issuance of an order granting the abatement by the Kansas Board of Tax Appeals; and (v) with regard to sales tax exemption on construction materials, the provision of the necessary certificate by the Kansas Department of Revenue.

3.3 Franchise Fees. Simultaneously with, and/or within 30 days of the Effective Date of this Agreement, the City will propose, support, and diligently pursue an amendment to City Ordinance No. 2331 to include the following franchise fee approach for the Project and to be effective throughout the Term, which Developer represents will make the Project Site competitive enough so that Developer can secure end users to generate significant franchise fees and economic opportunities for the City and its residents (the "Franchise Fees"): Following the year that the first Certificate of Occupancy has been issued in connection with the Project, the Franchise Fee attributable to the Project shall be 3.75% of the gross receipts attributable to the sale, transmission and distribution of electricity to the Project, capped at Five Million Five Hundred Thousand and 0/100 Dollars (\$5,500,000) per year (the "Franchise Fee Cap"). The Franchise

Fee Cap shall increase at a rate of 1.5% per year, beginning in the second year after issuance of the first Certificate of Occupancy in connection with the Project, provided, however, that if the Franchise Fees attributable to gross receipts from City residents are reduced below 3.75%, then the City and Developer will amend this Agreement to reflect the rate reduction. The Parties acknowledge that neither the Franchise Fee Cap nor any other provision of this Agreement limits or restricts the rights of future City Councils to take legislative action to enter into or decline to enter into a franchise fee contract with the current energy provider, provided that the Franchise Fee Cap, as adjusted annually, will apply regardless of the applicable energy provider. The City and Developer will cooperate to administer the Franchise Fee and the Franchise Fee Cap in a manner that minimizes large true-ups by measuring and adjusting Franchise Fee collections on no less than a monthly basis. For example, the City, the Developer and the energy provider may implement a software solution so that Franchise Fees are no longer collected from the Project once the Franchise Fee Cap is reached each year (i.e., so there is never an overpayment of Franchise Fees); or the City, Developer and the energy provider may review Franchise Fee collections on a monthly basis, stop collection of Franchise Fees from the Project in future months once the Franchise Fee Cap is reached each year (i.e., so there is never an overpayment of Franchise Fees for more than one month in a year), and refund to the end user, or to the Developer for the benefit of the end user, any overpayment.

ARTICLE 4 WATER AND SEWER SERVICE

4.1 Water Service. The Parties recognize that the City and Rural Water District #7 (RWD #7) are currently cooperatively analyzing the best service plan for the Project and that the service to the Project may be provided by the City or RWD #7, or both, as may be practicable to meet the specific milestones set forth for the Project, as they shall be updated by agreement of the Parties. The Parties will continue to work in good faith on the service plan for the Project, which shall include the City providing the treated and/or raw water for the Project, which would be delivered to the Project Site via extensions of new water mains along 95th Street, Edgerton Road, and 103rd Street, with the potential partnership with RWD #7 as further described on Exhibit H, attached hereto (the “Water Project”). Notwithstanding the foregoing, Developer may elect, without objection from the City, to receive domestic water service of up to 50,000 gallons per day through RWD #7's existing distribution system without requiring the Water Project infrastructure improvements described herein.

4.2 Sewer Service. The levels of wastewater service that Developer will require initially and at full build out, as well as an estimate for the date for the initial service level are provided in the attached Exhibit H (the “Sewer Project”). The Parties will continue to work in good faith to identify options for providing such service levels by the estimated dates. Developer may elect to receive domestic wastewater service corresponding to its domestic water usage through the City's existing collection system without requiring the Sewer Project infrastructure improvements described herein.

4.3 Developer Funding Process. The Parties will cooperate to identify the reasonable and necessary costs associated with the Water Project and the Sewer Project, and the City will work in good faith to timely provide the Developer the cost estimates and underlying engineering, bids and other information reasonably requested by Developer to confirm the costs and expected results of any of the phases to be outlined in Appendix 2 of Exhibit H (Water and Wastewater Infrastructure Scope) or any future projects that are funded by the Developer, and any scopes of work associated with any of the foregoing (each a “Scope”). Once the Scopes for the Water Project and Sewer Project plans are reviewed jointly and mutually agreed to by the Developer and the City (and RWD#7 or any other parties as may be applicable), the Developer and the City (and any other applicable parties) will enter into one or more supplements to this Agreement (substantially in the form of Appendix 5 to Exhibit H) for the Water Project and the Sewer Project and each Scope (the “Supplement(s)”). The Supplement(s) will identify how the Parties will design, construct and fund the

improvements required consistent with the provisions set forth below. For avoidance of doubt, a Scope may include any scope of work, including a scope of work associated with one phase of a larger project.

(a) **Developer and City Cooperation.** The Developer or its tenant may, from time to time, at its own expense, propose to undertake a Scope or propose opportunities to value engineer or otherwise reduce Scope costs, which the City will consider in good faith. Developer may also request the City utilize a guaranteed maximum price contract and may engage, at its own expense, a third-party construction representative to provide review of the Scope, and the City will cooperate in working with that Developer representative. The Developer acknowledges that the City has certain contracts in place, and new, restructured or re-bid contracts may result in the City not being able to achieve the Milestone Completion Dates (defined herein) to be set forth in Appendix 1 to Exhibit H.

(b) **Developer Funding Schedule.** If the Developer wishes for the City to proceed with a Scope, the City and Developer will provide the corresponding Developer funding to the City in accordance with a funding schedule determined in good faith by the Parties. The Developer acknowledges that the City will not be able to commence the Scope without the funding in place, and that the funding deadlines to be set forth in Appendices 1 and 2 of Exhibit H must be met for the City to complete the projects by the proposed Milestone Completion Dates to be set forth in Appendix 1 to Exhibit H.

(c) **Developer Notice to Proceed.** The Developer must agree in writing to the Scope and deposit with the City or otherwise provide the required funding to trigger the City's obligations to undertake the Scope (for each Scope, the "Notice to Proceed"), following which the Parties will work in good faith to enter into an agreement for the construction, delivery and funding of the Scope. The Developer may elect to bifurcate the design and engineering of a Scope from the separate approval (and funding) of the construction of the Scope.

(d) **Post Notice to Proceed.** Following Developer's Notice to Proceed and funding for any Scope or other water or sewer projects, the City or RWD #7 shall, subject to the terms of this Agreement, have the sole right to manage, operate and construct (unless undertaken by Developer) the Scope. Developer must deposit with the City the funding for each Scope, in accordance with the Milestone Completion Dates established in Exhibit H or otherwise agreed, in good faith, by the Parties. Developer shall be responsible for paying for all third-party construction management services associated with the Scope, such fees not to be included in or capped by the Cap on City Fees.

ARTICLE 5 CONSTRUCTION OF PROJECT

5.1 **Zoning, Planning, and Platting.** The City agrees to consider and act on any zoning, planning and platting applications for the Project diligently and in due course and good faith.

5.2 **Architect.** Developer shall in its sole discretion select such architects, engineers and other design professionals and consultants as are necessary to provide construction documents and construction oversight services for the Project (or portion thereof constructed by Developer). All agreements respecting architectural and engineering services shall be between Developer and such Persons, and a copy of each such agreement shall be timely provided to the City upon a written request for the same.

5.3 **Design and Plans and Specifications.** Developer shall, as soon as practicable, provide (or cause to be provided) the City with plans and specifications for the Project (the "Plans and Specifications"), the

design of which is compatible with the Development Plan, and all Applicable Rules and/or Applicable Laws and Requirements. Developer acknowledges that each set of Plans and Specifications will be presented to and subject to the reasonable approval by the appropriate Government Authorities having authority over such Plans and Specifications. Without the prior written approval of the appropriate Government Authorities, there shall be no Material Changes to any Plans and Specifications subsequent to the initial approval. Developer represents that certain parts of the Plans and Specifications, to include redacted portions of Exhibit H, constitute trade secrets that, pursuant to K.S.A. §60-432 and §60-3320, *et seq.*, the City is not permitted to disclose and are not subject to public records requests, or otherwise qualify for exceptions to mandatory public records disclosure pursuant to K.S.A. §45-221. To the extent permitted by law, the City agrees to treat such information as confidential and not to make any public disclosure of the same. Notwithstanding the foregoing, Developer and the City represent and agree that none of the redactions or claimed trade secrets involve any expenditures or expenses incurred or to be incurred by the City.

5.4 General Contractor and Construction Documents. Developer shall in its sole discretion select one or more general contractors (each a “General Contractor”) for the Project (or applicable portion thereof constructed by Developer). Developer represents that its construction documents relative to the Project (or such portion thereof) (the “Construction Documents”) will require and provide for the design, development, construction, equipping and completion of the Project (or the portion thereof constructed by Developer) in accordance with the Development Plan, the Plans and Specifications and all Applicable Rules subject to any minor field changes that may occur during construction of the Project.

5.5 Responsibility for Design and Construction. Developer shall, subject to the terms of this Agreement and the Development Plan, have the sole right, and the responsibility, to design, manage, operate, and construct the Project. Developer shall receive no separate fee from the City for acting as construction manager or developer of the Project.

5.6 Payment and Performance Bonds. If (and only if) required by Applicable Rules or Applicable Laws and Requirements, the General Contractor shall be required under the Construction Documents to furnish and maintain in full force and effect performance and labor and material payment bonds in the full amount of the costs of the Project (or applicable portion thereof), as set forth in the Construction Documents. Said bonds shall be in form and substance and issued by a corporate surety reasonably satisfactory to Developer and the City.

5.7 Permits and Reviews. Developer hereby recognizes, stipulates and agrees that: (a) in the design, construction, completion, use or operation of the Project (or applicable portion thereof), Developer, or its General Contractor, shall procure and pay for (or cause to be procured and paid for) any and all permits, licenses or other forms of authorizations that are, from time to time, required by Applicable Rules and/or Applicable Laws and Requirements; and (b) nothing herein shall be construed as any release by the City of the responsibility of Developer to comply with, and satisfy the requirements of, any Applicable Rules, Applicable Laws and Requirements; and (c) any costs associated with the same, that are not described in Section 9.1 as being capped, shall be the responsibility of Developer and/or its General Contractor.

5.8 Periodic Meetings with Developer. From the Effective Date throughout the Term, Developer hereby agrees to meet with the City at such reasonable intervals as Developer, the City, and any such designee of the City shall mutually agree upon or reasonably request, but no more than once per quarter, to review and discuss the design, development and construction of the Project.

5.9 Changes in Applicable Rules. No addition to, or modification of, the Applicable Rules adopted or effective after the Effective Date shall be applied to the Project unless agreed to in writing by the Parties or unless it is necessary to the public health and safety of residents of the City and is generally applicable on

a City-wide basis. Notwithstanding the foregoing, the Developer may, in its sole discretion, give the City written notice of its election to have any subsequent change in the Applicable Rules applied to all or any portion of the Property, in which case such subsequent change shall be deemed to be incorporated within the Applicable Rules with respect to such portion of the Property. In the event of any conflict or inconsistency between this Agreement and the Applicable Rules, the provisions of this Agreement shall control. If Applicable Laws or Requirements prevent or preclude compliance with one or more provisions of this Agreement, the Parties shall collaborate in good faith to modify or suspend those provisions of this Agreement as necessary to comply. With respect to any property contiguous or adjacent to the Property, including without limitation property that is separated from the Property by a public right of way, City staff will recommend that the Planning Commission and/or City Governing Body require a 100' setback between the Project Site and any newly planned residential development.

ARTICLE 6 USE AND OPERATION

6.1 Term. The Term of this Agreement shall commence on the Effective Date and shall expire on the last day of the later of (a) the expiration of the last Abatement or Exemption issued within the Project, (b) the expiration of the Resolution of Intent, or (c) the last day the Project is served by City wastewater or other City services (the "Term"), if not earlier terminated by one of the Parties pursuant to the terms and conditions of this Agreement, provided, however, that the Term shall not exceed fifty (50) years.

6.2 Use and Operation. Developer covenants that at all times during the Term:

(a) the Project will be used for a data center, and other uses customarily and incidentally associated with such primary use, and the Project Site will not be used for other purposes, including for any Prohibited Uses set forth in Exhibit E.

(b) Conduct its business at all times in a dignified quality manner and in conformity with the applicable industry standards and in such manner as to help establish and maintain a positive reputation for the Project.

6.3 Development Plan. During the Term, Developer agrees that it shall perform and comply with each and all of the terms and provisions of the Development Plan and not knowingly suffer or permit any default or breach of any such terms or provisions of the Development Plan.

6.4 Maintenance and Use. Developer shall cause the Project, and all parts thereof, the Project Site and all other of its property used or useful in the conduct of its business and operations on the Project Site, to be maintained, preserved and kept in good repair and working order and in a safe condition, consistent at all times with other comparably-situated similar data center space in the greater metropolitan Kansas City area, and will make all repairs, renewals, replacements and improvements necessary for the safe, efficient, and advantageous conduct of its business and operations on the Project Site. Developer may make additions, alterations and changes to the Project so long as such additions, alterations and changes are made in compliance with all Applicable Laws and Requirements and the Development Plan, and as long as the same do not materially and adversely affect Developer's ability to perform its obligations under this Agreement.

6.5 Compliance. Developer shall conduct its affairs and carry on its business and operations in such a manner as to comply, in all material respects, with all Applicable Rules and Applicable Laws and Requirements, and to observe and conform, in all material respects, to all valid orders, regulations or requirements (including, but not limited to, those relating to safety and health) of any Government Authorities applicable to the conduct of its business and operations and the ownership of the Project;

provided, however, that nothing contained in this Agreement shall require Developer to comply with, observe and conform to any such law, order, regulation or requirement of any Government Authorities so long as the validity thereof shall be contested by Developer in good faith by appropriate proceedings, and provided that such contest shall not materially impair the ability of Developer to meet its obligations under this Agreement. Developer agrees to promptly pay (or cause to be paid) any and all fees and expenses associated with any safety, health or other inspections required under this Agreement or imposed by Applicable Laws and Requirements relative to the Project Site (or portions thereof) owned by Developer, unless contested in good faith with the assurances provided in the preceding sentence, subject to the Cap on City Fees pursuant to Section 9.1.

6.6 Periodic Reporting.

(a) No later than March 31 of each year during the Term, beginning with March 31 following the year in which the first building on the Project Site is completed (as evidenced by either receipt of a certificate of occupancy or a series of IRBs is issued for such building), Developer will file with the City an annual report that provides evidence of compliance with this Agreement and providing such other information regarding the Project as reasonably requested by the City in substantially the form attached as **Exhibit F** (the "Annual Report"), including at least the following data to the extent known to Developer with regard to the Project Site: (a) a list of facilities and owners, and tenants occupying the Project Site; (b) the types of operations conducted at facilities on the Project Site; (c) occupancy status of each facility located on the Project Site; (d) the number of persons employed at each facility at the Project Site based on commercially reasonable efforts to request such information, provided the City acknowledges Developer may be unable to obtain precise employment figures; and (e) Developer's progress toward the Minimum Investment. Developer agrees that it will request to include in any leases or purchase agreements for property located at the Project Site the requirement for tenants and third-party purchasers to provide such information as is necessary to comply with such Annual Reporting.

(b) Developer agrees, at all times, to comply with any applicable reporting requirements of HB2304 (2025 Session) codified at K.S.A 74,50,226 *et seq.* and to provide all reasonable cooperation with the City to permit the City's ongoing compliance with HB2304 with respect to the Project. Such information will be submitted by Developer in the form and manner required by the Secretary of Commerce for publication on the Kansas Department of Commerce website. Developer will pay any and all applicable administrative fees to be collected by the Secretary in connection with these reporting requirements. Developer acknowledges its failure to comply with this Section 6.6 may, pursuant to HB2304, preclude the City's ability to issue IRBs or provide any other incentive as contemplated herein.

