

**TAX ABATEMENT AGREEMENT
BETWEEN
CALDWELL COUNTY, TEXAS AND
EDC AUSTIN LLC**

This Tax Abatement Agreement (this "Agreement") is entered into by and between Caldwell County, Texas (the "County") duly acting herein by and through its County Judge, and EDC Austin LLC, a Delaware limited liability company (together with its permitted successors and assigns, the "Owner") effective as of March 26, 2026.

Recitals

WHEREAS; the County has indicated its election to be eligible to participate in tax abatements in Resolutions 40-2022 and 20-2024. The Commissioners Court of Caldwell County, Texas, by Order 03-2026 (the "Order"), attached hereto as Exhibit B, designated the "Caldwell 142 Reinvestment Zone #1" for commercial-industrial tax abatement (the "Reinvestment Zone"); as described in the Order and Exhibits attached hereto;

WHEREAS; Owner proposes certain improvements generally described as a turn-key data center campus, (the "Project"), that will be located on land within the Reinvestment Zone;

WHEREAS; the Commissioners Court, after conducting a hearing and having heard evidence and testimony, has concluded, based on the evidence and testimony presented to it, that the improvements and operations proposed by Owner within the Reinvestment Zone and described in this Agreement and the terms of this Agreement: (i) are consistent with the requirements of the Property Redevelopment and Tax Abatement Act and the Caldwell County Tax Abatement and Reinvestment Zone Guidelines and Criteria adopted by the County on September 1, 2022 and readopted on August 13, 2024. (the "Guidelines"), or to the extent of any inconsistency with the Guidelines, the Commissioners Court has determined, in its discretion and in accordance with Section 312.002(d) of the Texas Tax Code, that this Agreement should be entered into notwithstanding any such inconsistency; and (ii) constitute a major investment in the Reinvestment Zone that will be a benefit to the Reinvestment Zone and will contribute to the economic development of the County.

WHEREAS; proper notice of the County's intent to enter into this Agreement has been provided to the presiding officers of each of the other taxing units levying taxes in the Reinvestment Zone not less than 7 days prior to the date on which this Agreement was approved by the Commissioners Court.

WHEREAS; this Agreement was adopted at a regularly scheduled meeting of the Commissioners Court which was preceded by thirty-day written notice which was properly posted in accordance with the Open Meetings Act and at which a quorum of the Commissioners Court was present.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, the parties do hereby agree as follows:

**ARTICLE I.
DEFINITIONS**

1.01 Terms Defined Above. As used in this Agreement, each term defined above has the meaning indicated above.

1.02 Certain Defined Terms. As used in this Agreement, the following terms shall have the respective meanings assigned to them below:

“AAA” shall have the meaning assigned to such term in Section 7.03.

“Abatement Adjustment” means, for any year during the Abatement Period in which Owner has failed to maintain an average number of Jobs equal to or greater than the Target Equivalent Full Time Jobs for such year and/or an average annual salary equal to or greater than the Target Average Salary for such year, the percentage determined as follows:

- (a) the product of the actual average number of Jobs and the actual average annual salary, each for such year, divided by
- (b) the product of the Target Equivalent Full Time Jobs for such year and the Target Average Salary for such year.

Provided that the Abatement Adjustment shall not exceed 100%.

By way of example, if the average number of Jobs for a year is ten (10), the Target Equivalent Full Time Jobs for such year is 15, the average annual salary for such year is \$125,000 and the Target Average Salary for such year is \$130,000, item (a) above equals \$1,250,000 (10 times \$125,000), item (b) equals \$1,950,000 (15 times \$130,000), and the Abatement Adjustment equals 64.10% ((a) divided by (b)).

“Abatement Percentage” means 100%

“Abatement Period” has the meaning assigned to such term in Section 3.03.

“Actual Water Usage” means, for any year of determination, the actual amount of water used at the Premises during such year less any non-potable water fill for a cooling system and any allowed Over-Usage Amount, each for such year.

“Adjusted Abatement Percentage” means, for any year during the Abatement Period in which a Tax abatement is to be made under this Agreement:

- (a) the Abatement Percentage for such year in which the Owner maintains (i) an average number of Jobs equal to or greater than the Target Equivalent Full Time Jobs for such year and (ii) an average annual salary equal to or greater than the Target Average Salary for such year; or

(b) the product of the Abatement Percentage and the Abatement Adjustment if the Owner fails to maintain (i) an average number of Jobs equal to or greater than the Target Equivalent Full Time Jobs for such year and/or (ii) an average annual salary equal to or greater than the Target Average Salary for such year.

“Adjustment Factor” means, for any year in which Owner has failed to maintain an average number of Jobs equal to or greater than the Target Equivalent Full Time Jobs for such year and/or an average annual salary of at least the Target Average Annual Salary for such year, one half of the difference between 100% and the percentage determined as follows:

(a) the product of the actual average number of Jobs and the actual average annual salary, each for such year, divided by

(b) the product of the Target Equivalent Full Time Jobs for such year and the Target Average Annual Salary for such year,

By way of example, if the average number of Jobs for a year is 10, the Target Equivalent Full Time Jobs is 15, the average annual salary for such year is \$125,000 and the Target Average Full Time Salary is \$135,000, item (a) above equals \$1,250,000 (10 times \$125,000), item (b) equals \$1,950,000 (15 times \$130,000), and the Adjustment Factor equals 17.95% (one half of (100% minus ((a) divided by (b))).

