

The City of Joliet signed a confidentiality agreement with Hillwood during early discussions about a potential data center project. These agreements are common for large projects because they allow both sides to share sensitive business information while protecting the City's interests. The City's goal is to ensure a fair and impartial process that includes meaningful citizen involvement and reflects community values.

The City remains committed to transparency throughout the process. Reports and documents required as part of the Planned Unit Development (PUD) process will remain open for public review. The agreement is an understanding between the City and Hillwood that the City retains full decision-making authority regarding public transparency and access to information, consistent with the law.

The agreement also protects taxpayers. Hillwood must cover the City's costs, including legal fees, related to any disputes over confidential information, as long as the City acted in good faith and followed the law. The City is committed to providing the public access to the documents necessary to make an informed decision.

The City recognizes its duty to act as a fair and impartial decision-maker for all parties and understands the importance of this project to the community.

NON-DISCLOSURE AND FOIA COOPERATION AGREEMENT

This Non-Disclosure and FOIA Cooperation Agreement (this Agreement) is entered into as of January 19, 2026, by and between City of Joliet, an Illinois home rule municipal corporation (the City), and Hillwood HW Technology Park Development, LLC, a Delaware LLC (Hillwood). Each of the City and Hillwood is a Party, and collectively, the Parties.

I. Recitals

Hillwood intends to submit to the City certain non-public commercial, financial, technical, and security information in connection with a proposed data center development within the City (the Project). The City is evaluating the Project and may engage outside legal counsel and financial advisors to assist in its evaluation. The City is subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq. (FOIA), and cannot contract to withhold records contrary to law. The Parties desire to establish protocols for handling and, where consistent with FOIA, protecting Hillwood's non-public information, while preserving the City's legal obligations and discretion to comply with FOIA.

II. Definitions

Confidential Information means information that Hillwood furnishes to the City or its Representatives in connection with the Project that: (a) is marked at the time of disclosure as Confidential or bears a similar legend; or (b) is, by its nature or the circumstances of disclosure, reasonably understood to be confidential and proprietary, including non-public commercial or financial data, trade secrets, business plans, pricing, pro formas, financial models, lender or investor term sheets, customer or supplier information, technical specifications, security and infrastructure details, and similar materials. Confidential Information does not include information that: (i) is or becomes publicly available other than through breach of this Agreement; (ii) was known to the City on a non-confidential basis prior to disclosure by Hillwood; (iii) is independently developed by the City without reference to or use of Hillwood's Confidential Information; or (iv) is obtained from a third party not under a confidentiality obligation to Hillwood with respect to such information. Representatives means the City's officers, employees, elected officials, agents, and outside professional advisors, including outside legal counsel and financial advisors, engaged by or on behalf of the City in connection with the Project. For the avoidance of doubt, any confidentiality designations or submissions by Hillwood are informational and non-dispositive; the City will independently assess the applicability of FOIA exemptions in its sole discretion. Materials prepared for public deliberation, including but not limited to economic impact studies, fiscal analyses, and similar reports intended for public discussion, are not considered trade secrets or commercial or financial information under Illinois FOIA Section 7(1)(g) and will not be treated as Confidential Information under this Agreement.

III. FOIA Carve-Out; No Agreement to Withhold Contrary to Law

The City is and remains subject to FOIA and other applicable open records laws. Nothing in this Agreement requires the City to withhold records contrary to law or to violate any order of a court or directive of a governmental authority with jurisdiction. The City retains sole discretion to

determine its legal obligations under FOIA, including whether and how to assert exemptions, consistent with the terms of this Agreement.

IV. Permitted Use and Disclosure

The City and its Representatives may use Confidential Information solely for the purpose of evaluating, negotiating, administering, or implementing the Project and related public actions. The City may disclose Confidential Information to its Representatives who have a need to know for the foregoing purposes and who are subject to obligations of confidentiality at least as protective as those set forth herein. The City will instruct its Representatives to handle Confidential Information in accordance with this Agreement and will be responsible for their compliance.

V. City-Originated Materials

City-created reports, analyses, memoranda, and communications are not Confidential Information except to the extent they contain or would disclose non-public Hillwood Confidential Information. The City may disclose its own materials as required by law, with appropriate redactions.

VI. Designation and Substantiation of Confidentiality

If so requested and required under FOIA, Hillwood will designate Confidential Information at the time of disclosure and, contemporaneously with or promptly following each submission, provide a written confidentiality statement that identifies, with reasonable specificity, the portions claimed to be Confidential Information and sets forth the factual basis for confidentiality and the competitive harm that would result from disclosure. At the City's reasonable request, Hillwood will provide declarations or affidavits from knowledgeable personnel supporting such claims in a form suitable for inclusion in a FOIA response or any administrative or judicial review. Upon request, Hillwood will also provide proposed redaction logs keyed to specific record categories and tailored exemption justifications and will make knowledgeable declarants reasonably available on short notice for any administrative or judicial review.

VII. City Handling; Segregation

The City will use commercially reasonable efforts to segregate Confidential Information from public-facing materials and to prepare public summaries that avoid inclusion of granular proprietary content. The City may create privileged attorney work product or legal advice that references or relies upon Confidential Information; such materials will be maintained as privileged to the extent permitted by law.