6.7 Payment of Taxes and Other Charges. During the Term, Developer or each successor owner within the Project shall pay or cause to be paid prior to delinquency all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon the respective parcels owned by Developer or such successor owner(s) or upon any income therefrom, including, but not limited to, any taxes, assessments, PILOTs, or other governmental charges levied, assessed or imposed on the Project and/or the Project Site. Ad valorem property taxes and any special assessments shall be due in arrears, with half due on December 20th and half due on May 10th of each year in which said amount is required to be paid (subject to adjustment in the event State law dictating such timing is subsequently amended), and will be considered delinquent if not paid by such dates of each year or as otherwise determined by Applicable Laws and Requirements. The obligation to make (or cause to be made) ad valorem property tax and special assessment payments shall be a covenant running with the land and shall create a lien in favor of the City on each such tax parcel as constituted from time to time for which delinquent ad valorem property taxes or special assessments are due and owing, and shall be enforceable against Developer and its successors and assigns in ownership of property on the Project Site. Notwithstanding the foregoing, nothing in this Agreement shall prohibit Developer or any successor owner of the Project or Project Site (or any portion thereof) from

contesting the classification and/or appraised or assessed values of the properties, improvements, or the taxes thereon in good faith by appropriate proceedings; provided, however, that each such party shall pay any and all amounts when due and payable that are contested under protest while any such proceedings are pending. To the extent permitted by law, the City agrees not to discriminate against the Project or the Project Site, including, without limitation, by adopting special assessments, taxes or charges that discriminatorily target or impact the Project or the Project Site.

6.8 Payment of Obligations. During the Term, Developer shall promptly pay or otherwise satisfy and discharge all of its obligations and all lawful demands and claims against it as and when the same become due and payable, unless the validity, amount or collectability thereof is being contested in good faith or unless the failure to comply or contest would not materially impair its ability to perform its obligations under this Agreement nor subject any material part of the Project to loss or forfeiture.

6.9 Liens and Encumbrances. During the Term, except for a Permitted Mortgage (as defined below), utility, access and other easements and rights of way, restrictions, exceptions, leases and subleases, and other encumbrances that will not materially interfere with or impair the operations being conducted on the Project Site or the rights granted to the City hereunder (collectively, "Permitted Encumbrances"), Developer shall not create or incur or permit to be created or incurred or to exist any mortgage, lien, security interest, charge or encumbrance upon the Project, or any part thereof, owned by Developer, and shall promptly cause to be discharged, challenged or terminated all mortgages, liens, security interests, charges and encumbrances that are not a Permitted Encumbrance. For purposes hereof, the term "Permitted Mortgage" shall mean any security interest placed on the Project or Project Site or any part thereof by Developer, successor owners, tenants, users or other occupants thereof in connection with any construction or permanent financing of the Project, including any leases or related agreements entered into for purposes of the IRBs. Notwithstanding the foregoing, any Permitted Mortgage shall be subject to the terms and conditions of this Agreement, including without limitation, Section 6.2 of this Agreement.

6.10 Licenses and Permits. During the Term, Developer shall procure and maintain all licenses and permits, and allow all inspections and/or investigations, required by Applicable Laws and Requirements.

6.11 Insurance. During the Term, Developer shall maintain or cause to be maintained insurance with respect to the portion of the Project owned by the Developer covering such risks that are of an insurable nature and of the character customarily insured against by organizations operating similar properties and engaged in similar operations (including but not limited to property and casualty, worker's compensation, general liability and employee dishonesty) and in such amounts as, in the reasonable judgment of Developer, are adequate to protect Developer and such portion of the Project, but in no event in an amount less than that required by the Insurance Specifications attached hereto as Exhibit D, and made a part hereof, or as may otherwise be required by the terms of the IRB Documents. Each policy or other contract for such insurance shall: (i) name the City as an additional insured with respect to liability insurance (in an amount not less than the then-maximum liability of a governmental entity for claims arising out of a single occurrence as provided by the Kansas tort claims act or other similar future law), and (ii) contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least thirty (30) days after written notice of cancellation to Developer and each other insured, additional insured, loss payee and mortgage payee named therein.

6.12 Damage, Destruction or Condemnation. The Parties hereby agree as follows:

- (a) If the portion of the Project owned by Developer or any part thereof shall be damaged or destroyed by a Casualty, Developer, to the extent available insurance proceeds made available to Developer are sufficient and Developer determines that it is practicable and desirable to do so, in the Developer's sole discretion, shall proceed as promptly as possible to repair, restore,

and replace such damaged facilities as nearly as possible to their condition immediately prior to the Casualty.

(b) If title to the whole or substantially all of the portion of the Project owned by Developer, or other improvements constituting such portion of the Project (as further set forth below), shall be taken in condemnation proceedings or by right of eminent domain, Developer, at its sole discretion, may terminate this Agreement as of the date of such taking. For purposes of this Section, "substantially all of the portion of the Project owned by Developer, or other improvements constituting such portion of the Project" shall be deemed to have been taken if the City and the Developer, each acting reasonably and in good faith, determine that the untaken portion of the Project or other improvements owned by Developer cannot be practically and economically used by Developer for the purposes and at the times contemplated by this Agreement in accordance with Applicable Laws and Requirements. In the event of condemnation of less than the whole or substantially all of the portion of the Project owned by Developer, or other improvements constituting such portion of the Project, during the Term, Developer, may commence and thereafter proceed as promptly as possible to repair, restore and replace the remaining part of the portion of the Project owned by Developer, as nearly as possible, to their former condition.

(c) The Parties agree to cooperate in implementing any modifications to the Plans and Specifications and/or the Development Plan, as applicable, as may be necessary to account for such Casualty or condemnation.

6.13 Indemnity. Developer shall pay and indemnify and save the City and its governing body members, directors, officers, employees and agents (collectively, the "City Parties") harmless from and against all actual loss, liability, damage or expense arising out of: (a) the acquisition of the Project Site by Developer; (b) the design, construction and completion of such portions of the Project owned by Developer; (c) any breach, default or failure to perform by Developer under this Agreement; (d) any act which is within or under the control of Developer or pursued with Developer's prior written consent for the benefit of or on behalf of Developer by an employee of the City at the Project Site; and (e) any claims or challenges related to the legality of the approval of, or terms contained in the planning, zoning, platting or other governmental approvals necessary for this Project, this Agreement, the Development Plan, the IRBs and the terms thereof, and of the financing structure contemplated by this Agreement, except to the extent arising through no fault of Developer. Developer shall also pay and indemnify and save the City Parties harmless of, from and against, all out-of-pocket costs, reasonable counsel fees, expenses and liabilities incurred by them or by Developer in any action or proceeding brought by reason of any such claim, demand, expense, penalty or fine for which Developer is obligated to indemnify and save harmless pursuant to the preceding sentence. If any action or proceeding is brought against the City Parties by reason of any such claim or demand, Developer, upon notice from the City, covenants to resist and defend such action or proceeding on demand of the City or its governing body members, directors, officers, employees or agents. Notwithstanding the foregoing, no party benefited by this Section shall be indemnified, saved, held harmless, or defended against any loss, liability, damage, or expense arising out of (i) bodily injury to persons or damage to property caused by any City Party's willful and malicious acts or omissions or negligence; or (ii) the acts or omissions of the City's agents or employees. The foregoing covenants contained in this Section shall be deemed continuing covenants, representations and warranties for the benefit of the City and any successors and assigns of the City, and shall survive the termination, satisfaction or release of this Agreement, or any other instrument, but only with respect to liability that arises during the Term.

6.14 Prohibition on Sales, Etc. During the Term, Developer will not, without the prior written consent of the City, assign this Agreement, or any of the rights, benefits or obligations hereunder. Notwithstanding the foregoing, the Parties hereby agree that Developer may, in the ordinary course of its business and without the City's consent make: (i) sales and/or leases of portions of the Project and/or Project Site to

tenants, users, third-party developers, or other third-parties; (ii) sales and/or leases of portions of the Project and/or Project Site to Affiliates and (iii) grant a security interest to secure a Permitted Mortgage and/or collaterally assign all or a portion of Developer's rights hereunder to a lender for financing purposes. Except for assignment to Affiliates, Permitted Mortgages and collateral assignments described in the preceding sentence, the assignment of any of Developer's obligations under this Agreement to any non-Affiliate third-party shall be accompanied by an Assignment and Assumption Agreement (each, an "Assumption Agreement"), substantially in the form attached hereto as Exhibit I, executed by Developer and the assignee and approved by the City Council and executed by the City pursuant to which such assignee expressly assumes and agrees to be bound by all of Developer's obligations under this Agreement (or, in the event the assignment is of or relates to only a portion of the Project, Project Site, and/or this Agreement, then such obligations to the extent they relate to such portion). The City shall not unreasonably withhold, condition or delay its approval of an Assumption Agreement, provided the City shall consider and approve any third-party assignment in its reasonable discretion, except as otherwise permitted above. If and when such an Assumption Agreement is approved (if required hereunder) and executed by the City and the other parties thereto, the City shall release Developer from any and all obligations and liabilities assigned and assumed pursuant to such Assumption Agreement.

6.15 Access. During the Term, Developer hereby recognizes, acknowledges and agrees that the City, and its duly authorized representatives and agents, shall have the right to enter the Project at reasonable times and upon reasonable notice, and subject to the reasonable confidentiality and trade secret rights of tenants to substantiate compliance with this Agreement or, to the extent Developer has failed to cure any breach within applicable notice and cure periods, to cure any defaults under this Agreement. In exercising its rights hereunder, the City shall have no right to conduct any invasive testing on the Project Site, shall use reasonable efforts to avoid unreasonable interference with the construction and operation of the Project, and the City will follow any tenant's sign-in, security, and access control policies and requirements, which may be changed or amended by the Developer or its tenant(s) at any time. The City's representative(s) will be accompanied by Developer's or tenant's security escorts at all times. Except as otherwise provided in this Agreement, the City shall pay all costs it incurs under this provision. Nothing contained in this Section shall restrict or impede the right of the City to enter the Project pursuant to any Applicable Laws and Requirements, including but not limited to life and safety matters.

6.16 Environmental Matters. Developer hereby agrees that Developer shall assume responsibility for the costs of any remediation of any environmental conditions upon the Project Site. Further, Developer shall not store, locate, generate, produce, process, treat, transport, incorporate, discharge, emit, release, deposit or dispose of any Hazardous Substance in, upon, under, over or from the Project Site in violation of any Environmental Regulation; shall not permit any Hazardous Substance to be stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited, disposed of or to escape therein, thereupon, thereunder, thereover or therefrom in violation of any Environmental Regulations; shall cause all Hazardous Substances to be properly removed therefrom and properly disposed of in accordance with all applicable Environmental Regulations; shall not install or permit to be installed any underground storage tank therein or thereunder in violation of any Environmental Regulation; and shall comply with all other Environmental Regulations which are applicable to the Project Site. Developer shall indemnify the City against, shall hold the City harmless from, and shall reimburse the City for, any and all claims, demands, judgments, penalties, fines, liabilities, out-of-pocket costs and expenses and actual damages, including court costs and attorneys' fees incurred by the City (prior to trial, at trial and on appeal) in any action against or involving the City, resulting from any breach of the foregoing covenants or from the discovery of any Hazardous Substance, in, upon, under or over, or emanating from, the Project Site, whether or not Developer is responsible therefor, it being the intent of Developer and the City that the City shall have no liability or responsibility for damage or injury to human health, the environment or natural resources caused by, for abatement and/or clean-up of, or otherwise with respect to, Hazardous Substances, which arises from the Project Site subsequent to the Effective Date. The foregoing

covenants contained in this Section shall be deemed continuing covenants, representations and warranties for the benefit of the City and any successors and assigns of the City, and shall survive the termination, satisfaction or release of this Agreement or any other instrument.

6.17 Power of the City. Notwithstanding anything set forth herein to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent rights and powers of the City to act in its capacity as a public body. Further, nothing herein shall relieve Developer from complying, in all material respects, with the Applicable Rules and all Applicable Laws and Requirements.

ARTICLE 7 SPECIAL PROVISIONS

7.1 Special Agreements of Developer.

(a) During the Term, for so long as Developer or an Affiliate owns all or a portion of the Project Site, the Developer (or an Affiliate) shall be a member of and reasonably participate in the De Soto Chamber of Commerce (the "Chamber") and the De Soto Economic Development Council ("EDC"). Such participation shall include annual payment of dues to the Chamber and EDC. Such annual dues to the EDC shall be paid in amount no less than the amount for a "Visionary" membership as of the date of this Agreement (\$10,000). Additionally, the Developer shall use commercially reasonable efforts to encourage tenants and successor owners within the Project to become members of and actively participate in such organizations.

(b) The Developer shall use commercially-reasonable efforts to utilize local labor, vendors, and businesses during construction and operation of the Project; provided, however, that the Developer shall have no obligation to utilize local labor, vendors or businesses to the extent they are not the lowest and best bid for the applicable work. The Developer shall communicate such efforts to the City upon the City's request.

(c) The Developer, for itself, its successors and assigns, and any contractor with whom the Developer has contracted for the performance of work on the Project, agrees that in the construction, renovation, improvement, equipping, repair and installation of the Project provided for in this Agreement, the Developer shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, handicap, national origin, sexual orientation or ancestry.

ARTICLE 8 DEFAULT AND REMEDIES

8.1 Default Provisions. Developer shall be in default under this Agreement if:

(a) Developer fails to make any of the payments of money required to be made by Developer by the terms of this Agreement, including payment of PILOTs, taxes, special assessments, or any other amounts owed by Developer hereunder, and Developer fails to cure or remedy the same within sixty (60) days after the City has given Developer written notice specifying such default.

(b) Developer fails to keep or perform any material covenant or obligation herein contained on Developer's part to be kept or performed, including Developer's covenants to timely provide periodic reporting and other information (including required information referenced in Sections 3.1 and 6.6), and Developer fails to remedy the same within sixty (60) days after the City

has given Developer written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by Developer within such period and diligently pursued until the default is corrected.

(c) Developer shall file a voluntary petition under any bankruptcy law or an involuntary petition under any bankruptcy law is filed against any such party in a court having jurisdiction and said petition is not dismissed within sixty (60) days; or Developer or any Affiliate makes an assignment for the benefit of its creditors; or a custodian, trustee or receiver is appointed or retained to take charge of and manage any substantial part of the assets of Developer, or any Affiliate, and such appointment is not dismissed within sixty (60) days; or any execution or attachment shall issue against Developer whereupon the Project, or any part thereof, or any interest therein of Developer under this Agreement shall be taken and the same is not released prior to judicial sale thereunder (each of the events described in this subparagraph being deemed a default under the provisions of this Agreement).

(d) Developer breaches the representations and warranties set forth in this Agreement and fails to cure or correct same within thirty (30) days of notice from the City specifying such breach and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by Developer within such period and diligently pursued until the default is corrected.

(e) Developer fails to make the Minimum Investment, regardless of changes to the Total Project Budget.

In the event of such default which continues beyond any applicable grace, notice and cure periods, the City may take such actions, or pursue such remedies, as exist hereunder, or at law or in equity, and Developer covenants to pay and to indemnify the City against all reasonable, out-of-pocket costs and charges, including reasonable attorneys' fees, lawfully and reasonably incurred by or on behalf of the City in connection with the enforcement of such actions or remedies, but only to the extent the Person against whom the City initiated the enforcement action actually violated the requirements of this Agreement and failed to timely cure the same in accordance with this Section.