The Adjustment Factor shall not equal a negative number. In any year in which the percentage determined by the division of (a) and (b) above exceeds 100%, the Adjustment Factor shall be 0.

“Affiliate” means, with respect to a specified Person, another Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by or is in common Control with the Person specified.

“Annual PILOT” has the meaning assigned to such term in Section 3.04.

“Application” means Owner’s application for abatement, which is attached as Exhibit A hereto.

“Appraisal District” means the Caldwell County Appraisal District and any successor thereto.

“Background Information” means, without limitation, in the case of a proposed assignee or partial assignee, such assignee’s:

(a) legal name or identity;

(b) address of its local office in the County, its registered office and address maintained with the Secretary of State of the State of Texas and its principal or home office;

(c) state in which it was chartered and its registered office and agent in that state and the names and addresses of all governing persons (as that term is defined by the Texas Business Organizations Code) of such assignee; and

(d) three years of audited financials of such assignee.

“Base Year Taxable Value” means the Taxable Value for the Land for the year in which this Agreement is executed.

“Business Day” means any day that is not a Saturday, Sunday or other day on which the offices of the County are closed.

“Certified Appraised Value” means the final appraised value of property that is subject to property taxation under the Texas Tax Code, as determined and certified by the Chief Appraiser of the Caldwell County Central Appraisal District after the exhaustion of remedies under the Texas Tax Code Title 1, Subtitle F, for each taxable year during the Abatement Period.

“COD” means the commencement of commercial operations of the Improvements.

“Commencement Date” means the January 1st of the first calendar year after the COD.

“Compliance Percentage” means

“Control” means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“County Percentage” means 50%.

“Debt” means, for any Person, each of the following (without duplication): (a) all obligations of such Person for borrowed money or evidenced by bonds, bankers’ acceptances, debentures, notes or other similar instruments; (b) all reimbursement obligations of such Person (whether contingent or otherwise) in respect of letters of credit, surety or other bonds and similar instruments; (c) all (i) accounts payable which are outstanding on the earlier of the date that is (A) 90 days after the date they were invoiced or (B) 60 days after their due date, and (ii) accrued expenses, liabilities or other obligations of such Person to pay the deferred purchase price of Property or services; (d) all obligations of such Person under capital leases; (e) all obligations under synthetic leases; (f) all Debt (as defined in the other clauses of this definition) of others secured by (or for which the holder of such Debt has an existing right, contingent or otherwise, to be secured by) a lien on any Property of such Person, whether or not such Debt is assumed by such Person; (g) all Debt (as defined in the other clauses of this definition) of others guaranteed by such Person or in which such Person otherwise assures a creditor against loss of such Debt (howsoever such assurance shall be made) to the extent of the lesser of the amount of such Debt and the maximum stated amount of such guarantee or assurance against loss; (h) all obligations or undertakings of such Person to maintain or cause to be maintained the financial position or covenants of others or to purchase the Debt or Property of others; (i) obligations of such Person to deliver commodities, goods or services, in consideration of one or more advance payments, take or pay arrangements or other similar

arrangements, in each case in the ordinary course of business; (j) obligations of such Person to pay for goods or services even if such goods or services are not actually received or utilized by such Person; (k) any Debt of a partnership for which such Person is liable either by agreement, by operation of law or by a Governmental Requirement but only to the extent of such liability; and (l) Disqualified Capital Stock of such Person. The Debt of any Person shall include all obligations of such Person of the character described above to the extent such Person remains legally liable in respect thereof notwithstanding that any such obligation is not included as a liability of such Person under GAAP.

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Development Agreement” means that certain Development Agreement dated as of March 26, 2026_, between the County and the Owner.

“Disqualified Capital Stock” means any Equity Interest that, by its terms (or by the terms of any security into which, mandatorily or at the option of the holder, it is convertible or for which it is exchangeable) or upon the happening of any event, (a) matures or is mandatorily redeemable for any consideration other than other Equity Interests (which would not constitute Disqualified Capital Stock), pursuant to a sinking fund obligation or otherwise, or (b) is convertible or exchangeable for Debt or redeemable for any consideration other than other Equity Interests (which would not constitute Disqualified Capital Stock) at the option of the holder thereof, in whole or in part.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such Equity Interest, but excluding any phantom stock or similar rights.

“Event of Default” has the meaning assigned to such term in Section 6.01.

“Facilities” means the data center where the Improvements are located within the Reinvestment Zone.

“F and I Taxes” means, for any year, the product of (a) the Tax Rate for such year and (b) the Taxable Value for such year.

“Financing” shall have the meaning assigned to such term in Section 7.05.

“Force Majeure” has the meaning assigned to such term in Section 9.06.

“GAAP” means generally accepted accounting principles in the United States of America as in effect from time to time.

“Governmental Authority” means the government of the United States of America or any political subdivision thereof, whether state or local (including the County), and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative,

judicial, taxing, regulatory or administrative powers or functions of or pertaining to government over the Owner, any Subsidiary, any of their Properties or the County.

“Governmental Requirement” means any law, statute, code, ordinance, order, determination, rule, regulation, judgment, decree, injunction, franchise, permit, certificate, license, authorization or other directive or requirement, whether now or hereinafter in effect, including, environmental laws, energy regulations and occupational, safety and health standards or controls, of any Governmental Authority.

