

When recorded, return to:

Chandler City Clerk
P. O. Box 4008, MS 606
Chandler, AZ 85244-4008

SUSTAINABLE WATER SERVICE AGREEMENT

This Sustainable Water Service Agreement (“Agreement”), effective on the ____ day of _____, 2025 (the “Effective Date”), is entered into by and between the City of Chandler, an Arizona municipal corporation (“City”) and Digital 2121 South Price, LLC, a Delaware limited liability company, (“Owner”). This Agreement may refer to City and Owner individually as a “Party” or collectively as the “Parties”.

RECITALS

A. Owner owns property located at 2121 S. Price Road in Chandler, Maricopa County, Arizona, as legally described in the attached **Exhibit “A”** (the “Property”).

B. In 2015, Owner completed improvements on the Property and is operating a data center on the Property.

C. Owner desires to further improve the Property and expand its water use.

D. Chandler City Code Chapter 52-45(A) limits all new Water uses within the city to those that will not exceed the then-existing Tier I Water Use Allocation adopted by the city council.

E. Owner’s current and proposed Water usage exceeds the current Tier I Water Use Allocation for the Property.

F. Owner has filed a Sustainable Water Service Application, and the Director of Public Works & Utilities has determined that the Property is eligible for a Tier II and a Tier III Water Use Allocation subject to the terms and conditions of this Agreement.

G. The Chandler City Council has authorized the delivery of Tier II Water to the Property subject to the terms and conditions of this Agreement.

H. The Chandler City Council has authorized the acquisition and delivery of Tier III Water to the Property subject to the terms and conditions of this Agreement.

WHEREFORE, the Parties agree as follows:

AGREEMENT

1. The foregoing recitals are incorporated by reference into this Agreement.

2. Capitalized words or phrases not specifically defined in this Agreement shall have the same meaning provided under Chandler City Code Chapter 52, Article VI. In any conflict between this Agreement and Chandler City Code, the provisions of this Agreement shall control.

3. The Parties agree that Owner's current water use averages 334 acre-feet per year (af/yr).
4. City agrees to allocate 235,172 gallons per day (gpd) of Tier II Water to the Property.
5. Within 30 days of the Effective Date, Owner shall deposit the sum of \$8,474,050 with the City for the purpose of acquiring Tier III Water to be allocated to the Property. City shall not use the funds deposited by Owner for any other purpose and shall reimburse Owner any funds remaining after completing acquisition of the Water as provided in this Agreement.
6. City agrees to acquire 13,037 af of long-term storage credits for a 100-year supply of Tier III Water to be allocated to the Property at a price not to exceed \$650 per af. City shall use its best efforts to secure the best price per acre-foot. City shall own and control the long-term storage credits acquired under this Agreement but shall use them to deliver Tier III Water to the Property.
7. The Property shall be limited to no more than 464.4 af/yr (414,643 gpd) of Water consisting of 63,080 gpd of Tier I Water, 235,172 gpd of Tier II Water, and 116,391 gpd of Tier III Water based on a rolling three-year average of water use ("Maximum Water Use").
8. Penalties for an exceedance of the Maximum Water Use at the Property shall be as provided under Chandler City Code Chapter 52, Article VI.
9. In addition to the penalties provided under Chandler City Code Chapter 52, Article VI, Owner shall pay a penalty of \$10,000 for each acre-foot by which Owner exceeds the Maximum Water Use at the Property. Such penalty shall be due and payable within 90 days of City's delivery of a notice of exceedance to Owner.
10. In addition to the penalties provided under Chandler City Code Chapter 52, Article VI and Section 6 of this Agreement, upon three or more annual exceedances of the Maximum Water Use at the Property within any five-year period, City shall have the right to terminate the Property's Tier III allocation upon 60 days' written notice to Owner. Upon termination, the allocation of Tier III Water to the Property shall be forfeited in its entirety and the Property will be limited to its Tier I and Tier II Water Use Allocation. Penalties for exceedance of the Property's Tier I and Tier II Water Use Allocation shall be as provided in this Agreement.
11. Owner agrees to pay all applicable fees and charges associated with City's delivery of Water to the Property, and to comply with the provisions of Chandler City Code Chapter 52 for the design, permitting, installation, and inspection of the water meter and other infrastructure necessary for City to deliver Water to the Property.
12. The Tier II Water Use Allocation provided for in this Agreement shall be valid for a period of 100 years from the Effective Date. The Tier II Water Use Allocation may not be transferred or assigned to another Owner without the written approval of City; however, Owner may transfer or assign the rights and obligations under this Agreement to a corporate subsidiary or affiliate upon written notice to City. Owner shall remain liable for the performance of Owner's obligations under this Agreement following any transfer or assignment that is made without City's written approval.
13. The Tier III Water Use Allocation provided for in this Agreement shall be valid for a period of 100 years from the Effective Date. The Tier III Water Use Allocation may not be

transferred or assigned to another Owner without the written approval of City; however, Owner may transfer or assign the rights and obligations under this Agreement to a corporate subsidiary or affiliate upon written notice to City. Owner shall remain liable for the performance of Owner's obligations under this Agreement following any transfer or assignment that is made without City's written approval.