8.2 Rights and Remedies. Upon the occurrence and continuance of a Developer default, the City shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law, which the City shall exercise in good faith and fair dealing:

(a) Whenever any default by Developer shall have occurred and be continuing, subject to applicable cure periods as set forth above, the City may: (i) refuse to approve any further IRB financing or Abatements, and/or terminate existing Abatements (except to the extent set forth in the final paragraph of this Section 8.2); (ii) terminate this Agreement and the Resolution of Intent; and/or (iii) exercise any remedies provided to the City under the IRB Documents, but only to the extent there exists a default thereunder. The rights and remedies reserved by the City hereunder and those provided by law shall be construed as cumulative and continuing rights, no one of which shall be exhausted by the exercise of any one or more of such rights or remedies on any one or more occasions.

(b) The City may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the specific performance of the duties and obligations of the Developer as set forth in this Agreement, to enforce or preserve any other rights

or interests of the City under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the City resulting from such Developer default.

(c) In the event of such default by Developer, the City may take such actions, or pursue such remedies, as exist hereunder or at law or in equity and Developer covenants to pay and to indemnify the City against all reasonable, out-of-pocket costs and charges, including reasonable attorneys' fees, lawfully and reasonably incurred by or on behalf of the City in connection with the enforcement of such actions or remedies, but only to the extent the Person against whom the City initiated the enforcement action actually violated the requirements of this Agreement and failed to timely cure the same pursuant to Section 8.1 above.

(d) The rights and remedies reserved by the City hereunder and those provided by law shall be construed as cumulative and continuing rights, no one of which shall be exhausted by the exercise of any one or more of such rights or remedies on any one or more occasions. If a default by Developer occurs under this Agreement and is continuing, the City may take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance by Developer of any provision of this Agreement. The City shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. Failure by the City to enforce any such rights shall not be deemed a waiver thereof.

(e) The City shall be entitled to interest payments at a rate equal to the lesser of (i) ten percent (10%) or (ii) the highest rate which is allowed by Applicable Laws and Requirements on any payments of money required by the terms of this Agreement which are not paid by Developer on or before the date that such payments are due and become a Developer default hereunder.

Notwithstanding the foregoing or anything in this Agreement to the contrary, under no circumstances will Developer be liable for or the City seek or have any right to: (i) specific performance of the Minimum Investment or construction of the Project or any portion thereof; (ii) remote, special, reliance, incidental, speculative, exemplary, indirect (such as loss of reputation) or punitive damages, including, without limitation, lost tax revenues; or (iii) if the default can be reasonably attributed to a specific portion of the Project or Project Site, terminate existing Abatements for any other portion of the Project or Project Site that is not in default.

8.3 Default by the City. The City shall be in default under this Agreement if: (i) the City fails to make any of the payments or reimbursements of money required to be made by the City by the terms of this Agreement, and the City fails to cure or remedy the same within sixty (60) days after Developer has given the City written notice specifying such default; or (ii) the City fails to keep or perform any covenant or obligation herein contained on the City's part to be kept or performed, and the City fails to remedy the same within sixty (60) days after Developer has given the City written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the City within such period and diligently pursued until the default is corrected. If a default by the City occurs under this Agreement and is continuing, Developer may: (a) terminate this Agreement; and/or (b) take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance by the City of any provision of this Agreement; provided, however, that the City's liability for monetary amounts shall be limited to the actual amount, if any, in question, and under no circumstances shall the City be liable for any remote, special, punitive, or consequential damages. Developer shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law,

and each party hereby waives the right to raise such defense in any proceedings in equity. Under no circumstances shall the City be liable for remote or consequential damages. Notwithstanding the foregoing or anything to the contrary, Developer may terminate this Agreement at any time upon written notice to the City. Termination shall be effective upon delivery of such notice unless specified otherwise.

In the event of such default, Developer may take such actions, or pursue such remedies, as exist hereunder or at law or in equity; and if Developer is the prevailing party in an action to enforce its remedies hereunder, Developer shall be entitled, subject to Applicable Laws and Requirements, to reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of Developer in connection with the enforcement of such actions or remedies.

Developer acknowledges and accepts that the granting of the Abatements and related sales tax exemptions is a legislative act that cannot be mandated by contract. City staff covenant to seek action for and recommend approval of the Abatements and sales tax exemptions for the Project pursuant to this agreement, but failure by the City Council of the City to act and/or approve such items is *not* an event of default under this Agreement, provided, however, that, recognizing the Parties' expectations and harm of such failure, the City agrees to reduce, rebate, or waive other fees, taxes, charges, assessments or other impositions proportionately for such phase so that Developer's cost of operation would be the same had such IRBs been approved. Nothing in this Section 8.3 shall be construed or interpreted as the City being obligated to pledge to Developer any City revenues, City funds on hand, or City taxing authority attributable to public improvements and/or land outside the Project Site.

ARTICLE 9 MISCELLANEOUS

9.1 Cap on City Fees. Any City excise taxes, park development fees, planning application fees, or other similar or related fees, together with any issuance or origination fee imposed by the City in connection with the IRBs (exclusive of third-party bond counsel, bond trustee, financial advisor, cost-benefit analysis provider, or Board of Tax Appeals fees) applicable to the Project (collectively, "City Fees") shall not in the aggregate exceed One Million and 00/100 Dollars (\$1,000,000.00) (the "Cap on City Fees"), and the City will advance and support all credits, exemptions, offsets, and other waivers or variances as necessary to ensure Developer, its successors, tenants and assigns, are not (individually or collectively) charged City Fees in excess of the Cap on City Fees. Any applicable fees exceeding the Cap on City Fees and not otherwise exempt from being assessed shall be waived by the City and, for purposes of the City's economic development incentives' policy, be considered an economic development grant from the City to Developer, or successors, tenants or assigns (as applicable), without any additional obligations thereby imposed on Developer, its successors, tenants or assigns. The Cap on City Fees shall not apply to building permit fees, commodity charges or ongoing monthly service and/or applicable franchise fees for utilities, nor to special assessments, payments of ad valorem taxes, contractual payments in lieu of taxes or reasonable third-party inspection fees for the Water Project or Sewer Project (not to exceed \$300,000 without approval by Developer). Additionally, in the event the City and Developer desire to amend, administer, interpret, or perform related activities with relation to this Agreement and the transactions contemplated herein, and the City provides staff and/or legal, financial, planning, or other assistance in relation thereto, Developer shall be responsible for payment of such reasonable costs incurred by the City, and such costs shall be excluded from and not apply to the Cap on City Fees. The Cap on City Fees shall expire upon the 25th anniversary of the Effective Date of this Agreement.

9.2 Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any

breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

9.3 Force Majeure. In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of acts of God; an epidemic or pandemic resulting in a government-imposed shutdown or work stoppage; strikes; lockouts; riots; insurrection; environmental remediation required by the appropriate Government Authorities; discovery of cultural, archeological or paleontological resources or endangered species; any lawsuit seeking to restrain, enjoin, challenge or delay construction; terrorism directly impacting the Kansas City metropolitan area; labor difficulties (including jurisdictional labor disputes); judicial or administrative writ, order or decree; delay by, applicable local, State or federal governments; casualties at the job site and resulting in direct physical damage to the Project, or occurring off-site and directly disrupting or delaying the supply of labor or materials to the Project; moratoria on the issuance of applicable permits or other governmental approvals; unusually severe weather or severe weather for an unusually sustained period of time; or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement ("Force Majeure"), then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 9.3 shall not be applicable to delays resulting from the inability of a party to obtain financing or to proceed with its obligations under this Agreement because of a lack of funds.

9.4 Representations of Parties.

(a) Representations and Warranties of Developer. Developer represents and warrants to the City as follows:

(i) Developer Acknowledgement and Certification. Developer hereby represents that its financial obligations set forth in this Agreement will not impair its willingness or ability to establish rental rates for the Project that are competitive in the Kansas City Metropolitan Area for similarly-sized facilities, such Developer financial obligations to include: (1) payment of property taxes not subject to the Abatements; (2) payment of PILOTs in accordance with the IRB Documents; and (3) Developer's own private costs of developing the Project Site.

(ii) Organization. Developer is a Delaware limited liability company duly formed and validly existing under the laws of such state. Developer is duly authorized to conduct business in each other jurisdiction in which the nature of its properties or its activities requires such authorization. Developer shall, for so long as this Agreement remains in full force and effect and Developer retains ownership of all or a portion of the Project Site: (1) preserve and keep in full force and effect its corporate or other separate legal existence and (2) remain qualified to do business and conduct its affairs in the State and each jurisdiction where ownership of its property or the conduct of its business or affairs requires such qualification.

(iii) Authority. The execution, delivery and performance by Developer of this Agreement are within Developer's powers and have been duly authorized by all necessary action of Developer.

(iv) No Conflicts. To Developer's actual knowledge, neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof, will contravene the organizational documents of Developer or any provision of law, statute, rule or regulation to which Developer is subject, or to any judgment, decree, license, order or permit applicable to Developer, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of any indenture, mortgage, deed of trust, agreement or other instrument to which Developer is a party, by which Developer is bound, or to which Developer is subject.

(v) No Consents. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authority or regulatory body or third party is required for the due execution and delivery by Developer of this Agreement. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authority or regulatory body or third party is required for the performance by Developer of this Agreement or the consummation of the transactions contemplated hereby except for zoning, building and other customary permits to be obtained from the City or other governmental units.

(vi) Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of Developer, enforceable against Developer in accordance with the terms hereof.

(vii) No False Statements. The Developer represents and warrants that, to the best of the Developer's knowledge, as of the date of the execution of this Agreement by the Developer, the Developer has not knowingly made any false statements to the City material to the Project or any economic development assistance related this Agreement including the information referenced in Section 3.1.

(b) Representations and Warranties of the City. The City represents and warrants to the Developer as follows:

(i) Authority. The execution, delivery and performance by the City of this Agreement are within its powers and have been duly authorized by all necessary action.

(ii) No Conflicts. To the City's actual knowledge, neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof, will contravene any provision of law, statute, rule or regulation to which the City is subject (including, without limitation, the ordinances, rules, regulations of the City and the laws of the State), or to any judgment, decree, license, order or permit applicable to the City, nor result in a breach, conflict with or be inconsistent with any terms, covenants, conditions or provisions of any indenture, mortgage, deed of trust, agreement or other instrument by which the City is bound or to which the City is subject or a party.

(iii) No Consents. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authority or regulatory body or third party is required for the due execution and delivery by the City of this Agreement. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authority or regulatory body or third party is required for

the performance by the City of this Agreement or the consummation of the transactions contemplated hereby.

(iv) Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of the City enforceable against the City in accordance with its terms.

9.5 Amendments. This Agreement may be amended, changed or modified only by a written agreement duly executed by the City and Developer.

9.6 Estoppel. The Parties shall at any time and from time to time, upon not less than ten (10) days prior notice from the other Party, execute, acknowledge and deliver to the other Party (and in the case of the City, to a prospective lender, tenant or purchaser of any of the Property) an estoppel certificate certifying that this Agreement has not been modified and is in full force and effect (or if there have been modifications, that this Agreement as modified is in full force and effect and setting forth a notation of such modifications), and that to the knowledge of such Party, neither it nor any other Party is then in default of this Agreement (or if another Party is then in default hereof, stating the nature and details of such default), it being intended that any such statement delivered pursuant to this paragraph may be conclusively relied upon by an addressee of such estoppel certificate made in accordance with the provisions of this Agreement.

9.7 Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State.

9.8 Severability. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

9.9 Headings. The Article and Section headings shall not be treated as a part of this Agreement or as affecting the true meaning of the provisions hereof.

9.10 Execution of Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

9.11 Time. Time is of the essence in this Agreement. Developer agrees to expeditiously and completely perform each and all of its duties and obligations under this Agreement. The City agrees to expeditiously and completely perform each and all of its duties and obligations under this Agreement.

9.12 Consents and Approvals. Wherever in this Agreement it is provided that the City or Developer shall, may or must give its approval or consent, the City or Developer shall not, unless specifically herein provided otherwise, unreasonably withhold, condition, delay or refuse to give such approvals or consents. It is agreed, however, that the sole right and remedy for Developer or the City in any action concerning the other's reasonableness will be action for declaratory judgment and/or specific performance, and in no event shall either such party be entitled to claim damages of any type or nature in any such action.

9.13 Confidential Information. The City agrees to protect from disclosure claimed trade secret and/or confidential information of the Developer's to the maximum extent permitted by law. The Developer's claimed trade secrets disclosed to the City and the City's third party consultants include, but are not limited to, the Developer's Water Need, the Developer's Sewer Need (as each is defined in Exhibit H), and timing thereof, as well as security, utility and certain other portions of the Plans and Specifications.

9.14 Notices. All notices required or desired to be given hereunder (each, a "Notice") shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed

duly served and delivered for all purposes if delivered: (i) by nationally recognized overnight delivery service; (ii) by electronic mail (with follow up within one (1) business day by United States Mail or by nationally recognized overnight delivery service); or (iii) in person, in each case if addressed to the Parties set forth below (or at such other address(es) communicated by such party pursuant to a Notice delivered in accordance with this Section):

To the City:

City of De Soto, Kansas
Attn: City Administrator
32905 W. 84th Street
PO Box C
De Soto, Kansas 66018
Telephone: (913) 583-1182
Email: mbrungardt@desotoks.us

with a copy to:

City of De Soto, Kansas
Attn: City Attorney
32905 W. 84th Street
PO Box C
De Soto, Kansas 66018
Telephone: (913) 583-1182
Email: preavey@desotoks.us

and a copy to:

Gilmore & Bell, P.C.
Attn: Kevin Wempe
2405 Grand Blvd. Suite 1100
Kansas City, Missouri 64108
Telephone: (816) 221-1000
Email: kwempe@gilmorebell.com

To the Developer:

Mount Sunflower Properties LLC
Attn: Lauren Harvey
300 N. LaSalle St, Suite 1500
Chicago, Illinois 60654
Telephone: (781) 385-0390
e-mail: lharvey@bealeinfra.com

with a copy to:

Vorys, Sater, Seymour and Pease LLP
Attn: Scott Ziance
52 East Gay Street
Columbus, Ohio 43215
Telephone: (614) 464-8287
Email: SJZiance@vorys.com

with a copy to:

Polsinelli PC
Attn: Korb Maxwell
900 W. 48th Place, Suite 900
Kansas City, Missouri 64112
Telephone: (816) 360-4327
Email: kmaxwell@polsinelli.com

9.15 Entire Agreement. Together with the Exhibits hereto, this Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes and replaces all prior oral or written agreements concerning the subject matter hereof.

9.16 Run with the Land. This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, successors and assigns and shall run with the land except as otherwise provided herein. However, Developer shall remain liable in the event of a violation by Developer of any of the terms or restrictions set forth in Sections 6.8 and 6.13. Within ten (10) business days after the Effective Date or, if later, promptly upon Developer's acquisition of fee title to the entire Project Site, the Parties shall record a memorandum describing this Agreement in the Office of the Register of Deeds of Johnson County, Kansas.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, the Parties hereto have executed these presents as of the day and year first above written.

CITY:

CITY OF DE SOTO, KANSAS

By: _____
Rick Walker, Mayor

STATE OF KANSAS)
) SS.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on _____, 2025, by Rick Walker as Mayor of the City of De Soto, Kansas.

Printed Name: _____
Notary Public in and for said State
Commissioned in _____ County

My commission expires

ANNEX 1
DEFINITIONS

“Abatements” means those certain abatements of ad valorem property taxes for each building developed on the Project Site and the applicable underlying real property as described in Section 3.2(a).