“Improvements” means improvements, fixtures, equipment, and all other tangible personal property which are more particularly described in the Application, identifying the improvements that are to be installed within the Reinvestment Zone including any property added to the Improvements because of repairs, retrofitting or additional improvements during the term of this Agreement. Notwithstanding the foregoing sentence, improvements shall include only property: (a) located within the Reinvestment Zone, (b) eligible for tax abatement pursuant to Chapter 312 of the Texas Tax Code, (c) which meets the definition of an improvement or tangible personal property as provided in Chapter 1 of the Texas Tax Code, and (d) which is constructed or placed in the Reinvestment Zone after the date this Agreement is approved by the Commissioners Court.

“Jobs” has the meaning assigned to such term in Section 4.01.

“Land” means the real property upon which the Facilities are located.

“Material Indebtedness” means any Debt of the Owner in principal amount exceeding, on any date of determination, \$5,000,000.

“Mortgagee” shall have the meaning assigned to such term in Section 7.05.

“Organizational Documents” means, with respect to any Person, (a) in the case of any corporation, the certificate of incorporation and by-laws (or similar documents) of such Person, (b) in the case of any limited liability company, the certificate of formation and limited liability company agreement (or similar documents) of such Person, (c) in the case of any limited partnership, the certificate of formation and limited partnership agreement (or similar documents) of such Person, (d) in the case of any general partnership, the partnership agreement (or similar document) of such Person and (e) in any other case, the functional equivalent of the foregoing.

“Over-Usage Amount” has the meaning assigned to such term in Section 4.07.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“PILOT Percentage” means, for any year in which the Annual Pilot is determined:

- (a) the County Percentage if Owner has maintained an average number of Jobs for such year equal to or greater than the Target Equivalent Full Time Jobs for such year and an average annual salary of at least the Target Average Full Time Salary for such year, and

(b) the sum of the County Percentage and the Adjustment Factor if the Owner has failed to maintain an average number of Jobs equal to or greater than the Target Equivalent Full Time Jobs for such year and/or an average annual salary of at least the Target Average Full Time Salary for such year.

“Premises” means, collectively, the Facilities, Land, and Improvements.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, including cash, securities, accounts and contract rights.

“Responsible Officer” means, as to any Person, the Chief Executive Officer, the President, any Financial Officer or any Vice President of such Person. Unless otherwise specified, all references to a Responsible Officer herein shall mean a Responsible Officer of the Owner.

“Substantially Complete Date” has the meaning assigned to such term in Section 2.02.

“Substantial Completion” means the construction of the Improvements has been completed such that it would enable commencement of data center operations.

“Target Equivalent Full Time Jobs” has the meaning assigned to such term in Section 4.01.

“Target Average Full Time Salary” has the meaning assigned to such term in Section 4.01.

“Taxable Value” means, for any year, the Certified Appraised Value of the Premises for such year less the Base Year Taxable Value.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, assessments, fees, charges or withholdings (including backup withholding) imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Transactions” has the meaning assigned to such term in Section 5.02(b).

“Water Abatement Percentage” means, for any year of determination, the percentage determined by dividing the Water Usage Annual Limit by the Actual Water Usage, each for such year; provided the Water Abatement Percentage shall never exceed 100%.

“Water PILOT Percentage” means, for any year of determination, the percentage determined by dividing the Actual Water Usage by the Water Usage Annual Limit, each for such year; provided the Water PILOT Percentage shall never be less than 100%.

“Water Usage Annual Limit” means, for any year of determination, the sum of the Water Usage Limits for each month during such year.

“Water Usage Limit” has the meaning assigned to such term in Section 4.08.

1.03 Terms Generally; Rules of Construction. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise, the word “or” is not exclusive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any law shall be construed as referring to such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to the restrictions contained in herein), (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) with respect to the determination of any time period, the word “from” means “from and including” and the word “to” means “to and including” and (e) any reference herein to Articles, Sections, Annexes, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Annexes, Exhibits and Schedules to, this Agreement. No provision of this Agreement shall be interpreted or construed against any Person solely because such Person or its legal representative drafted such provision.

ARTICLE II. IMPROVEMENTS

2.01 Improvements in Reinvestment Zone. Owner anticipates that it will construct the Improvements within the Reinvestment Zone. Owner acknowledges that the abatement granted herein is conditioned upon completion of construction of the Improvements within the Reinvestment Zone as provided in Section 2.02.

2.02 Timing of Improvements. Owner projects that construction of the Improvements will begin by April 15, 2026, and will be Substantially Completed by August 15, 2028; provided that such date may be extended in accordance with Section 9.07 as a result of a Force Majeure (such date, the “Substantially Complete Date”).

2.03 Plans and Specifications, Governmental Requirements and Workmanship. All Improvements shall be constructed and installed substantially in accordance with plans and specifications as the same may be amended, modified or changed by change orders from time to time, prepared by an engineer or architect licensed within one of the states of the United States and in accordance with all regulations of any Governmental Authority or entity having jurisdiction over any aspect of the construction. Owner shall take such steps as are reasonably necessary to see that all work on the Improvements is completed in a good and workmanlike manner.