VIII. FOIA Requests and Legal Process

If the City receives a FOIA request or other legal process that may require disclosure of Confidential Information, the City will, to the extent permitted by law, provide prompt written notice to Hillwood reasonably describing the request, the Confidential Information implicated, and the applicable response deadline. Such notice will be provided by email to the following designated contact for Hillwood: David J. Silverman, Mahoney, Silverman, & Cross, 822 Infantry Drive, Suite 100 Joliet, Illinois 60435, dsilverman@msclawfirm.com within of one (1) business day of receipt; provided that if law or a binding directive prohibits notice, the City will provide notice as soon as legally permitted. The City will consider in good faith Hillwood's timely submitted justification for applicable FOIA exemptions and will assert exemptions it determines to be applicable, including exemptions for proprietary commercial or financial information and for preliminary drafts and deliberative material. If, after considering Hillwood's justification, the City determines

that disclosure is legally required in whole or in part, the City may produce the requested records, including with redactions as appropriate. The City will not be required to commence or defend litigation to withhold records; provided, however, that Hillwood may, at its sole cost and expense, intervene, prosecute, or defend any action or proceeding to prevent disclosure of Confidential Information. The City will reasonably cooperate with Hillwood's efforts, at Hillwood's expense, to the extent such cooperation is not inconsistent with the City's legal obligations and does not unduly burden the City.

IX. Public-Facing Materials

Consistent with applicable open-meetings and notice requirements, the City will, where practicable, prepare staff reports and agenda materials that summarize requested actions without attaching or specifically identifying preliminary drafts or granular proprietary content where the City intends to assert applicable exemptions, and will use redactions as appropriate.

X. Defense and Indemnity

Hillwood will indemnify, defend, and hold harmless the City and its Representatives from and against any and all claims, demands, liabilities, damages, penalties, fee awards, costs, and expenses (including reasonable attorneys' fees and costs) arising out of or relating to any request, action, appeal, or proceeding by a third party seeking disclosure of Confidential Information, to the extent such matter is premised on (a) the confidentiality of Hillwood's information, or (b) the City's withholding or redaction of such information at Hillwood's written request and in good faith. This Section does not require the City to refuse disclosure contrary to law and does not apply to claims arising from the City's intentional misuse or unauthorized disclosure of Confidential Information in violation of this Agreement.

XI. No Public Citation of Drafts as Basis for Decision

The City will endeavor, consistent with its legal obligations, to avoid publicly citing and specifically identifying particular draft memoranda or analyses as the explicit basis for Council action where the City intends to maintain such records as exempt preliminary drafts and deliberative materials. Nothing in this Agreement restricts the City's ability to make the public disclosures required to conduct public business. The Parties acknowledge the protocol set forth in Section IX regarding public-facing materials.

XII. Return or Destruction

Upon the City's completion of its evaluation or upon Hillwood's written request, the City will, to the extent reasonably practicable, return or destroy Confidential Information in its possession other than copies retained pursuant to routine backup or records retention policies or as required by law. Any return or destruction will be subject to the Illinois Local Records Act, applicable retention

schedules, and any litigation holds. Any retained archival or backup copies will remain subject to this Agreement.

XIII. Term; Survival

This Agreement becomes effective on the date first written above and remains in effect for five years, except that obligations with respect to trade secrets will continue for so long as such information remains a trade secret under applicable law, and obligations concerning FOIA cooperation, defense, and indemnity with respect to disclosures requested during the term will survive until final resolution of such matters. The obligations regarding reimbursement of costs and fees under this agreement will likewise survive until the final resolution of the applicable request, action, or proceeding.

XIV. Reservation of Rights; No Waiver

Nothing in this Agreement waives the City's privileges, immunities, or exemptions under FOIA or other applicable law, including attorney-client privilege and attorney work product. Disclosure of Confidential Information to the City's outside counsel or advisors will not, by itself, constitute a waiver of any privilege or protection.

Nothing in this Agreement restricts or impairs the City's legislative, regulatory, or police powers or its duty to conduct public business, nor does it constitute a commitment to approve the Project, extend incentives, or take any particular governmental action.

XV. Governing Law; Venue

This Agreement is governed by the laws of the State of Illinois. Any action arising out of or relating to this Agreement will be brought in a state court of competent jurisdiction in Will County, Illinois.

XVI. Entire Agreement; Amendments

This Agreement constitutes the entire understanding between the Parties regarding the subject matter and supersedes prior or contemporaneous understandings on confidentiality and FOIA cooperation for the Project. Any amendment must be in writing and signed by both Parties.

XVII. Severability

If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions will remain in full force and effect, and the invalid provision will be deemed modified to the minimum extent necessary to be valid and enforceable.

XVIII. Counterparts; Electronic Signatures

This Agreement may be executed in counterparts, each of which is deemed an original, and all of which together constitute one instrument. Signatures delivered electronically or by PDF will be deemed original.

XIX. Signatures

City of Joliet


By: 

Name: Beth Beatty

Title: City Manager

Date: 2/5/2026

Hillwood

By: 

Name: Don Schoenheider

Title: Executive Vice President

Date: FEB. 5, 2026