“Affiliate” means any person, entity or group of persons or entities which controls Developer, which Developer controls or which is under common control with Developer or one or more of its principals. As used herein, the term “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of day-to-day management and policies, whether through the ownership of voting securities, by contract, resolution, consent or otherwise. However, the Parties understand and agree that the term “Affiliate” shall not include passive investors or capital partners without day to day operational control of the Project.

“Agreement” means this Development Agreement by and between the City and Developer.

“Applicable Laws and Requirements” shall mean any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by county, state, or federal governments, and all requirements of any insurers providing coverage for the Project. Applicable Laws and Requirements shall include, without limitation, the Development Plan, the Kansas Cash Basis Law (K.S.A. § 10-1100 *et seq.*) and Budget Law (K.S.A. § 75-2935 *et seq.*).

“Applicable Rules” means any applicable ordinances, resolutions, rules, regulations, or policies of the City.

“Cap on City Fees” means the cap on certain City fees for the Project, as described in Section 9.1.

“Casualty” means any fire, storm, earthquake, tornado, flood or natural disaster or other sudden, unexpected or unusual cause of damage or destruction.

“Casualty Escrow” means that certain escrow agreement for the net proceeds of any insurance relating to damage or destruction of any portion of the Project owned by Developer, the net proceeds of condemnation or taking of any portion of the Project owned by Developer, or the net proceeds of any realization on title insurance for the Project owned by Developer as set forth in Section 6.12(a).

“Chamber” means the De Soto Chamber of Commerce.

“City” means the City of De Soto, Kansas.

“City Fees” shall have the meaning set forth in Section 9.1.

“Commence” or **“commencement”** with respect to a portion of the Project shall mean the commencement of construction activities for such portion, including but not limited to grading, utility installation or relocation, or other site work.

“Construction Documents” means the construction documents relative to the Project, as described in Section 5.4.

“Developer” means Mount Sunflower Properties, LLC, a Delaware limited liability company, together with its successors and assigns.

“Development Plan” means the final site plan approvals as may be granted or amended from time to time by the City’s Planning Commission or other relevant bodies and Governmental Authorities, as more fully described in Section 2.1.

“EDC” means the De Soto Economic Development Council.

“Effective Date” means the later of (a) the date of this Agreement first above written or (b) the date of the Closing.

“Environmental Regulation” means any and all present and future laws, statutes, ordinances, rules, regulations and orders of any governmental authority having jurisdiction over the Parties hereto or the Project Site or any portion thereof and pertaining to the protection of human health, hazardous substances, pollution, or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and as the same may be further amended from time to time (collectively, “CERCLA”).

“Force Majeure” is defined in Section 9.3.

“GAAP” means generally accepted accounting principles.

“General Contractor” means that general contractor selected by Developer pursuant to Section 5.4.

“Government Authority” or **“Government Authorities”** shall mean any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipal, city or otherwise), whether now or hereafter in existence, having jurisdiction over the Project, the Project Site and/or Developer.

“Hazardous Substance” means any substance that is defined or listed as a hazardous or toxic substance and which is regulated as such or may form the basis of liability under any present or future Environmental Regulation, or that is otherwise prohibited or subject to investigation or remediation under any present or future Environmental Regulation because of its hazardous, toxic, or dangerous properties, including, without limitation; (i) any substance that is a “hazardous substance” under CERCLA, and (ii) petroleum, natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), only to the extent that the constituents of such synthetic gas are released or threatened to be released into the environment.

“Insurance Specifications” means the insurance requirements on Developer in connection with the Project as generally described in Section 6.11 and more fully set forth in Exhibit D.

“IRB” means industrial revenue bonds, as set forth in K.S.A. §12-1740 *et seq.*

“IRB Act” means K.S.A. §12-1740 *et seq.*, as may be amended and supplemented.

“IRB Documents” means the leases, along with any bond trust indentures, bond purchase agreements, tax compliance agreements, financing agreements, and other similar documents executed and delivered by the parties in connection with an IRB financing.

“Material Changes” means any substantial change to Plans and Specifications, which change would require prior approval of the appropriate Government Authorities pursuant to Applicable Laws and Requirements.

“Permitted Mortgage” means any mortgage placed on the Project Site or any part thereof in connection with any construction or permanent financing of the Project as described in Section 6.9.

“Permitted Mortgagee” means the holder of any Permitted Mortgage.

“Person” shall mean any natural person, firm, partnership, association, corporation, limited liability company, trust, entity, public body or government or other entity.

“PILOT” or **“PILOTS”** means payment-in-lieu-of-taxes, as further described in Section 3.2(a).

“Plans and Specifications” means those plans and specifications generally described in Section 5.3 as the same may be amended from time to time by Developer and approved by the relevant Governmental Authorities.

“Prohibited Uses” shall mean the uses set forth in Exhibit E.

“Project” means the design, development, and construction of the proposed data center development, consisting of one or more buildings, as more particularly set forth in, and subject to, Section 2.1. The Project does not include the Water Project or the Sewer Project (except as part of the Minimum Investment).

“Project Site” means that certain real property legally described on Exhibit A-1 and generally depicted on Exhibit A-2.

“Resolution of Intent” means that certain master resolution of intent indicating the City’s intention to grant to Developer the Abatements for each building developed on the Project Site during the Term, as described in Section 3.2(a).

“RWD #7” means Rural Water District No. 7 of Johnson County, Kansas.

“State” means the State of Kansas.

“Substantial Completion” or **“Substantially Complete”** means the stage in the progress of the construction of the Project, or as to any particular portion thereof, when said construction is sufficiently complete so that the Project or such particular portion can be occupied or utilized for its intended use, which shall be evidenced by receipt of a temporary certificate of occupancy with respect to any building constructed in connection with the Project.

“Term” means the term of this Agreement as set forth in Section 6.1.

“Total Project Budget” means the estimated budget for the Project for illustrative purposes only attached hereto as Exhibit C as set forth in Section 3.1.

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INDEX OF EXHIBITS

Exhibit A-1	The Project Site – Legal Description
Exhibit A-2	The Project Site – Map
Exhibit B	Preliminary Concept Plan
Exhibit C	Total Project Budget
Exhibit D	Insurance Specifications
Exhibit E	Prohibited Uses
Exhibit F	Form of Annual Report
Exhibit G	PILOT Schedule
Exhibit H	Trade Secret Appendix
Exhibit I	Form of Assignment and Assumption Agreement

EXHIBIT A-1

THE PROJECT SITE – LEGAL DESCRIPTION

ALL THAT PART OF AN UNPLATTED TRACT OF LAND, LOCATED IN THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 1,

TOWNSHIP 13 SOUTH, RANGE 21 EAST, LYING IN DE SOTO, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED BY MICHAEL J. BOGINA, KANSAS PS-1655,

OF OLSSON, INC., KANSAS LS-114, ON DECEMBER 27, 2024, AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 1;

THENCE SOUTH 01 DEGREE 44 MINUTES 17 SECONDS EAST, ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 1, A DISTANCE OF 20.00 FEET, TO A POINT ON

THE EASTERLY PROLONGATION OF THE SOUTH RIGHT-OF-WAY LINE OF 95TH STREET, AS NOW ESTABLISHED;

THENCE SOUTH 88 DEGREES 30 MINUTES 17 SECONDS WEST, DEPARTING SAID EAST LINE AND ON SAID EASTERLY PROLONGATION, A DISTANCE OF 30.00 FEET, TO A POINT

BEING THE INTERSECTION OF SAID SOUTH RIGHT-OF-WAY LINE AND THE WEST RIGHT-OF-WAY LINE OF EDGERTON ROAD, AS BOTH STREETS ARE NOW ESTABLISHED, SAID

POINT ALSO BEING THE POINT OF BEGINNING;

THENCE SOUTH 01 DEGREE 44 MINUTES 17 SECONDS EAST, ON SAID WEST RIGHT-OF-WAY LINE AND ON A LINE PARALLEL WITH SAID EAST LINE, A DISTANCE OF 2,631.49 FEET,

TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER AND THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 1;

THENCE SOUTH 01 DEGREE 57 MINUTES 53 SECONDS EAST, ON SAID WEST RIGHT-OF-WAY LINE AND ON A LINE PARALLEL WITH THE EAST LINE OF THE SOUTHEAST QUARTER

OF SAID SECTION 1, A DISTANCE OF 210.71 FEET, TO A POINT;

THENCE SOUTH 88 DEGREES 02 MINUTES 07 SECONDS WEST, ON SAID WEST RIGHT-OF-WAY LINE AND ON A LINE BEING PERPENDICULAR TO SAID EAST LINE, A DISTANCE OF

40.00 FEET, TO A POINT BEING THE NORTHEAST CORNER OF TRACT C2, FLINT COMMERCE CENTER - BUILDING C, A SUBDIVISION OF LAND IN THE CITY OF DE SOTO, JOHNSON

COUNTY, KANSAS, ACCORDING TO THE RECORDED PLAT THEREOF;

THENCE SOUTH 43 DEGREES 18 MINUTES 38 SECONDS WEST, ON THE NORTH LINE OF SAID TRACT C2, A DISTANCE OF 43.88 FEET, TO A POINT;

THENCE SOUTH 88 DEGREES 18 MINUTES 38 SECONDS WEST, ON SAID NORTH LINE, A DISTANCE OF 1,065.88 FEET, TO A POINT;

THENCE NORTH 46 DEGREES 41 MINUTES 21 SECONDS WEST, ON SAID NORTH LINE, A DISTANCE OF 65.30 FEET, TO A POINT;

THENCE SOUTH 88 DEGREES 34 MINUTES 42 SECONDS WEST, ON SAID NORTH LINE, A DISTANCE OF 60.00 FEET, TO THE NORTHWEST CORNER OF SAID TRACT C2;

THENCE SOUTH 01 DEGREE 41 MINUTES 21 SECONDS EAST, ON THE WEST LINE OF SAID TRACT C2 AND THE WEST LINE OF TRACT C3 OF SAID FLINT COMMERCE CENTER -

BUILDING C, A DISTANCE OF 2,328.62 FEET, TO A POINT BEING THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF WEST 103 RD STREET AND THE SOUTHWESTERLY

CORNER OF SAID TRACT C3;

THENCE NORTH 45 DEGREES 55 MINUTES 48 SECONDS WEST, DEPARTING SAID WEST LINE AND ON SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 100.62 FEET, TO A POINT;

THENCE SOUTH 89 DEGREES 04 MINUTES 12 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 162.57 FEET, TO A POINT;

THENCE SOUTH 44 DEGREES 04 MINUTES 12 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 115.39 FEET, TO A POINT;

THENCE SOUTH 88 DEGREES 53 MINUTES 27 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE AND ON A LINE PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST

QUARTER OF SAID SECTION 1, A DISTANCE OF 1,033.35 FEET, TO A POINT BEING ON THE WEST LINE OF THE SOUTHEAST QUARTER AND THE EAST LINE OF THE SOUTHWEST

QUARTER OF SAID SECTION 1;

THENCE SOUTH 88 DEGREES 53 MINUTES 36 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE AND ON A LINE PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST

QUARTER OF SAID SECTION 1, A DISTANCE OF 641.00 FEET, TO A POINT;

THENCE SOUTH 01 DEGREES 06 MINUTES 33 SECONDS EAST, ON SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 9.00 FEET, TO A POINT;

THENCE SOUTH 88 DEGREES 53 MINUTES 36 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE AND ON A LINE PARALLEL WITH SAID SOUTH LINE, A DISTANCE OF 823.30

FEET, TO A POINT;

THENCE NORTH 01 DEGREES 06 MINUTES 33 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 9.00 FEET, TO A POINT;

THENCE SOUTH 88 DEGREES 53 MINUTES 36 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE AND ON A LINE PARALLEL WITH SAID SOUTH LINE, A DISTANCE OF 266.64

FEET, TO A POINT;

THENCE NORTH 46 DEGREES 06 MINUTES 33 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 21.21 FEET, TO A POINT;

THENCE SOUTH 88 DEGREES 53 MINUTES 36 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE AND ON A LINE PARALLEL WITH SAID SOUTH LINE, A DISTANCE OF 790.71

FEET, TO A POINT;

THENCE NORTH 46 DEGREES 06 MINUTES 33 SECONDS WEST, ON SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 23.81 FEET, TO A POINT BEING THE INTERSECTION OF

SAID NORTH RIGHT-OF-WAY LINE AND THE EAST RIGHT-OF-WAY LINE OF EVENING STAR ROAD, AS NOW ESTABLISHED;

THENCE NORTH 02 DEGREES 15 MINUTES 29 SECONDS WEST, DEPARTING SAID NORTH RIGHT-OF-WAY LINE AND ON SAID EAST RIGHT-OF-WAY LINE AND ON A LINE PARALLEL

WITH THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 1, A DISTANCE OF 190.77 FEET, TO A POINT BEING THE INTERSECTION OF SAID EAST RIGHT-OF-WAY

LINE AND THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF KANSAS STATE HIGHWAY NO. 10 AS NOW ESTABLISHED BY COURT CASE NO. 58978 IN VOLUME 997 AT PAGE 76;

THENCE NORTH 59 DEGREES 36 MINUTES 40 SECONDS EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE AND ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF

277.00 FEET, TO A POINT;

THENCE NORTH 45 DEGREES 03 MINUTES 40 SECONDS EAST, ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 330.20 FEET, TO A POINT;

THENCE NORTH 34 DEGREES 40 MINUTES 40 SECONDS EAST, ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 448.30 FEET, TO A POINT;

THENCE NORTH 49 DEGREES 12 MINUTES 41 SECONDS EAST, ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 420.98 FEET, TO A POINT BEING ON THE NORTH

LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 1,

SAID POINT ALSO BEING THE SOUTHWEST CORNER OF A CERTAIN TRACT OF LAND CONVEYED BY QUIT CLAIM DEED RECORDED IN BOOK 202306 AT PAGE 004291;

THENCE NORTH 88 DEGREES 52 MINUTES 18 SECONDS EAST, DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY LINE AND ON SAID SOUTH AND NORTH LINES AND ON THE

SOUTH LINE OF SAID CERTAIN TRACT OF LAND CONVEYED BY QUIT CLAIM DEED RECORDED IN BOOK 202306 AT PAGE 004291, A DISTANCE OF 151.17 FEET, TO A POINT BEING

ON THE EAST LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID

SECTION 1, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID CERTAIN TRACT OF LAND CONVEYED BY QUIT CLAIM DEED RECORDED IN BOOK 202306 AT PAGE

004291;

THENCE NORTH 02 DEGREES 13 MINUTES 32 SECONDS WEST, ON SAID EAST AND WEST LINES AND ON THE EAST LINE OF SAID CERTAIN TRACT OF LAND CONVEYED BY QUIT

CLAIM DEED RECORDED IN BOOK 202306 AT PAGE 004291, A DISTANCE OF 123.18 FEET, TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF KANSAS STATE HIGHWAY

NO. 10 AS NOW ESTABLISHED BY COURT CASE NO. 58978 IN VOLUME 997 AT PAGES 158 AND 162, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID CERTAIN TRACT

OF LAND CONVEYED BY QUIT CLAIM DEED RECORDED IN BOOK 202306 AT PAGE 004291;

THENCE NORTH 44 DEGREES 30 MINUTES 01 SECONDS EAST, DEPARTING SAID EAST AND WEST LINES AND ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF

933.70 FEET, TO A POINT;

THENCE NORTH 35 DEGREES 58 MINUTES 17 SECONDS EAST, ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 687.52 FEET, TO A POINT BEING ON THE NORTH

LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 1,

SAID POINT ALSO BEING THE SOUTHWEST CORNER OF A CERTAIN TRACT OF LAND CONVEYED BY QUIT CLAIM DEED RECORDED IN BOOK 202306 AT PAGE 004291;

THENCE NORTH 88 DEGREES 51 MINUTES 05 SECONDS EAST, DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY LINE AND ON SAID SOUTH AND NORTH LINES AND ON THE

SOUTH LINE OF SAID CERTAIN TRACT OF LAND CONVEYED BY QUIT CLAIM DEED RECORDED IN BOOK 202306 AT PAGE 004291, A DISTANCE OF 212.76 FEET, TO THE

SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 1, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID CERTAIN TRACT OF LAND CONVEYED

BY QUIT CLAIM DEED RECORDED IN BOOK 202306 AT PAGE 004291;

THENCE NORTH 02 DEGREES 11 MINUTES 38 SECONDS WEST, ON THE EAST LINE OF SAID NORTHWEST QUARTER AND ON THE EAST LINE OF SAID CERTAIN TRACT OF LAND

CONVEYED BY QUIT CLAIM DEED RECORDED IN BOOK 202306 AT PAGE 004291, A DISTANCE OF 293.16 FEET, TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF

KANSAS STATE HIGHWAY NO. 10 AS NOW ESTABLISHED BY COURT CASE NO. 58978 IN VOLUME 997 AT PAGES 158, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID

CERTAIN TRACT OF LAND CONVEYED BY QUIT CLAIM DEED RECORDED IN BOOK 202306 AT PAGE 004291;

THENCE NORTH 26 DEGREES 02 MINUTES 19 SECONDS EAST, DEPARTING SAID EAST AND WEST LINES AND ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF

1,103.10 FEET, TO A POINT;

THENCE NORTH 29 DEGREES 50 MINUTES 19 SECONDS EAST, ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 815.00 FEET, TO A POINT;

THENCE NORTH 41 DEGREES 45 MINUTES 08 SECONDS EAST, ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 543.02 FEET, TO A POINT BEING ON THE EAST

LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AND THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 1;

THENCE SOUTH 01 DEGREE 57 MINUTES 57 SECONDS EAST, ON SAID EAST AND WEST LINES AND ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE AS ESTABLISHED BY DOC.