ARTICLE III. TAX ABATEMENT

3.01 Tax Abatement Granted. Subject to the terms and conditions of this Agreement, the County agrees to abate Taxes imposed by the County each year during the Abatement Period in an amount equal to the product of (a) the Adjusted Abatement Percentage for such year and (b) Taxable Value for such year.

Owner agrees and understands that Owner shall continue to pay Taxes imposed by the County on the Base Year Taxable Value and for any year in which the Adjusted Abatement Percentage is less than 100%, Taxes in an amount equal to the product of (i) the difference between 100% and the Adjusted Abatement Percentage for such year and (ii) the F and I Taxes for such year.

3.02 Abatement Area. This Agreement shall apply only to designated real property within the Reinvestment Zone, identified in Exhibit C and attached to and incorporated herein by reference for all purposes.

3.03 Abatement Period; Commencement Date; Term of Agreement. The period in which Taxes are abated (the "Abatement Period") is the period which begins on the Commencement Date and ends on December 31st of the tenth (10th) year following the Commencement Date, unless sooner terminated in accordance with the terms of this Agreement. Termination of this Agreement shall not relieve either party of any covenants, obligations, or payments owing to the other as of the date the Agreement is terminated.

3.04 Payments In Lieu of Taxes. As consideration for the abatement granted by County under this Agreement, Owner agrees to timely perform all covenants undertaken by Owner pursuant to the terms of this Agreement including the making of an annual payment in lieu of Taxes (the "Annual PILOT") to the County for each year during the Abatement Period. During each year of the Abatement Period, the County will abate 100% of all F and I Taxes. At the conclusion of the Abatement Period, the Premises shall be taxed at the Certified Appraised Value of the Premises each year thereafter for the remaining life of the Project.

3.05 Annual PILOT. The Annual PILOT shall be determined as follows:

- (a) Due Date. The Annual PILOT required by this Agreement must be paid to the County no later than January 31st of the year following the year for which abatement is granted.
- (b) Calculation of the Annual PILOT. Owner agrees to pay to the County an Annual PILOT equal to the product of (i) the PILOT Percentage, for any year of determination and (ii) 100% of all Taxes abated for such year during the Abatement Period. For the avoidance of doubt, the final Annual PILOT shall be due no later than the January 31st following the end of the Abatement Period.
- (c) Annual PILOT in Lieu of Taxes. The parties agree that each Annual PILOT will be in lieu of any F and I Taxes which would otherwise be owed by Owner to the County for any year during the Abatement Period with respect to the Improvements.

3.06 Conditions to Tax Abatement. The tax abatement granted by this Agreement is expressly conditioned upon (a) achievement of Substantial Completion of the Improvements by the Substantial Completion Date and (b) Owner's operation of the Facilities as a turn-key data center campus.

3.07 Further Adjustments. Should the Owner exceed the Water Usage Annual Limit during any year in which Taxes are abated which is not the result of charging a cooling system and for which an Over-Usage Amount is not available, the following shall apply:

- (a) the amount of the Taxes abated as determined pursuant to Section 3.01 shall be reduced by the amount of the Water Abatement Percentage; and
- (b) the amount of the PILOT Payment determined pursuant to Section 3.05(b) shall be increased by the amount of the Water PILOT Percentage.

**ARTICLE IV.
CONDITIONS**

4.01 Job Creation. The Owner covenants and agrees to create or maintain, or cause to be created or maintained, the full-time equivalent number of jobs (“Jobs”) at the average salaries for each of the years listed in the table below. The calculation of “Jobs” will include full-time equivalent employees of Owner, its Affiliates, any tenant of the Project or its Affiliates, or any vendor to any of the foregoing, in each case whose full-time workplace is the Project.

Abatement Year	“Target Equivalent Full-Time Jobs”	“Target Average Annual Salary”
1	30	\$67,500.00
2	50	\$67,500.00
3	50	\$67,500.00
4	50	\$67,500.00
5	50	\$67,500.00
6	50	\$67,500.00
7	50	\$67,500.00
8	50	\$67,500.00
9	50	\$67,500.00
10	50	\$67,500.00

For the avoidance of doubt, it shall not be a Default if the Owner fails to meet the targets above. The County’s remedy for Owner’s failure to meet the targets shall be the adjustment of the Abatement Percentage and the Annual PILOT as set forth herein.

4.02 Payment of Taxes. The Owner agrees to pay all Taxes imposed by the County or any other taxing unit within the County based on the value of, or levied against, the Premises (other than those abated pursuant to this Agreement or an agreement with such other taxing unit within the County). It shall not be a violation of this provision if the party who is assessed the Tax in good faith protests the levy or assessment of a particular Tax by the timely filing of appropriate proceedings to prosecute a protest or contest of the Tax, makes payment of the disputed Tax during such protest or contest as required by Governmental Requirements, and pays the Tax, as finally determined, prior to delinquency as required by Governmental Requirements.

4.03 Operation. The Owner agrees to continue routine commercial operation of the Facilities, including all outages for repair, maintenance and refurbishment during the term of this Agreement.

4.04 Annual Certification. Beginning in the year immediately following the Commencement Date and continuing each year thereafter during the Abatement Period, Owner agrees to annually submit a certified, sworn statement acceptable to the Caldwell County Auditor and signed by an authorized officer or employee of Owner that it is in full compliance with its obligations under this Agreement or, if not in full compliance, a statement disclosing the nature of any non-compliance and any reasons therefor.