14. Nothing in this Agreement alters the penalties for violation of any other provision of City Code relating to water usage nor does this Agreement alter the penalties for nonpayment of Water delivery charges.

15. In the event of any default under this Agreement, the Parties shall have all remedies available at law or in equity. The prevailing Party in any legal dispute under this Agreement, except an enforcement action under Chapter 52, Article VI, shall have the right to recover its reasonable attorneys' fees and costs. No waiver shall arise out of any Party's failure to enforce its rights under this Agreement.

16. A Party shall not be considered in default in the performance of its obligations under this Agreement (other than the obligation to make payments when due) if the failure to perform is due to any of the following circumstances beyond the reasonable control of the affected Party: failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, action or non-action by or failure to obtain necessary authorizations or approvals from any governmental agency, or restraint by court order, law, or regulation, which the affected Party is not able to overcome by exercise of due diligence. A Party unable to perform by reason of such an uncontrollable circumstance shall notify the other Party and shall exercise due diligence to resolve the uncontrollable circumstance with all reasonable speed.

17. The person signing on behalf of Owner represents and warrants that they are duly authorized to enter into this Agreement and empowered to bind Owner to this Agreement.

18. This Agreement shall be governed by and construed under the laws of the State of Arizona.

19. In the event that any phrase, clause, sentence, paragraph, or other portion of the Agreement shall be illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permissible by law and the Parties will negotiate diligently in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

20. All notices, demands or other communications given under this Agreement shall be in writing and shall be deemed to have been delivered upon personal delivery or as of the third business day after mailing by United States Certified Mail, postage prepaid, return receipt requested, addressed as follows:

To City: Director of Public Works & Utilities
 P. O. Box 408, MS 905
 Chandler, AZ 85244-4008

Copy to: City Attorney
City of Chandler
P. O. Box 4008, MS 602
Chandler, Arizona 85244-4008

To Owner: General Counsel's Office
2323 Bryan St., Suite 1800
Dallas, TX 75201
legalnotices@digitalrealty.com

Copy to: Snell & Wilmer
W. Staudenmaier
One E. Washington St., Suite 2700
Phoenix, AZ 85004-2556
wstaudenmaier@swlaw.com

A Party may change its address for receipt of notice by providing written notice as provided in this Section.

21. This Agreement constitutes the entire agreement between the Parties concerning the subject matter of the Agreement. This Agreement may not be amended except in a writing signed by the Parties.

22. City shall record this Agreement in the Records of the Maricopa County Recorder.

23. This Agreement is subject to cancellation for conflict of interest under A.R.S. § 38-511.

[SIGNATURES ON NEXT PAGE]

EXHIBIT A

Legal Description

A portion of the Northeast quarter of the Northwest quarter of Section 7, Township 2 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the North quarter corner of said Section 7;

Thence South 00 degrees 30 minutes 57 seconds West (an assumed bearing), along the East line of the Northeast quarter of the Northwest quarter of said Section 7, a distance of 33.00 feet, to the POINT OF BEGINNING;

Thence continuing South 00 degrees 30 minutes 57 seconds West, a distance of 1,284.00 feet, to the Southeast corner of the Northeast quarter of the Northwest quarter;

Thence North 89 degrees 59 minutes 54 seconds West, along the South line of the Northeast quarter of the Northwest quarter of said Section 7, a distance of 1,257.53 feet, to the East line of the West 65.00 feet of the Northeast quarter of the Northwest quarter of said Section 7;

Thence North 00 degrees 30 minutes 03 seconds East, along the East line of the West 65.00 feet of the Northeast quarter of the Northwest quarter of said Section 7, a distance of 1,247.56 feet;

Thence North 45 degrees 15 minutes 05 seconds East, a distance of 28.41 feet;

Thence East, along the South line of the North 50.00 feet of the Northeast quarter of the Northwest quarter, a distance of 115.43 feet;

Thence North, a distance of 17.00 feet, to the South line of the North 33.00 feet of the Northeast quarter of the Northwest quarter of said Section 7;

Thence East, along the South line of the North 33.00 feet of the Northeast quarter of the Northwest quarter of said Section 7, a distance of 1,122.59 feet, to the POINT OF BEGINNING;

EXCEPTING therefrom:

The South 500 feet of the Northeast quarter of the Northwest quarter of said Section 7.