NO. 999390 IN VOLUME 998 AT PAGE 96, A DISTANCE OF 127.70 FEET, TO A POINT;

THENCE NORTH 42 DEGREES 52 MINUTES 10 SECONDS EAST, DEPARTING SAID EAST AND WEST LINES AND ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF

411.90 FEET, TO A POINT;

THENCE NORTH 49 DEGREES 27 MINUTES 23 SECONDS EAST, ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 136.54 FEET, TO A POINT ON THE SOUTH

RIGHT-OF-WAY LINE OF 95 TH STREET, AS NOW ESTABLISHED;

THENCE NORTH 88 DEGREES 30 MINUTES 17 SECONDS EAST, DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY LINE AND ON SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE

OF 904.87 FEET, TO THE POINT OF BEGINNING, CONTAINING 12,565,130 SQUARE FEET OR 288.4557 ACRES, MORE OR LESS.

EXHIBIT A-2

THE PROJECT SITE – MAP



EXHIBIT B

PRELIMINARY CONCEPT PLAN

[ATTACHED SEPARATELY AND INCLUDES INTERCONNECTION POINTS]

EXHIBIT C

TOTAL PROJECT BUDGET

[ATTACHED SEPARATELY]

EXHIBIT D

INSURANCE SPECIFICATIONS

1. Worker's Compensation. Developer may self-insure, to the extent allowed by applicable law. The self-insured retention shall be that which is standard in the industry. Developer will then purchase excess Worker's Compensation Insurance with statutory limits over the self-insured retention. If self-insurance is not available under applicable state law, coverage will be purchased in accordance with the statutory requirements.
2. Comprehensive General Liability. Developer will purchase and maintain with primary limits of \$2,000,000.
3. Automobile Liability. Developer will purchase and maintain with primary limits of \$1,000,000.
4. Excess Liability. Developer will purchase and maintain excess liability insurance in an amount not less than \$5,000,000.
5. Special Perils Form Property Insurance. Developer will purchase on a full replacement cost basis. Deductibles and limits will be standard to those in the industry, and the policy shall include an "Agreed Amount" endorsement.

EXHIBIT E

PROHIBITED USES

Adult entertainment
Adult bookstore
Arcade*
Body Piercing, other than ears
Car repair*
Car wash*
Cellular or other telecommunications towers or facilities which are not stealth or fully integrated or otherwise in compliance with the Code of the City of De Soto, Kansas ("Code")
Day Care*
Mobile Home Park
Mobile Home Sales
Pawn shop
Pay-day loan services
Permanent rooftop signage**
Satellite dishes that are not stealth or fully integrated or otherwise in compliance with the Code.
Seasonal Businesses that are not customary or incidental to operation of the Project
Tattoo parlor

* This land use may be allowed as an accessory use if permitted pursuant to approvals by the relevant Governmental Authorities and such use is a subordinate use that is customarily and incidentally associated with the primary use, is located entirely within the structure of a primary use, and is not visible from and cannot be directly accessed from the exterior of the structure that contains the primary use.

** Temporary roof top signage may be allowed pursuant to the City Code.

EXHIBIT F

FORM OF ANNUAL REPORT

Name: Mount Sunflower Properties, LLC (the “Developer”)
Date of Report: _____
Contact Address: _____
Contact Name: _____
Contact Phone No.: _____
Contact Email: _____

This Annual Report is submitted to the City of De Soto, Kansas, (the “City”), in accordance with Section 6.6 of the Development Agreement dated as of _____, 2025 between the City and the Developer (the “Development Agreement”).

1. Complete table below with regard to each facility at the Project Site as of this date.

Facility Description	Facility Address or Location	Type(s) of Operation	Estimated No. of Employees at Facility	Owner of Facility	Tenant(s)	Total Sq. Ft. of Facility	Occupancy Status
							<i>[Sq. ft. occupied by each user]</i>

2. To the actual knowledge of the Developer, do any circumstances exist at the project site that constitute, or with the passage of time would result in, an event of default or material noncompliance with the Development Agreement?

Yes ___ No ___

If yes, please explain: _____

3. Briefly describe Developer’s progress toward Minimum Investment, and whether Developer will meet it:

I (we) undersigned affirm that this Annual Report is a true and correct statement and record as of the date signed below.

Print Name

Title

Signature

Date

EXHIBIT G
PILOT SCHEDULE

Year ²	Per-Square-Foot ³ PILOT ⁴
2026	\$0.4050
2027	\$0.4111
2028	\$0.4172
2029	\$0.4235
2030	\$0.4299
2031	\$0.4363
2032	\$0.4428
2033	\$0.4495
2034	\$0.4562
2035	\$0.4631
2036	\$0.4700
2037	\$0.4771
2038	\$0.4842
2039	\$0.4915

² PILOTS for a portion of the Project will begin the calendar year following the year in which the series of bonds is closed to finance such portion of the Project and will continue for 10 years thereafter (during the term of the real property tax abatement for that building), as set forth in the schedule above. E.g., if bonds are issued and closed for a portion of the Project in calendar year 2025, the PILOTS will begin in 2026 at the applicable rate per square foot shown above for year 1 of such PILOTS (2026 for purposes of this example) and increase each calendar year as shown in the schedule above.

³ Charged against the cumulative number of building square footage subject to abatement in any year on the Project Site, as determined using Johnson County records.

⁴ PILOTS exclude the school district's capital outlay levy and special assessments or other levies that cannot be abated under state law.

EXHIBIT H

WATER AND SEWER SERVICE (Contains Trade Secret Information)

A. Interconnection. The City shall be responsible for ensuring that water lines are extended to the Property at the Interconnection Points identified on Exhibit B by the dates set forth on the schedule below on Appendix 1 (the "Milestone Completion Dates"). The Parties recognize that the City and Rural Water District #7 ("RWD #7") are currently cooperatively analyzing the best service plan for the Project and that the service to the interconnection point may be provided by the City or RWD #7, or both, as may be practicable to meet the specific Milestone Completion Dates set forth in Appendix 1. The term "Interconnection Point" refers to the agreed locations at or within the boundary line of the Property where lines for each type of utility service shall be connected to supply the Project. Flint Commerce Center, LLC will, at its own cost, extend the water and sewer lines to the Interconnection Point identified on Exhibit B pursuant to the Original Development Agreement. The City shall provide the Developer or its assignee, at no cost, the licenses and all temporary easements or other permitting required to extend the sewer line along the path identified on Exhibit B.

B. Water and Sewer Representations. The City acknowledges that the Project requires separate potable water and wastewater conveyance and treatment in the amounts set forth on the attached chart attached as Appendix 1 (the "Water Requirements" and the "Wastewater Requirements") and the City's ability to provide the water needed (the "Developer's Water Need") and to convey, treat, and discharge industrial wastewater in the amounts set forth in Appendix 3 and the wastewater constituents set forth in Appendix 4 (together, the "Developer's Sewer Need"), provided that the Developer timely supplies the funding levels set forth in Appendix 1 needed to implement certain water and wastewater improvements. For the avoidance of doubt, the Developer acknowledges that its industrial needs set forth in the Water Requirements and Wastewater Requirements are dependent on and subject to Developer funding the improvements to be set forth in Appendix 5.

The City, Flint and Developer each acknowledge that it is in the best interest of and is the desire of all Parties to determine which water service provider can provide uninterrupted (24/7/365) water service to the Project in the quickest and most efficient manner so as to not jeopardize the development of the Project as currently contemplated. To that end, the City, Flint and Developer have actively engaged with RWD #7 to discuss and finalize a service plan to meet the water service demands of the Project and to explore service options. The City will ensure that the Developer is added as a third-party beneficiary to any agreements as to the Project between the City and RWD#7, with appropriate enforcement, notice and consent rights, and confirm that the applicable provisions from this Exhibit H are incorporated in such agreements.

The City has determined that the provision of water service for the Project will necessitate phased raw water diversion, raw water transmission, water treatment, treated water distribution, elevated water storage, and treated water capacity improvements to City infrastructure, outlined in Appendix 2 (Phasing Outline) and Exhibit H-1 (the "Water Infrastructure"), on a phased schedule established in Appendix 1. Any and all agreed upon improvements shall be funded by the Developer and shall not require the City's issuance of any General Obligation Bonds or any other financing mechanisms to which the City offers its credit support, provided that improvements that benefit commercial development will be subject to reimbursement pursuant to Section I below, and those that benefit existing development and the City generally will be subject to cost-sharing with the City. If the City agrees to issue financing in support of development of the Water Infrastructure (which

financing shall not have any form of City credit support), Developer shall pay for all costs associated with such financing and such costs shall not be covered by the Cap on City Fees.

The City has determined that the provision of sewer service for the Project will necessitate wastewater treatment capacity improvements to City infrastructure including the construction of a new industrial wastewater facility on property offsite from the Project Site, and pumping facilities needed to transfer wastewater flows from the Project to the new treatment facility, outlined in Appendix 2 (Phasing Outline) and Exhibit H-2 the "Wastewater Infrastructure". All such improvements shall be funded by the Developer and shall not require the City's issuance of any General Obligation Bonds or any other financing mechanisms to which the City offers its credit support. If the City agrees to issue financing in support of development of the Wastewater Infrastructure (which financing shall not have any form of City credit support), Developer shall pay for all costs associated with such financing and such costs shall not be covered by the Cap on City Fees.

For the purposes of establishing the general nature of the scope of needed Water Infrastructure and Wastewater Infrastructure, the City has commissioned preliminary evaluations, including rough order of magnitude cost estimates for the improvements and phasing of infrastructure needed to meet the Milestone Completion Dates. These evaluations are attached as Exhibit H-1 and Exhibit H-2. The Parties agree to work cooperatively in good faith to refine the infrastructure service plans to best meet the needs of the Parties while minimizing costs to provide long-term operational efficiency and resiliency. The Parties acknowledge and agree that the improvements outlined in Exhibits H-1 and H-2 will represent the general scope of improvements expected to be needed to meet the service demands of the Project, and that the milestone phases are currently expected to be needed to meet each of the phased demand points, all of which are subject to change as the Project develops.

The City represents, warrants, and covenants to the Developer each of the following, as of the Effective Date:

(1) Capacity.

(i) Water System. The City itself or in coordination with RWD #7 has or will have, in accordance with Appendix 1, and based on the implementation of the improvements generally outlined in the Water Infrastructure plan in Exhibit H-1, and in accordance with the phasing outline provided in Appendix 2, the legal right and capacity (the "City's Water Capacity") to take in, treat, and deliver water sufficient to meet the Developer's Water Need and the total of all current and reasonably projected demand from other users for water service in the City ("Additional City Water Demand"). The City further represents, warrants and covenants that: (1) the City's Water Capacity will be sufficient to meet the Developer's Water Need and Additional City Water Demand at all times for all phases once the City begins providing water and wastewater services (together, the "City Utility Services") for the Project consistent with Appendix 2 and Appendix 3, on the condition that the Developer provides timely funding; (2) the City has the right to add users to its Water System and cooperate with RWD #7 and will obtain any and all necessary approvals to provide City Utility Services sufficient to meet the Developer's Water Need and the Additional City Water Demand; (3) the City has no knowledge of any fact, law, rule, regulation, order or directive or pending rule, regulation, order or directive which would or might cause a reduction in the City's water or wastewater conveyance or treatment capacity; and (4) additional water rights will be needed to meet the Phase II – IV water demands of the project, and the City's legal right to divert water from the raw water source is subject to review and approval by the Kansas Department of Agriculture, Division of Water Resources (DWR). The City's commitment to provide water service beyond Phase I is therefore contingent on DWR approval of water rights. City has no knowledge of any fact, law, rule, regulation, order or directive or pending rule, regulation, order or directive which would or might cause DWR to withhold such approval, and will work diligently to acquire such rights are required to meet the demands of the project.

(ii) Sewer System. The City has or will have, in accordance with Appendix 3, and based on the implementation of the improvements generally outlined in the Wastewater Infrastructure plan in Exhibit H-1, the legal right and capacity to convey, treat and discharge quantities sufficient to serve the Developer's Sewer Need and the total of all current and reasonably projected demand for sewer service from other users of City sewer services (the "Additional City Sewer Discharge"). The City further represents, warrants and covenants that: (1) the City's discharge capacity will be sufficient to meet the Developer's Sewer Need and Additional City Sewer Discharge at all times for all other phases once the City begins providing City Utility Services for the Project consistent with Appendix 3, subject to the Developer providing timely funding; (2) the Property is located in the City's service area; (3) the City has the right to add users to its Sewer System and will obtain any and all necessary approvals to provide City Utility Services sufficient to meet the Developer's Sewer Need; and (4) the City has no knowledge of any fact, law, rule, regulation, order or directive or pending rule, regulation, order or directive which would or might cause a reduction in the City's Discharge Capacity.

(2) Excess Capacity Allocation. The City has the right to allocate to the Project a portion of City's water or wastewater treatment capacity, or any excess capacity thereunder.