4.05 Inspections. The County shall have the right to inspect the Improvements and the Facilities. The County agrees to provide Owner with at least two (2) weeks advance written notice of any such on-site inspection and further agrees that any such on-site inspection shall be conducted at a mutually agreed time and date and in a manner that will not unreasonably interfere with the construction of the Improvements or the operation of the Facilities. All such inspections shall be made with one or more representatives of Owner and in accordance with all applicable governmental safety standards and the security policies of Owner and its tenants. The rights of inspection set forth herein may be exercised by officers, agents, or employees of the County or the Appraisal District. Nothing herein shall be construed to limit or diminish the authority of the County or the Appraisal District to conduct inspections or obtain information under Governmental Requirements.

4.06 Determination of Value. The parties recognize that to the extent required by Governmental Requirements, the Appraisal District shall annually assess the Certified Appraised Value of all real and personal property making up the Facilities without regard to the abatement granted by this Agreement and the Certified Appraised Value of such property after applying the abatement granted by this Agreement. The Chief Appraiser shall then record both values in the appraisal records. The Certified Appraised Value of the Premises without regard to the abatement shall be used to compute the amount of abated Taxes that are required to be recaptured and paid to the County in the event recapture of such Taxes is required by this Agreement or Governmental Requirements. During the term of this Agreement, Owner shall each year furnish the Chief Appraiser of the Appraisal District with such information as is required by Governmental Requirements (including a rendition filed under Chapter 22 of the Texas Tax Code and an application for exemption filed under Section 11.28 of the Texas Tax Code) and as may be necessary for the administration of the abatement specified in this Agreement. The Appraisal District will determine the values required herein in any manner permitted by Governmental Requirements, but without limitation of Owner's rights in Section 4.07.

4.07 Owner's Right of Protest. Nothing in this Agreement shall limit Owner's right to protest and contest any appraisal or assessment of the Facilities in accordance with Governmental Requirements. In the event (a) the Certified Appraisal Value is finalized after Owner's Annual PILOT is due to the County and (b) the Initial Appraisal Value exceeds the Certified Appraisal Value for a taxable year during the Abatement Period, the County will credit the difference in value to the following taxable year's Annual PILOT. However, the Owner shall be bound by any representations of capital values subject to abatement in the Application, or contained within this Agreement.

4.08 Water Usage. The Owner covenants and agrees that the water usage at the Premises shall not exceed an amount equal to 215 gallons per month per megawatt of power used on the Premises at any time (the "Water Usage Limit"). The foregoing does not include water used in the initial charging of the cooling systems with non-potable water. In addition, the Owner shall be allowed an over-usage of not more than 32.25 gallons per megawatt for any month (the "Over-Usage Amount") during any concurrent 36-month period; provided that the Owner shall not be allowed to incur more than two (2) Over-Usage

Amounts during the Abatement Period. To the extent the Owner exceeds the Water Usage Limit for any month it shall not be a Default if such excess is within an available Over-Usage Amount and/or the Owner complies with Section 3.07.

4.09 Quarterly Certification. Beginning with the end of the first fiscal quarter after the Commencement Date, the Owner agrees to submit a certified, sworn statement in detail acceptable to the County demonstrating that it is in compliance with Section 4.08.

ARTICLE V. REPRESENTATIONS

5.01 County. The County hereby represents and warrants that this Agreement was authorized by the Commissioners Court on the date recited above authorizing the County Judge to execute this Agreement on behalf of the County.

5.02 Owner. Owner hereby represents and warrants to the County:

- (a) Owner is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all corporate or equivalent requisite power and authority, and has all material governmental licenses, authorizations, consents and approvals necessary, to own its assets and to carry on its business as now conducted, and is qualified to do business in, and is in good standing in, the State of Texas.
- (b) This Agreement and the actions of the Owner set forth herein (such actions, the “Transactions”) are within the Owner’s corporate or equivalent powers and have been duly authorized by all necessary corporate or equivalent action including any action required to be taken by any other Person, whether interested or disinterested, in order to ensure the due authorization of this Agreement and the Transactions. This Agreement has been duly executed and delivered by the Owner and constitutes a legal, valid and binding obligation of the Owner enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.
- (c) The Transactions (i) do not require, as a condition thereto, any consent or approval of, registration or filing with, or any other action by, any Governmental Authority or any other third Person (including members, shareholders or any class of directors or managers, whether interested or disinterested, of the Owner or any other Person) to be obtained or made by the Owner pursuant to any statutory law or regulation applicable to it, nor is any such consent, approval, registration, filing or other action necessary for the validity or enforceability of this Agreement against the Owner as herein provided or the consummation of the transactions contemplated thereby, except such as have been obtained or made and are in full force and effect, (ii) will not violate any Governmental Requirement or regulation or the Organizational Documents of the Owner or any order of any Governmental Authority applicable to the Owner, and (iii)

will not violate or result in a default under any indenture or other material instrument binding upon the Owner or its Properties.

- (d) The Owner has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except Taxes that are being contested in good faith by appropriate proceedings.
- (e) The Owner (i) is in compliance with all Governmental Requirements applicable to it or its Property and all agreements and other instruments binding upon it or its Property, and (ii) possesses all licenses, permits, franchises, exemptions, approvals and other authorizations granted by Governmental Authorities necessary for the ownership of its Property and the conduct of its business.
- (f) No reports, financial statements, certificates or other information furnished by or on behalf of the Owner to the County in connection with the negotiation of this Agreement or delivered hereunder contain any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading in any material respect; provided that, with respect to projected financial and employment information, the Owner represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.
- (g) The Owner maintains, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations. The Owner's commercial general liability insurance policy will name the County as "an additional insured" and provide that the insurer will endeavor to give at least 30 days prior notice of any cancellation to the County.
- (h) The Owner has good and defensible title to the Land (and to the extent existing on the date of this Agreement any Improvements), free and clear of all liens except liens permitted by this Agreement and such defects in title as could not, individually or in the aggregate, reasonably be expected to materially distract from the value thereof to, or the use thereof in, the business of the Owner.
- (i) The officer of Owner executing this Agreement on behalf of the Owner is properly authorized to enter into this Agreement and bind Owner to the terms hereof and Owner is thereby authorized to perform all covenants undertaken by Owner pursuant to this Agreement.
- (j) The entering into of this Agreement by Owner does not violate any operating agreement, certificate of formation provision, or agreement between Owner and any third party which in any way limits Owner's authority to enter into this Agreement and perform all covenants and agreements set forth herein.

**ARTICLE VI.
DEFAULT**

6.01 Events of Default. The occurrence of any one or more of the following events shall constitute an “Event of Default”:

- (a) the Owner shall fail to (i) pay any Annual PILOT when the same shall become due and payable or (ii) comply with Section 6.03.
- (b) the Owner shall fail to pay any other amount under this Agreement (other than an amount referred to in Section 6.01(a)), when and as the same shall become due and payable and such failure shall continue unremedied for a period of three (3) Business Days.
- (c) any representation or warranty made or deemed made by or on behalf of the Owner in or in connection with this Agreement shall prove to have been incorrect when made or deemed made.
- (d) the Owner fails to comply with Section 4.03 and such failure continues for a period of ninety (90) days after the earlier to occur of (i) notice thereof from the County to the Owner or (ii) a Responsible Officer of the Owner otherwise becoming aware of such failure.
- (e) the Owner shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in Section 6.01(a), Section 6.01(b) or Section 6.01(d)) and such failure shall continue unremedied for a period of 30 days after the earlier to occur of (i) notice thereof from the County to the Owner or (ii) a Responsible Officer of the Owner otherwise becoming aware of such failure.
- (f) the Owner shall fail to observe or perform any covenant, condition or agreement contained in the Development Agreement and such failure shall continue unremedied for a period of 30 days after the earlier to occur of (i) notice thereof from the County to the Owner or (ii) a Responsible Officer of the Owner otherwise becoming aware of such failure.
- (g) the Owner shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable, unless such amount is being disputed by Owner in good faith
- (h) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or

any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the redemption thereof or any offer to redeem to be made in respect thereof, prior to its scheduled maturity or require the Owner to make an offer in respect thereof.

- (i) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Owner or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Owner or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered
- (j) the Owner shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in Section 6.01(g), (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Owner or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing.
- (k) the Owner shall admit in writing its inability to pay its debts as they become due.
- (l) one or more final, non-appealable judgments for the payment of money in an aggregate amount in excess of \$500,000 remains unpaid for more than 60 days (to the extent not covered by independent third party insurance provided by financially sound and reputable insurers as to which the insurer does not dispute coverage and is not subject to an insolvency proceeding).

6.02 Remedies.

- (a) In the case of an Event of Default of Section 4.03, County may immediately terminate this Agreement and Owner shall reimburse County all Taxes (including penalties, interest, attorney's fees and costs) that would have been payable to the County in the absence of this Agreement for the year in which such termination occurs less a credit for any Annual PILOT, if any, made by Owner for such year.

(b) In the case of an Event of Default of Section 9.05 County shall have the remedy set forth therein.

(c) In the case of the occurrence of any other Event of Default, the County will have all other rights and remedies available at law and equity including the termination or modification of this Agreement, as allowed by Texas Tax Code Section 312.205(7).

6.03 Notice. Owner agrees to provide written notice to the County of the occurrence of any event of the types specified in Sections 6.01(g), (h), (i), (j), (k), and (l) within 3 Business Days of such event.

ARTICLE VII. ASSIGNMENT

7.01 Assignment. As long as (a) no Default exists and is continuing at the time of the proposed assignment, (b) Owner provides the information required under Section 7.02, and (c) subject to the conditions set forth in Section 7.04, Owner may, with the consent of the County, assign, in whole or in part, any of its rights or obligations under the terms of this Agreement or in the Improvements, the Land or the Facilities. Consent of the County may only be withheld under those circumstances described in Section 7.03. After an assignment that is completed in accordance with the requirements of this Agreement, Owner shall have no further rights, duties, or obligations under this Agreement to the extent such rights, duties, and obligations have been assumed by the assignee. Notwithstanding the foregoing, an assignment of this Agreement pursuant to Section 7.05, including in connection with the foreclosure of the lien of any Mortgagee securing any Financing or conveyance in lieu thereof, shall not require the consent of the County.

7.02 Information. If Owner proposes to assign all or any portion of its interest in the Facilities in a transaction that requires the County's consent, Owner agrees to provide the County the Background Information on the proposed assignee.