(3) Current Operations. The City (or, with respect to the Water System, RWD #7) is responsible for operating, repairing and maintaining the Water System and the Sewer System, (i) in compliance with all applicable local, state or federal laws, rules, regulations, policies, directives, orders, advisories and permits, and (ii) by using and continuing to use management practices comparable to those of similarly situated local governments and public utilities with similar systems. To the best of the City's knowledge, the City (or RWD #7, as applicable) is (i) operating, repairing and maintaining the Water System and the Sewer System in compliance with all applicable local, state or federal laws, rules, regulations, policies, directives, orders, advisories and permits, and (ii) not currently in material violation of any permits, laws, rules, regulations, directives, orders or advisories in connection with the Water System and the Sewer System (the "Applicable Water and Sewer Rules"). The City agrees that, to the extent that the City is in default of any of its obligations under the Applicable Water and Sewer Rules where such default affects, in a materially adverse manner, the operation of the Project or the Property, the City will take prompt and timely action, upon discovery of such default, to cure the default.

C. No Obligation. Aside from the Minimum Investment, nothing contained in this Agreement shall be interpreted as obligating or otherwise requiring the Developer to construct any building or any other portion of the Project. For the avoidance of doubt, the Developer shall not be obligated to use or take any portion of the Developer's Water Need or Developer's Sewer Need. The Parties acknowledge that the Developer's Water Need and Sewer Need are based on the maximum or "peak" amount of City Utility Services that the Developer may use.

D. Alternative Water and Sewer Services.

(1) Water Wells and Rainwater. The City will not object if the Developer elects to install, construct and maintain infrastructure and equipment related to establishment of redundant and/or backup water supply and sewer resources, subject to the Developer's compliance with the Applicable Rules and any other applicable state and federal laws and regulations.

(2) On-Site Wastewater Treatment. The Developer may, and the City will not object to the same, establish redundant and/or back up sewer resources and install, construct and maintain infrastructure and equipment related to such establishment of redundant and/or backup sewer resources; provided, that the use

of any such redundant and/or backup sewer resources shall be subject to the Developer's compliance with the Applicable Rules and in accordance with applicable state and federal laws and regulations.

E. Continued Operation During Shortages.

(1) Water and Sewer Service Shortages. The City acknowledges that an essential component of this Agreement is to ensure continued City Utility Services to the Project of a quantity and quality that will allow uninterrupted operations of the Project and further acknowledges that the nature of such operations requires continuous evaporative cooling to protect sensitive equipment required for essential operations. If any water shortage is declared by the City, the City will grant the Project first priority classification in uninterrupted use of the Water System and Sewer System and only residential users, public buildings and services, and health care facilities shall take precedence over the Project's first priority classification for potable water. Except as may be required by the immediately prior sentence, the City will not reduce the flow of water to the Property or the Project below the capacities agreed upon in Appendix 1. If the City enacts or amends any water shortage ordinances and such ordinances create classifications of water users, then, unless otherwise required by public health conditions, only residential users, public buildings and services, and health care facilities shall take precedence over the Project's classification priority for potable water needs. For purposes of this paragraph, potable water needs of "residential users" that take precedence over the Project's classification priority for potable water needs do not include external uses at residences such as irrigation of lawns or landscaping, filling residential swimming pools or washing vehicles.

(2) Service Interruption. Due to the critical, twenty-four (24) hours per day, seven (7) days per week operation of the Project, the City will, at its sole cost and expense (other than the charges for actual City Utility Services used by the Project) and once the Project commences use of City Utility Services, keep and maintain the portions of the Water System and Sewer System that serve the Project and related supporting infrastructure in good working condition and repair. The City shall provide the Developer notice at least forty-eight (48) hours in advance of any City maintenance that could cause a Service Interruption (as defined below). The City shall, at all times, have access to all parts and materials required to repair the portions of the Water System and Sewer System that service the Project and related supporting infrastructure. Notwithstanding anything to the contrary set forth herein, the City shall, within four (4) hours of the City's learning of any Service Interruption, identify the cause of such Service Interruption, and commence appropriate repair, restoration and maintenance measures to restore full Water System operations and service to the Project. The City shall diligently pursue such repair, restoration or maintenance measures until the Service Interruption is remedied and full Water System and Sewer System operations to the Project are restored. The City shall maintain maintenance records for the Water System and Sewer System and, upon reasonable notice and request therefore, such records shall be made available for review by the Developer.

A "Service Interruption" shall mean (i) with respect to the Water System, a failure of the Water System to supply to the Project the Developer's Water Need for each building then existing on the Property for any period of time or (ii) with respect to the Sewer System, the failure of the Sewer System to maintain the Developer's Sewer Need for each building then existing on the Property for any period of time.

F. Future System Operations.

(1) Future Permitted Capacity. The City shall give written notice to the Developer of any facts or circumstances that could result in a reduction of more than seven percent (7%) in the City's water or wastewater conveyance or treatment capacity during the term of this Agreement within five (5) business days of learning of such facts or circumstances or that a reduction in City Utility Services might result therefrom.

(2) Future Operations. The City shall operate the Water System and the Sewer System in compliance with all applicable local, state and federal laws, rules, regulations, policies, directives, orders and permits. The City shall inform the Developer within fifteen (15) days of the City's learning of any enforcement actions taken by the Kansas Department of Health and Environment or any other state agency, the United States Government or any federal agency against the City in connection with the City's operation or management of the Water System and the Sewer System (an "Enforcement Notice"). If the City furnishes an Enforcement Notice to the Developer which contains a demand, requirement or deadline that could result in a Service Interruption, then the City shall have the opportunity to take appropriate steps (including but not limited to negotiations or legal action) to avoid a Service Interruption to the Developer.

G. Fees and Rates for Connection and Service. The City agrees that during the Term, it will not charge the Developer or RWD # 7 (i) any additional water fees or rates attributable solely to the Project or the Property other than applicable inspection fees and tap fees, each in accordance with the City's published fee schedules, or (ii) any additional fees or rates with the express or inferred intent to specifically or inequitably target the Project or Property. The City and Developer agree that, during the initial phases of development the wastewater discharges from the Project will be treated at the City's existing wastewater treatment plant. Developer and City agree to work in good faith to establish a wastewater treatment rate that compensates the City for the City's actual added costs of operation during the interim operations as described in Appendix 1.

The City has established certain requirements related to its rates and billing practices for providing City Utility Services as set forth in the City's policies and rate schedule established by the City, as each may be amended from time to time (collectively, the "Water Rules and Regulations"). The rates for the City Utility Services provided under this Agreement will be set in accordance with a rate study to be performed by the City, and the Water Rules and Regulations; provided, however, that the water rates charged for the Project pursuant to the published rate schedule (the "Rate Schedule") shall not be higher than the water rates charged to any other large or wholesale customer and the sewer rates charged for the Project shall not be higher than the sewer rates charged to any user within City limits with a meter of six (6) inches or greater. The City shall not thereafter change the Rate Schedule such that the water rates charged to Developer or RWD #7 for the Project are higher than the lowest rates established by the City's Rate Schedule for the Developer's use, and the City agrees not to discriminate against Developer in the provision of water and water rates charged to any other wholesale customer, or such that the sewer rates charged for the Project are higher than the sewer rates charged to any user within City limits with a meter of six (6) inches or greater.

At present, the City's published Rate Schedule does not include water meter, capacity fees, and meter tie-on fees (collectively, the "Water Meter Fees") for connecting to the water system beyond fees associated with a 6-inch water meter. The City and Developer agree the City shall not charge the Developer any Water Meter Fees for the Project in excess of the Water Meter Fees applicable to other users inside the City limits with a 6-inch meter.

The Developer agrees to pay the City monthly for delivery of City Utility Services for the Project in accordance with the Rate Schedule and subject to the City's Water Rules and Regulations and otherwise in accordance with this Agreement. For the avoidance of doubt, the Developer's obligation to pay the City under this Agreement is limited to the Developer's actual water and sewer usage.

H. Future Utility Infrastructure. To the extent it becomes necessary in the future for the City to construct or cause to be constructed any infrastructure improvements in connection with the Project in order to provide City Utility Services to the Project which are not part of the initial infrastructure improvements generally outlined in Exhibit H-1, those infrastructure improvements shall be made by the City at no direct cost to the Developer. Notwithstanding the foregoing, if the construction of any such infrastructure

improvements require easements on the Property, the Developer shall grant such easements on the Property at no cost to the City provided, and solely to the extent, that such easements are reasonable and necessary for the construction to support the Project. The location and size of any easement will be at the sole and absolute discretion of the Developer but must conform to at least minimum industry standards, will be non-exclusive and the City agrees to adhere to the Developer's and/or its tenant's reasonable secure access protocols of the Property to install, maintain, repair or replace any infrastructure improvements.

I. Future Connection to Infrastructure. The Parties acknowledge that the scope of the Water Infrastructure and Wastewater Infrastructure is tailored to meet the stated service demands for the Project, and that, in general, the water and wastewater infrastructure projects will not provide excess capacities for other future users. In the event that the Developer determines their service need is less than the quantities set out in Appendix 1, and in accordance with and to the extent permitted by Applicable Law, the City agrees to develop a mechanism to credit Developer for future non-residential users' proportional share of Developer's actual, out of pocket costs expended in connection with the construction of both the Water Infrastructure and the Wastewater Infrastructure (the "Connection Fee").

The Connection Fee will be required anytime a third-party non-residential user desires to connect to the Water System and/or Sewer System. The Parties acknowledge that the Connection Fee is included as a feature of this Agreement to potentially recoup a portion of the costs of the Water System and Sewer System. The current intent of the Parties, if permitted by then-current law, is to impose the Connection Fee against all future commercial uses that desire to connect to the Water System and/or Sewer System; provided, the Parties acknowledge that the Connection Fee must be administered at all times in accordance with all Applicable Laws and Requirements. As used herein, commercial uses do not include 1-4 family residential uses or governmental uses (provided, however, that governmental uses only include the operation of governmental administrative and similar buildings, and not water or wastewater services, operations or other uses subsequently provided to commercial third parties).

At the time of completion of each phase of the Developer -funded Water Infrastructure or Wastewater Infrastructure, the City will undertake, at the Developer's reasonable expense, not to exceed \$35,000 for each phase, a separate rate study of the water or wastewater rates without recovery of the Developer's capital expense and with recovery of Developer's capital expense. The new non-residential user will pay the Connection Fee in the form of either (a) an up-front lump sum payment based on the percentage of anticipated use or (b) the increased rate determined by the rate study to recover the Developer's capital expense. The Developer shall have the right to consent to the up-front payment, or to reject it in favor of recovery through the rate set for the new user, for which the City (or RWD#7) will facilitate payment (less any applicable administrative expense). The Parties acknowledge that, as payment for the Connection Fee, nothing in this Paragraph I shall be construed or interpreted as the City being obligated to pledge to Developer any City revenues, City funds on hand, or City taxing authority attributable to public improvements and/or land outside the Project Site, rather, imposition of the Connection Fee will firstly be on future commercial uses and, only secondly, will be limited to the City's reduction, rebate, or waiver of Developer's other unpaid fees, taxes, charges, assessments or other impositions connected to the Project Site.

J. Protection of Confidential Information. City agrees to use its best efforts to protect Developer's confidential trade secret information, and the City will require the same of RWD#7 in any agreements with respect to the Project between the City and RWD#7, provided Developer has made commercially reasonable efforts to notify the City of information that it considers to be trade secrets.

APPENDIX 1

Phasing, Milestone Activities & Completion Deadlines

Developer has estimated the amount of water and wastewater service that it will require at the initial build out (Phase I), and at three future phases of development (Phases II, III, and IV), and has established deadlines for each Phase. The Parties agree that, in order to complete each phase by the stated deadline, the Parties must supplement this Agreement and the Developer must provide the funding amount by the specified funding deadline to the City and in accordance with Section 4.3 of this Agreement. The form of supplement to this Agreement is attached as Appendix 5.

Additionally, the City will begin treating wastewater discharge from the Project at its existing wastewater treatment plant prior to the new industrial treatment plant becoming operational in Phase III. These interim operations will disproportionately add to the cost of treatment, which will be compensated to the City by the Developer, which may elect to pay either (1) the surcharge rate listed for Phase I or (2) through an annual fee reflecting the cost of treatment.

DRAFT – PRELIMINARY AND SUBJECT TO CHANGE -- TO BE INCORPORATED PURSUANT TO APPENDIX 5 (EXHIBITS H-1 AND H-2)

Phase ⁵	MILESTONE ACTIVITIES	MILESTONE COMPLETION DEADLINE	Water Requirements (Cumulative)	Wastewater Requirements (Cumulative)	DEVELOPER FUNDING ⁶
F1	See Appendix 2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
F2	See Appendix 2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
F3	See Appendix 2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
I	Completion of Water & Wastewater Infrastructure necessary to support water and sewer requirements for Phase I	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
F4	See Appendix 2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
F5	See Appendix 2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

⁵ Each phase may be bifurcated into (1) design and engineering and (2) construction Scopes or other sub-phases. Each of these Scopes requires a separate Developer Notice to Proceed.

⁶ All cost estimates are subject to change during design, engineering and contracting.

F6	See Appendix 2				
II	Completion of Water & Wastewater Infrastructure necessary to support water and sewer requirements for Phase II				
F7	See Appendix 2				
III	Completion of Water & Wastewater Infrastructure necessary to support water and sewer requirements for Phase I III				
F8	See Appendix 2				
VI	Completion of Water & Wastewater Infrastructure necessary to support water and sewer requirements for Phase IIV (full Project)				

APPENDIX 2

Phasing Outline for Water Infrastructure and Wastewater Infrastructure

Based on the general scope of improvement plans outlined in Appendix 1, as supplemented by a Supplement in the form set forth in Appendix 5, the Parties will work in good faith to agree to implement the projects based on a phasing outline, with anticipated projects such as those shown below. Improvements specific to each phase, and timely funding therefor, are necessary in order to provide the service demands outlined in Appendix 1 by the Completion dates.

PRELIMINARY WATER AND WASTEWATER ANTICIPATED PROJECTS (SUBJECT TO APPENDIX 5 AND SECTION 4.3)

The following infrastructure improvements have been identified as potentially necessary to support large-scale industrial discharge and water supply requirements, distinct from typical domestic or municipal service needs. The City can and will provide typical domestic wastewater service without the additional infrastructure improvements described below. These improvements represent options available to the Project based on operational requirements and development phasing, with implementation subject to the Parties' discretion and applicable regulatory approvals.

WATER SUPPLY INFRASTRUCTURE

- **Well Development:** Additional vertical wells may be constructed to meet increased demand, with the north well field identified as potentially suitable for initial expansion. Horizontal collector wells may be utilized for higher capacity requirements, though such wells are subject to extended permitting timelines and may require up to four years for design and construction.
- **Raw Water Transmission:** Existing Kansas River crossing and raw water transmission mains may require upgrades to accommodate flows exceeding current system capacity limitations. Such upgrades may include replacement of existing pipeline infrastructure with larger diameter mains.

WATER TREATMENT INFRASTRUCTURE

- **Capacity Allocation:** Project may utilize existing expanded treatment plant capacity subject to payment of applicable capacity fees, with such fees potentially subject to reimbursement upon Project's election to fund further facility expansion.
- **Treatment Plant Expansion:** Expansion of existing water treatment facilities may be required to exceed current permitted capacity, potentially including construction of additional treatment basins, clearwells, lagoons, and upgrades to chemical feed systems.

WATER DISTRIBUTION INFRASTRUCTURE

- **Storage Facilities:** New elevated water storage tank may be constructed to provide adequate system pressure and operational resilience for the development.
- **Distribution System:** New water transmission mains may be installed along designated corridors including Astra Parkway, 103rd Street, and Edgerton Road to serve the development site. Additional system upgrades, potentially including replacement of existing mains along Sunflower Road, may be required to accommodate higher capacity demands.