7.03 County May Withhold Consent. The County may withhold its consent to a proposed assignment, and such action by the County will not be considered to be unreasonable if: (a) the proposed assignee cannot demonstrate that it reasonably can expect to have, during the term of this Agreement, annual revenues sufficient to comply with this Agreement and pay the Tax assessments and the Annual PILOTs from Caldwell County as they are made, or the proposed assignee cannot otherwise demonstrate its financial ability to abide by all terms and conditions set forth herein; (b) the proposed assignee has a record of violations or defaults with respect to its operations of data centers such that the assignee does not have the capability and reliability to perform the requirements of this Agreement; or (c) the assignee does not comply with each of the conditions to assignment set forth in Section 7.04 below. If the County reasonably requests additional information, the County, the Owner, and the prospective assignee agree to negotiate in good faith regarding what information will, and will not, be made available to the County and any conditions to the disclosure of such information. The County shall advise Owner in writing whether it consents to a proposed assignment not later than forty-five (45) days from the date the County is

provided with all Background Information. If the County withholds consent, it shall provide the reasons it is doing so in the written decision. If Owner disagrees with the County's denial of consent it shall submit the consent issue to binding arbitration by an arbitrator acceptable to both parties within thirty (30) days following receipt of the County's denial. If the parties cannot agree on an arbitrator, the parties shall request the American Arbitration Association ("AAA") to appoint an arbitrator and preside over the arbitration pursuant to AAA's commercial arbitration rules then in effect. Unless otherwise agreed in writing by the parties, the venue for such arbitration shall be at a location within the County.

7.04 Conditions to Assignment. Owner's assignment shall also be conditioned on the following:

- (a) The execution and delivery to the County of an addendum to this Agreement, in form and substance reasonably acceptable to the County, where: (i) in the case of a partial assignment, providing that each of the Owner and assignee assumes and agrees, as applicable, to timely discharge all covenants and obligations under the terms of this Agreement; and (ii) in the case of a full assignment provides that the assignee assumes and agrees to timely discharge all covenants and obligations undertaken by Owner under the terms of this Agreement; and
- (b) Evidence that the assignee has obtained the insurance required by this Agreement.

7.05 Mortgagee. Owner may, without any further consent from the County, mortgage, pledge, or otherwise encumber its interest in the Improvements, Land and Facilities and collaterally assign its interest in this Agreement to any lender or to any trustee, collateral agent, or beneficiary under a deed of trust (each, a "Mortgagee") for the purpose of financing operations of the Facilities, constructing the Improvements or acquiring additional equipment for the Facilities (a "Financing"). Any Mortgagee shall be entitled to receive the same written notice of any Default as County is required to provide Owner hereunder as long as County has been provided notice of the identity and address of such Mortgagee. This provision shall not be construed to limit or diminish the County's lien priority for Taxes owed pursuant to the Texas Tax Code. Upon receipt of notice from the County of a Default or Event of Default, any Mortgagee shall be entitled, upon prior written notice to County, to cure such Default or Event of Default, as applicable, (i) in the case of a monetary Default or Event of Default, within ten (10) Business Days after the delivery of notice of such Default or Event of Default; (ii) in the case of a non-monetary Default or Event of Default, within sixty (60) days after the delivery of notice of such Default or Event of Default, except that if such non-monetary Event of Default is not reasonably susceptible of cure within such sixty (60) day period without obtaining possession or otherwise, then provided Mortgagee commences to cure such Default or Event of Default within such sixty (60) day period, and provides County with a written notice (a "Step-In Notice") of its intention to cure such Default or Event of Default, then such sixty (60) day period shall be extended for as long as Mortgagee diligently and continuously prosecutes such cure to completion and continues to perform all payment obligations of Owner under this Agreement. County shall accept, and Owner hereby consents to County accepting, payment of any sum or performance of any act by any Mortgagee of Owner required to be paid or performed by Owner pursuant to this Agreement, with the same force and effect as though paid or performed by Owner and without releasing Owner from

any of its obligations and liabilities under this Agreement. If any Mortgagee is entitled to extended cure rights under this Section 7.05 with respect to a Default or Event of Default and such Mortgagee is diligently and continuously prosecuting such cure, County shall not terminate or give notice of termination of this Agreement as a result of such Default or Event of Default until such extended cure period has elapsed or expired.

**ARTICLE VIII.
NOTICES**

8.01 Notices. All notices or other communications required or permitted by this Agreement shall be in writing and shall be deemed to be properly given when delivered personally to any of the hereinafter designated addresses or the named representatives thereof, or when mailed by prepaid certified mail, return receipt requested, addressed to such party at the respective addresses set forth below:

If to the County:

Caldwell County, Texas
Attn: County Judge
Caldwell County Courthouse
110 S. Main St., Rm. 101 Lockhart, TX 78644

If to the Owner:

EDC Austin LLC
Attn: Chief Financial Officer, General Counsel
3343 Peachtree Rd. NE, Suite 145, PMB 3021
Atlanta, GA 30326

Either party may change the address for notices by a written notice forwarded in accordance with the foregoing.

**ARTICLE IX.
MISCELLANEOUS**

9.01 Governing Law; Venue. This Agreement shall be construed and governed in accordance with the law of the State of Texas without giving effect to its conflict of law rules. Venue for any action relating to the interpretation or performance of this Agreement or to enforce any right or obligation relating to this Agreement shall be in a State Court in Caldwell County, Texas, or in a United States District Court for the Western District of Texas in Austin, Texas.

9.02 Waiver. The failure of either party to enforce any right or demand strict performance of any obligation of the other party under this Agreement shall not operate as, or be construed to be, a waiver of such right or obligation.

9.03 Entire Agreement; Amendment; Interpretation. This Agreement, including Exhibits A through C, attached hereto and incorporated herein by reference, collectively constitute the entire agreement between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous discussions, representations, correspondence or agreements, written or oral. This Agreement may only be amended by a written instrument signed by both parties or their duly authorized officers or representatives. The language of this Agreement shall be construed as a whole according to its fair and common meaning and shall not be construed for or against either of the parties hereto. All titles or headings to sections or other divisions of this Agreement are only for the convenience of the parties and shall not be construed to have any effect or meaning with respect to the content of this Agreement, such content being controlling as to the agreement between the parties hereto.

9.04 Severability. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of any other provision of this Agreement.

9.05 Employment of Undocumented Workers. During the term of this Agreement, Owner agrees not to knowingly employ any undocumented workers as defined in Section 2264.001 of the Texas Government Code. If Owner is convicted after exhaustion of all rights of appeal of a violation under 8 U.S.C. §1324a(f), Owner shall repay the amount of the abatements and any other funds received by the Owner from the County as of the date of such violation, minus any Annual PILOT payments made by County, not later than one hundred and twenty (120) days after the date Owner is notified by the County of a violation of this Section, plus interest at the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the County) as its prime or base commercial lending rate. The payment of interest shall be as if it had been accruing from the dates the abatements were granted to Owner and the dates the Annual PILOTs were paid by County the until the date the amount due is repaid to the County.

9.06 Force Majeure. If Owner's performance of any obligation under this Agreement is interrupted, delayed, or prevented by any contingency or cause beyond the control of Owner, then Owner shall be excused from the performance of any such obligation during the period of time that Owner is reasonably unable to perform such obligation or obligations as a result of such contingency or cause, and no Default will have occurred with respect to such circumstances. Notwithstanding any other provision of this Agreement to the contrary, in the event a party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement (other than any obligation to make payment of any amount when due and payable hereunder), the obligation of such party, so far as it is affected by such

Force Majeure, shall be suspended during the continuance of any condition or event of Force Majeure, but for no longer period, and such condition or event shall so far as possible be remedied with all reasonable dispatch. Any period of suspension under this Section may, at the request of Owner, extend its construction period under Section 2.02 of this Agreement, but for no longer than the duration of the Force Majeure event. The term "Force Majeure" shall mean contingencies or causes beyond the control of a party, including:

- (a) Acts of God, or the public enemy, any natural disaster, war, riot, civil commotion, insurrection, fires, explosions, accidents, floods, and labor disputes or strikes;
- (b) governmental actions, governmental shut-downs, travel restrictions, quarantines, or business closings stemming therefrom;
- (c) to the extent it affects the Owner's ability to perform a non-monetary covenant or obligation under this Agreement, a change in a governmental law or regulation if Owner complies with the changed or revised law or regulation within the time limits, and in the manner, provided by such changed or revised law or regulation.

Any party claiming delay due to an event of Force Majeure must provide written notice to the other party promptly upon learning of such event. Such notice must provide a reasonable description of the event of Force Majeure, the date of commencement of the event of Force Majeure and the nature of the delay. The party claiming Force Majeure must also provide a written notice to the other party upon cessation of the Force Majeure.

9.07 Multiple Counterparts. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

9.08 Recording. The parties agree to execute this Agreement in recordable form and that a duplicate of this Agreement shall be entered in the Official Minutes of the Commissioners Court of Caldwell County, Texas.

9.09 Adoption of Agreement. The County agrees that any other taxing unit eligible to participate in agreements relating to the abatement of Taxes may adopt all or any portion of this Agreement.

9.10 Further Action. The parties each agree to cooperate fully with the other and take such further action and execute such other documents or instruments as necessary or appropriate to carry out the terms of this Agreement.

9.11 Conflicts with Guidelines. To the extent of any conflict between this Agreement and the Guidelines, this Agreement controls.

9.12 INDEMNITY. OWNER AGREES TO INDEMNIFY, DEFEND, AND HOLD COUNTY HARMLESS AGAINST AND FROM ALL LIABILITIES, DAMAGES, CLAIMS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), THAT MAY BE IMPOSED UPON OR

ASSERTED AGAINST THE COUNTY BY ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT WHETHER BY ADJUDICATION IN A COURT OR ALTERNATE DISPUTE RESOLUTION PROCEDURES. OWNER SHALL NOT BE REQUIRED TO INDEMNIFY, DEFEND, AND HOLD COUNTY HARMLESS AGAINST THIRD PARTY CLAIMS ASSERTING PROCEDURAL DEFECTS RELATING TO THE COUNTY'S ADOPTION OF THIS AGREEMENT.

[Signatures on next page.]

EXECUTED AND EFFECTIVE as of the date first written above.

Attachments:	Exhibit A	Application
	Exhibit B	Order
	Exhibit C	Designated Real Property

CALDWELL COUNTY

ATTEST

Hoppy Haden
Caldwell County Judge

Teressa Rodriguez
Caldwell County Clerk

EDC AUSTIN LLC

Scott Silverman
CFO