WASTEWATER INFRASTRUCTURE

- **Industrial Treatment Facility:** New standalone industrial wastewater treatment plant may be constructed, potentially incorporating chemical treatment, clarification, filtration, and optional nitrate removal processes.
- **Conveyance System Upgrades:** Existing pump station capacity may be expanded as required to accommodate increased flows.
- **Effluent Disposal:** Treated effluent may be discharged to either Kill Creek or Kansas River, potentially utilizing existing permitted outfall infrastructure, with final discharge location subject to permitting requirements and antidegradation study results.

Draft Phasing Outline -- PHASING TO BE PROVIDED WITH THE SUPPLEMENTS:

Phase	WATER INFRASTRUCTURE SCOPE	WASTEWATER INFRASTRUCTURE SCOPE
F1	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>
F2	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>
F3	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>
I	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>
F4	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>	<div style="background-color: black; width: 100%; height: 100%; position: relative;"> J </div>

F5			
F6			
II			
F7			
III			
F8			
IV			

APPENDIX 3



[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]

***These dates and Notices to Proceed are preliminary and subject to change based on supplementary engineering.

Appendix 5

FORM OF SUPPLEMENT TO DEVELOPMENT AGREEMENT

THIS SUPPLEMENT TO DEVELOPMENT AGREEMENT (this “Supplement”) is made this ____ day of _____, 20__ (the “Effective Date”), by and between the City of De Soto, Kansas (the “City”), and Mount Sunflower Properties, LLC, a Delaware limited liability company (together with its successors and assigns, the “Developer,” and together with the City, the “Parties”).

WITNESSETH:

WHEREAS, the Parties entered into a Development Agreement effective the ____ day of _____, 2025 (the “Development Agreement”) wherein the Developer and the City agreed to certain terms for developing a data center (the “Project”) on the Property; and

WHEREAS, the Parties agreed in the Development Agreement to negotiate and agree upon supplements to the Development Agreement to set forth the construction scope, responsibilities, timeline and cost sharing for specific infrastructure improvements necessary for the development of the Project;

NOW THEREFORE, the Parties hereto agree to supplement the Development Agreement as follows:

A. The Water Project and the Sewer Project. The City shall construct or cause to be constructed those improvements more particularly illustrated, detailed or specified on Exhibit H-1 attached hereto (collectively referred to herein as, the “Infrastructure Improvements”). The Infrastructure Improvements shall be at the timing set forth in, and as described in, Exhibit H-1.

B. Infrastructure Improvements Funding. Unless otherwise set forth below, funding of the Infrastructure Improvements shall be in accordance with the Development Agreement including Section 4.3 and consistent with Exhibit H-1 hereto.

C. Construction Guidelines. The City shall work in good faith to cause its employees, contractors, subcontractors and agents retained or employed in connection with constructing the Infrastructure Improvements (collectively, “City Representatives”) to construct the Infrastructure Improvements (i) in accordance with the agreed upon plans and specifications as referenced on Exhibit H-1; (ii) on the schedule set forth on Exhibit H-1; (iii) in such a manner as to maintain harmonious labor relations and as not to interfere with or delay the work on the Project to be performed by the Developer’s contractors; and (iv) in such a manner that the Developer shall have reasonable vehicular and pedestrian access to the Property in order to construct the Project via public rights of way or any easements recorded. The City shall, and shall cause the City Representatives to, act in a commercially reasonable manner and endeavor in good faith to ensure the timely progression of construction of the Infrastructure Improvements.

D. Communication, Coordination and Scheduling: Time. Time being of the essence in the performance of this Supplement, it is essential that the work on the Project and the Infrastructure Improvements be coordinated at all times and the Infrastructure Improvements be timely completed in support of the commencement of operations of the Project, the Parties shall schedule

and conduct meetings at least once a month unless otherwise mutually determined to discuss such matters as procedures, progress, coordination, communication and scheduling of the work on the Project and Infrastructure Improvements (the “Progress Meetings.”) At the Progress Meetings, a designee of the Developer shall provide notice of any material changes in the Developer’s construction schedule that could affect the Infrastructure Improvements. No schedule changes shall be enforceable unless mutually agreed in writing by the City and the Developer.

E. Remedies for Failure to Make Timely Progress on Infrastructure Improvements. If the City fails to commence or complete (or cause to be commenced or completed) any portion of any of the Infrastructure Improvements within the time frames mutually agreed to in writing by the Parties, and that failure is not cured within forty-five (45) days after receiving written notice of such failure from the Developer (or, if the cure of that failure cannot be accomplished in forty-five (45) days, the cure has not been commenced or is not proceeding with due diligence to completion), then the Developer may, request the City take reasonable additional steps (the “Additional Measures”) available to it under the applicable construction contract documents, including but not limited to (i) working additional shifts or overtime, (ii) supplying additional manpower, equipment, and facilities, and (iii) other similar measures. The City covenants that said Additional Measures are or will be included in the applicable construction contract documents.

F. Miscellaneous. Other than as supplemented and provided herein, all other terms and conditions of the Development Agreement shall remain in full force and effect, and the Development Agreement is hereby ratified and affirmed, as supplemented hereby. To the extent, if any, that provisions of the Development Agreement are inconsistent with the provisions of this Supplement, this Supplement shall control. Capitalized terms not otherwise defined herein, shall have the meanings ascribed to them in the Development Agreement. This Supplement may be executed in multiple counterparts, and each counterpart, when taken together, shall constitute one and the same agreement. Executed counterparts sent via facsimile or electronic mail shall be effective to bind the Parties.

(Signature Pages to Follow)

IN WITNESS WHEREOF, the Parties hereto have executed this Supplement as of the Effective Date.

CITY:

CITY OF DE SOTO, KANSAS

By: _____
Rick Walker, Mayor

STATE OF KANSAS)
) SS.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on _____, 2025, by Rick Walker as Mayor of the City of De Soto, Kansas.

Printed Name: _____
Notary Public in and for said State
Commissioned in _____ County

My commission expires

EXHIBITS H-1 AND H-2 TO SUPPLEMENT TO DEVELOPMENT AGREEMENT

PHASE	MILESTONE ACTIVITIES	MILESTONE COMPLETION DEADLINE	WATER REQUIREMENTS (CUMULATIVE)	WASTEWATER REQUIREMENTS (CUMULATIVE)	DEVELOPER FUNDING	FUNDING DEADLINES
		██████	██████	██████	██████	
	•	██████	██████	██████	██████	
		██████	██████	██████	██████	
		██████	██████	██████	██████	
		██████	██████	██████	██████	
		██████	██████	██████	██████	
		██████	██████	██████	██████	
		██████	██████	██████	██████	

EXHIBIT I

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

NOTE: This is the form for an initial assignment by the Developer. Subsequent assignments are subject to the same assignment terms set forth in the Agreement, and the form of assignment and assumption agreement for subsequent assignments will be substantially similar to this form.

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “**Assignment**”) is made as of _____, 2025 (the “**Assignment Effective Date**”) by and between Mount Sunflower Properties, LLC, a Delaware limited liability company (“**Assignor**”), _____, a _____ (“**Assignee**”), and the CITY OF DE SOTO, KANSAS (“**City**”).

RECITALS

A. Assignor owns certain real property located within the City and generally bounded by Edgerton Road to the east, 103rd Street to the south, Kansas Highway 10 to the west, and 95th Street to the north, which is subject to a Development Agreement between the City and Assignor (as Developer thereunder) dated _____, 2025 (the “**Agreement**”). Capitalized terms used and not otherwise defined herein will have the meanings provided in the Agreement, unless the context clearly requires a different meaning;

B. In accordance with K.S.A. §12-1740 *et seq.* (the “**IRB Act**”), the governing body of the City adopted Resolution No. ____ on _____, 2025 (the “**Master Resolution**”), determining the City’s intent to issue its industrial revenue bonds, in one or more series, in the aggregate principal amount of not to exceed \$50,000,000,000 (the “**Bonds**”), to finance the costs of acquiring, constructing and equipping multiple Projects (as defined in the Master Resolution) on the Project Site, for the benefit of Assignor and permitted successors and assigns;

C. Pursuant to Section 6.14 of the Agreement, Assignor may assign the Agreement, or any of the rights, benefits or obligations thereunder, and/or sell or otherwise transfer the Project Site or any part thereof, and in certain circumstances an assignment of Assignor’s obligations under the Agreement to a non-Affiliate third party shall also be accompanied by an Assignment and Assumption Agreement to be executed by Assignor and the proposed assignee, and approved by City Council and executed by the City;

D. Pursuant to Section __ of each IRB Resolution, at the request of Assignor, the City may assign all or a portion of Assignor’s interest in the respective IRB Resolution to another entity, and the assignee thereof will be entitled to the benefits thereof as so assigned;

E. Assignor desires to assign, and Assignee desires to assume: [description of rights, obligations or obligations assigned and assumed, potentially including, but not limited to, the benefits of a specified portion of the aggregate principal amount of Bonds under the Master Resolution] (collectively, the “**Rights and Obligations**”);

F. In accordance with the Agreement [and the IRB Resolutions], the governing body of the City has adopted Resolution No. ____ on _____, 20__ (the “**Authorizing Resolution**”) approving the execution and delivery of this Assignment, and consenting to the assignment of the Rights and Obligations from Assignor to Assignee pursuant to this Assignment.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Assignor, Assignee, and the City hereby agree as follows:

1. Recitals, Exhibits Incorporated. The foregoing recitals and the exhibits hereto are incorporated herein by reference and made a part of this Assignment as though fully set forth in this Section.

2. Consent to Assignment. Pursuant the Authorizing Resolution, the governing body of the City has approved and, for and on behalf of the City, consented to, and the City does hereby approve and consent to, the proposed assignment by Assignor and assumption by Assignee of the Rights and Obligations pursuant to this Assignment. Upon the execution of this Assignment, as of the Assignment Effective Date, the City hereby: agrees Assignor shall be deemed released, and does hereby release Assignor, from any and all obligations and liabilities under the Agreement to the extent they relate to the property that is the subject of the Rights and Obligations

3. Assignment and Assumption. As of the Assignment Effective Date, Assignor does hereby assign, sell, transfer and convey unto Assignee, its successors and assigns, and Assignee does hereby accept and expressly assume, and agree to be bound by, all of the Rights and Obligations.

4. Successors and Assigns: Memorandum. This Assignment shall be binding upon and inure to the benefit of Assignor, Assignee and the City, and their respective successors and assigns. Concurrently with its execution of this Assignment, each party hereto shall execute a memorandum of this Assignment, in substantially the form attached hereto as Exhibit C, and deliver one or more originals of their respective signed and duly acknowledged counterpart to Assignor (or its designee) for recording in the official land records of Johnson County, Kansas.

5. Notice. From and after the Assignment Effective Date, any notice(s) required or desired to be given to Assignee hereunder or under the Agreement shall be addressed as set forth below (or at such other address(es) communicated by Assignee pursuant to a Notice delivered in accordance with the Agreement), and any such notice to be given to Assignor or the City shall be governed by the Agreement, all in accordance with Section 9.14 thereof.

To Assignee (as Developer with respect to the property described in **Exhibit A**):

with a copy to:

6. Miscellaneous. This Assignment (i) shall be governed by the laws of the State of Kansas, without regard to its conflict of law principles, (ii) may be executed in any number of counterparts, all of which shall be deemed an original, and when combined shall constitute one complete, fully enforceable, Assignment; (iii) together with the foregoing recitals and the exhibits attached hereto, constitutes the entire agreement and understanding of the parties with respect to the subject matter contained herein, and there are no other prior or contemporaneous written or oral agreements, undertakings, promises, warranties, or covenants related to the same; (iv) contains headings of sections for convenience of reference only, and none of the same shall be construed as a part of this Assignment; (v) may be accepted and assigned in electronic form (e.g., by an electronic or digital signature or other means of demonstrating assent), and a party's electronic acceptance and signature will be deemed binding among the parties, and each party acknowledges and agrees it will not contest the validity or enforceability of this Assignment, including without limitation under any applicable statute of frauds, on the basis it was accepted and/or signed in electronic form; and (vi) time is of the essence of this Assignment.

[Remainder Of Page Intentionally Blank; Signature Pages and Exhibits Follow.]

CITY:

CITY OF DE SOTO, KANSAS

By: _____
Rick Walker, Mayor

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on this ___ day of _____, 2025, by Rick Walker as Mayor of the CITY OF DE SOTO, KANSAS.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:

EXHIBIT A

Legal Description for Transfer to Assignee

[ATTACHED]

EXHIBIT B

Form of Memorandum of Assignment

[ATTACHED]

THIS MEMORANDUM OF ASSIGNMENT AND ASSUMPTION AGREEMENT (this “**Memorandum**”) is hereby executed to be effective as of _____, 2025 (the “**Effective Date**”) by and among the City of De Soto, Kansas (the “**City**”), _____, a _____ (“**Assignor**”), and _____, a _____ (“**Assignee**”) (collectively, the “**Parties**” and each, a “**Party**”).

A. The City and Assignor entered into that certain Development Agreement dated as of _____, 2025, (the “**Agreement**”). Capitalized terms used and not otherwise defined herein will have the meanings as provided in the Agreement;

B. Assignor has assigned to Assignee and Assignee has assumed from Assignor, certain rights and obligations from Assignor under the Agreement (as the Developer thereunder), all pursuant to that certain Assignment and Assumption Agreement by and between Assignor, Assignee and the City of even date herewith (the “**Assignment**”); and

C. The Parties desire to memorialize the Assignment of record.

NOW, THEREFORE, the Parties state as follows:

1. The purpose of this Memorandum is to give notice to all persons of the partial Assignment of the Agreement. This Memorandum is executed for recording purposes only and is not intended to alter or amend the terms of the Assignment or the Agreement. In the event of a conflict between this Memorandum and the Assignment or Agreement, the terms of the Agreement (as partially assigned to Assignee pursuant to the Assignment) shall control.

2. This Memorandum may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, the Parties have executed this Memorandum effective as of the Effective Date hereof.

CITY:

CITY OF DE SOTO, KANSAS

By: _____
Rick Walker, Mayor

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on this ___ day of _____, 2025, by Rick Walker as Mayor of the CITY OF DE SOTO, KANSAS.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:

ASSIGNOR:

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this ___ day of _____, 2025, before me, a Notary Public in and for said State, personally appeared _____, as _____ of _____, a _____, known to me to be the person who executed the foregoing agreement on behalf of said _____ and acknowledged to me that he executed the same for the purposes therein stated, and as his free act and deed and as the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:

ASSIGNEE:

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this ___ day of _____, 2025, before me, a Notary Public in and for said State, personally appeared _____, as _____ of _____, a _____, known to me to be the person who executed the foregoing agreement on behalf of said _____ and acknowledged to me that he executed the same for the purposes therein stated, and as his free act and deed and as the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:

EXHIBIT 2

RESOLUTION NO. 2073

RESOLUTION DETERMINING THE INTENT OF THE CITY OF DE SOTO, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN ONE OR MORE SERIES IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED FIFTY BILLION DOLLARS (\$50,000,000,000) TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING MULTIPLE COMMERCIAL FACILITIES FOR THE BENEFIT OF MOUNT SUNFLOWER PROPERTIES, LLC, AND ITS SUCCESSORS AND ASSIGNS.

WHEREAS, the City of De Soto, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, Mount Sunflower Properties, LLC, a Delaware limited liability company (together with permitted successors and assigns, the "Company") has entered into a Development Agreement with the City (the "Development Agreement") that contemplates the issuance of industrial revenue bonds to finance the cost of acquiring land and acquiring, constructing, installing and equipping multiple commercial facilities, including data center and ancillary uses, in the City, as more fully described in the Development Agreement (collectively, the "Project") through the issuance of its industrial revenue bonds in one or more series in the principal amount of not to exceed Fifty Billion Dollars (\$50,000,000,000) (the "Bonds"), and to lease the Project to the Company in accordance with the Act; and

WHEREAS, it is hereby found and determined to be advisable and in the interest and for the welfare of the City and its inhabitants that the City finance the costs of each Project by the issuance of the Bonds in one or more series under the Act in the principal amount of not to exceed \$50,000,000,000, each series of Bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the applicable Project by the City to the Company.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF DE SOTO, KANSAS, AS FOLLOWS:

Section 1. Approval of Project. The governing body of the City hereby finds and determines that the acquiring, constructing and equipping of the Project will promote the general welfare and economic prosperity of the City and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas, and the issuance of the Bonds in one or more series to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act. The Project shall be approximately located between Highway 10 and the intersection of W. 103rd Street and Edgerton Road within the corporate boundaries of the City, as further described in the Development Agreement.

Section 2. Intent to Issue Bonds. The governing body of the City hereby determines and declares the intent of the City to acquire, construct and equip the Project out of the proceeds of the Bonds of the City in the principal amount of not to exceed \$50,000,000,000 to be issued pursuant to the Act.

Section 3. Ad Valorem Tax Abatement. Subject to the conditions herein and in the Development Agreement, in consideration of the Company's decision to acquire, construct, improve and equip the Project, the City hereby agrees to take all appropriate action to request the Kansas Board of Tax Appeals to approve a 100% ad valorem property tax abatement (not including special assessments and taxes that may not be abated by the City under Kansas law) for all property (including real property and building improvements) financed with the proceeds of the Bonds.

In consideration of the City's agreement to request such 100% abatement for such property in connection with the Projects, the Company will agree to make payments in lieu of tax (PILOT) for each such Project as follows:

Year ¹	Per-Square-Foot ² PILOT ³
2026	\$0.4050
2027	\$0.4111
2028	\$0.4172
2029	\$0.4235
2030	\$0.4299
2031	\$0.4363
2032	\$0.4428
2033	\$0.4495
2034	\$0.4562
2035	\$0.4631
2036	\$0.4700
2037	\$0.4771
2038	\$0.4842
2039	\$0.4915

Each Project financed with the Bonds shall be entitled to a 10-year tax abatement, with the first year of the abatement being the year beginning on the January 1 following the year the series of Bonds associated with such Project are issued.

Section 4. Provision for the Bonds. Subject to the conditions of this Resolution, the City expresses its intent to (i) issue its Bonds in one or more series to pay the costs of acquiring, constructing and equipping the Projects, with such maturities, interest rates, redemption terms and other provisions as

¹ PILOTS for a portion of the Project will begin the calendar year following the year in which the series of Bonds is closed to finance such portion of the Project and will continue for 10 years thereafter (during the term of the real property tax abatement for that building), as set forth in the schedule above. E.g., if bonds are issued and closed for a portion of the Project in calendar year 2025, the PILOTS will begin in 2026 at the applicable rate per square foot shown above for year 1 of such PILOTS (2026 for purposes of this example) and increase each calendar year as shown in the schedule above.

² Charged against the cumulative number of building square footage subject to abatement in any year, as determined using Johnson County records.

³ PILOTS exclude the school district's capital outlay levy and special assessments or other levies that cannot be abated under state law.

may be determined by ordinance of the City; (ii) provide for the lease (with an option to purchase) of each Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of each series of Bonds by the City and take or cause to be taken such other action as may be required to implement the aforesaid.

Section 5. Conditions to Issuance. The issuance of each series of Bonds and the execution and delivery of any documents related to such Bonds are subject to: (i) obtaining any necessary governmental approvals; (ii) agreement by the City, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of each series of Bonds and the Projects; (iii) the Company's compliance with the Development Agreement and, subject to the Development Agreement, the City's policies relating to the issuance of industrial revenue bonds and ad valorem tax abatement; (iv) the passage and publication of an Ordinance authorizing the issuance of each series of Bonds; and (v) Company's payment of all of the costs of issuance related to the issuance of each series of Bonds except as otherwise provided in the Development Agreement.

Section 6. Sale of the Bonds. The sale of each series of Bonds shall be the responsibility of the Company; provided, however, arrangements for the sale of each series of Bonds shall be acceptable to the City.

Section 7. Limited Obligations of the City. Each series of Bonds and the interest thereon shall be special, limited obligations of the City payable solely out of the amounts derived by the City under a Lease Agreement with respect to each series of Bonds and as provided herein and are secured by a transfer, pledge and assignment of and a grant of a security interest in the trust estate to the bond trustee for such series of bonds and in favor of the owners of each series of Bonds, as provided in the respective bond indenture. Each series of Bonds shall not constitute a general obligation of the City, the State or of any other political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the City, the State or of any other political subdivision thereof and shall not be payable in any manner by taxation, but shall be payable solely from the funds provided for as provided in the respective bond indenture. The issuance of each series of Bonds shall not, directly, indirectly or contingently, obligate the City, the State or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

Section 8. Authorization to Proceed. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into of contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law and upon compliance with the other requirements of this Resolution, the City will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 9. No Reliance on Resolution. Kansas law provides that the City may only issue the Bonds by passage of an Ordinance and compliance with other state law requirements. The City has not yet passed an Ordinance for a series of Bonds. This Resolution only evidences the intent of the current governing body to issue the Bonds for the Project. The Company should not construe the adoption of this Resolution as a promise or guarantee that the Ordinance for a series of Bonds will be passed or that the Project will be approved.

Section 10. Termination of Resolution. Subject to earlier termination as provided in the Development Agreement, this Resolution shall terminate forty (40) years from the date hereof; provided, no Bonds will be issued for the purpose of providing property tax abatement after December 31, 2040.

Section 11. Benefit of Resolution. This Resolution will inure to the benefit of the City and the Company. The City may, at the request of the Company or as otherwise provided in the Development Agreement, assign all or a portion of the Company's interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.

Section 12. Further Action. Counsel to the City and Gilmore & Bell, P.C., Bond Counsel for the City, together with the officers and employees of the City, are hereby authorized to work with the purchaser of each series of Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the City all documents necessary to effect the authorization, issuance and sale of each series of Bonds and other actions contemplated hereunder.

Section 13. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the governing body of the City.

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ADOPTED on August 21, 2025.

CITY OF DE SOTO, KANSAS

[SEAL]

By: _____
Rick Walker, Mayor

ATTEST:

Brandon Mills, City Clerk

Approved as to form only:

Gilmore & Bell, P.C., Bond Counsel to City

Resolution of Intent
Mount Sunflower Properties, LLC

EXHIBIT 3



6700 Antioch
Suite 250
Merriam, Kansas 66204

Jeff White, Managing Member
913.312.8077
jwhite@columbiacapital.com

August 7, 2025

Mr. Mike Brungardt
City Administrator
City of De Soto
P.O. Box C
De Soto, Kansas 66018

RE: Cost-Benefit Analysis for Mount Sunflower Properties, LLC Master Resolution

Dear Mike:

Please find attached the results of our cost-benefit analysis related to a series of property tax abatements requested by Mount Sunflower Properties, LLC (Applicant) over an extended period of time at the northwest corner of Edgerton Road and 103rd St. (Project). The purpose of this analysis is to satisfy the City's requirement pursuant to KSA 12-1749d or KSA 79-251(a)(1) to undertake a cost-benefit analysis before granting a property tax abatement. Based upon information provided by the Applicant, we assumed that individual buildings within the Project would each receive 10-year property tax abatements with annual fixed payments-in-lieu-of-taxes ranging from \$0.4050 per square foot of building size to \$0.4495 per square foot of building size.

KSA 12-1749d(2) requires notification of anticipated abatements only to counties or school districts affected. As a result, our analysis focuses on financial impacts to the City, Johnson County and the De Soto schools. We have not calculated the cost-benefit on other taxing jurisdictions. State law also requires the analysis to include "the effect of the exemption on state revenues." Our modeling includes such an estimate.

Our modeling relies upon a number of key inputs from the Applicant related to its anticipated build-out schedule for the Project, along with its assumptions on property valuation, building costs, employment and utility usage. The Applicant based these data on other similar projects with which it has familiarity. Based upon this information, our modeling shows construction of four buildings totaling approximately 1.14 million square feet of expected development over the next decade. The final abatement is modeled to expire in 2042.

MODELING APPROACH

Our cost-benefit modeling relies on a number of key assumptions in the calculation of net present value benefit to the City, Johnson County and USD 232. Most of our assumptions are derived from public information. Some of these include:

- An evaluation of the direct costs and benefits of the project. Columbia's model does not include indirect or "spin-off" effects as a result of input-output multipliers.
- A ten-year analysis timeframe for each building, matching the maximum permitted term of the abatement.
- Direct costs to affected taxing jurisdictions as estimated by Columbia based upon annual audits, proposed and adopted budgets, published tax rates and other publicly available information for the taxing jurisdictions affected.
- Where applicable, reliance upon statistical data as reported by the United States Census Bureau and Kansas Department of Revenue.
- The use of a discount rate comprised of two components: a risk-free rate of return (the current yield of the on-the-run 10-year US Treasury) plus a risk premium of three (3) percent. The value of the discount rate is a proxy for the opportunity cost of the City (and other agencies) of foregoing the future property and/or sales tax revenues that would be generated by the development. Thought of another way, if the City had those revenues in hand and placed them in an alternative investment with the same risk characteristics, what would be its expected rate of return?

STATUTORY PROTECTION OF SCHOOL CAPITAL LEVY

Reflecting a change adopted during the 2017 legislative session, this analysis assumes the District's capital levy (up to 8 mills) will not be abated for any of the buildings.

USING THE COST-BENEFIT MODELING RESULTS

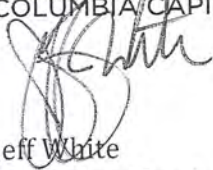
The output of the model is presented as the net present value benefit/(cost) of the entire Project for the City, County and school district over the 10-year life of the abatement on each building, aggregated across all phases comprising the 1.14 million square feet of total expected development. The net benefit (or, if negative, cost) of the tax abatement incentive is presented in today's (discounted value) dollars. The estimated impact on State revenues is presented in nominal (future value) terms.

In the preparation of this cost-benefit analysis, Columbia has relied upon the information provided to it by the applicant and has not independently verified or validated these data. The City must draw its own conclusions as to the reliability of these data.

Finally, the intent of this analysis and of the applicable statutes is to inform the governing body's policy debate about the value of the abatement incentive it is providing to the applicant. The project's generation of a net present value benefit to the agencies affected should be but one of the many factors in the governing body's decision about whether and how much incentive to provide to any applicant.

Thank you in advance for your thoughtful consideration of the analysis attached. Please let me know if you have any questions.

Respectfully submitted,
COLUMBIA CAPITAL MANAGEMENT, LLC



Jeff White
Managing Member

attachment





City of De Soto, Kansas
Cost-Benefit Analysis Results (Mt. Sunflower Properties Master CBA)

PERIOD Year	PROJECTED DEVELOPMENT RATE		CITY OF DE SOTO			JOHNSON COUNTY			USD 232		
	New Sq Ft	Cum. Sq Ft	Benefits	Costs	NPV Benefit	Benefits	Costs	NPV Benefit	Benefits	Costs	NPV Benefit
2025	285,000	285,000	5,309,157	5,026,880	245,541	5,429,031	5,408,512	17,849	12,441,154	10,763,339	1,459,462
2026	-	285,000	3,044,774	2,782,478	212,796	3,535,554	3,516,802	15,214	12,441,154	10,763,339	1,361,184
2027	285,000	570,000	8,828,298	8,116,691	589,304	9,245,162	9,206,401	31,580	25,207,734	21,808,000	2,767,349
2028	-	570,000	6,329,316	5,637,690	533,411	7,154,041	7,116,957	28,078	25,207,734	21,808,000	2,581,001
2029	285,000	855,000	12,870,003	11,728,682	888,663	13,707,353	13,649,689	44,052	40,191,461	34,778,789	4,158,171
2030	-	855,000	10,111,903	8,990,563	812,612	11,397,925	11,341,846	39,763	40,191,461	34,778,789	3,878,167
2031	-	855,000	10,111,903	8,990,563	812,612	11,398,237	11,341,846	37,288	40,191,461	34,778,789	3,617,019
2032	285,000	1,140,000	17,269,879	15,698,456	1,092,731	18,608,507	18,530,944	52,847	56,649,096	49,029,425	5,265,601
2033	-	1,140,000	14,225,578	12,674,135	1,000,688	16,057,958	15,981,874	47,918	56,649,096	49,029,425	4,898,280
2034	-	1,140,000	14,225,578	12,674,135	931,003	16,058,378	15,981,874	44,827	56,649,096	49,029,425	4,556,638
2035	-	1,140,000	11,180,803	9,891,657	752,555	12,521,997	12,465,073	33,273	44,207,941	38,266,086	3,512,042
2036	-	1,140,000	11,180,803	9,891,657	699,907	12,522,281	12,465,073	31,097	44,207,941	38,266,086	3,265,430
2037	-	1,140,000	7,896,261	7,036,445	464,964	8,903,503	8,864,917	20,874	31,441,361	27,221,425	2,290,235
2038	-	1,140,000	7,896,261	7,036,445	431,964	8,903,696	8,864,917	19,489	31,441,361	27,221,425	2,127,340
2039	-	1,140,000	4,113,675	3,683,572	215,158	4,659,610	4,640,028	9,796	16,457,635	14,250,636	1,104,049
2040	-	1,140,000	4,113,675	3,683,572	199,221	4,659,708	4,640,028	9,116	16,457,635	14,250,636	1,022,268
2041	-	1,140,000	4,113,675	3,683,572	184,464	4,659,808	4,640,028	8,483	16,457,635	14,250,636	946,544
2042	-	1,140,000	4,113,675	3,683,572	184,464	4,659,808	4,640,028	8,483	16,457,635	14,250,636	946,544
TOTALS	1,140,000	1,140,000	10,012,874	10,012,874	491,543	491,543	491,543	491,543	491,543	491,543	48,810,780

PROJECTED JOB CREATION
 Projected Jobs Created through 2040: 155
 Projected New Residents to:
 De Soto: 0
 Johnson County: 54
 USD 232: 0

Impact of Exemption on State of Kansas Revenues Through 2040: (52,753,660)



City of De Soto, Kansas
 Cost-Benefit Analysis Results (Mt. Sunflower Properties Master CBA)

PERIOD Year	INCENTIVES SUMMARY			
	Property Tax Abatement %	% Constr. Sales Tax Exempt.	Property Tax Abatement \$	Constr. Sales Tax Exempt. \$
2025	100%	100%	-	4,136,112
2026	100%	100%	18,662,206	-
2027	100%	100%	18,662,206	4,568,445
2028	100%	100%	37,812,237	-
2029	100%	100%	37,812,237	5,045,961
2030	100%	100%	60,300,104	-
2031	100%	100%	60,300,104	-
2032	100%	100%	60,300,104	5,573,390
2033	100%	100%	85,005,986	-
2034	100%	100%	85,005,986	-
2035	100%	100%	85,005,986	-
2036	100%	100%	66,343,780	-
2037	100%	100%	66,343,780	-
2038	100%	100%	47,193,749	-
2039	100%	100%	47,193,749	-
2040	100%	100%	24,705,881	-
2041	100%	100%	24,705,881	-
2042	100%	100%	24,705,881	-
TOTALS			850,059,856	19,323,909

NOTES:

- Data in nominal dollars
- Abatement on final project commences in 2033
- \$0.4050 to \$0.4495 per square foot fixed annual payment in lieu of tax assumed for each project