

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is dated 3/5/2024, 2024, and

entered into by and between the CITY OF BROOKINGS, SOUTH DAKOTA (“City”), and 3M Company, by and through its Health Care Business Group (Solventum Corporation), a manufacturer with operations located within the city limits of the City of Brookings (“Developer or 3M/Solventum”) (collectively, the “Parties”).

WHEREAS, the purpose of this MOU is to define the roles and responsibilities of the City of Brookings (City) and 3M / Solventum; and

WHEREAS, 3M / Solventum has proposed an expansion on the existing manufacturing plant located within the City of Brookings; and

WHEREAS, the Developer’s intentions are to further expand its first and largest healthcare manufacturing facility. The expansion will consist of 16 additional shipping docks, an 8,000 slot warehouse, 200,000 square feet of manufacturing space, as well as a laboratory and office space; and

WHEREAS, both parties recognize that the infrastructure project associated with this private / public partnership will benefit the community through industrial development; and

WHEREAS, certain project costs incurred in the expansion of the existing plant would constitute Tax Increment Financing (“TIF”) project costs that would be eligible for reimbursement under SDCL Chapter 11-9; and

WHEREAS, the Developer intends to request the creation of a TIF District for this project and request reimbursement of TIF eligible project costs through the City of Brookings; and

WHEREAS, the goal of the Tax Increment District, as will be more fully described in the TIF Project Plan, is to promote development that creates tax increment to assist Developer with certain of the project costs and to assist the City with its public improvements.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Property Location. The 3M / Solventum manufacturing facility is currently located within the City of Brookings, and is located on the eastern side of the City of Brookings and just west of Interstate 29.

2. TIF Eligibility. Industrial development within a city is an authorized use of tax increment under SDCL Chapter 11-9. Further developing and expanding the 3M / Solventum manufacturing facility industrial property is expected to promote economic development within the City. It will also conform to the standards of the comprehensive plan of the City in order to

provide for the expansion of a significant manufacturing facility in the City of Brookings.

3. Project Costs and Reimbursable Project Costs. The Developer anticipates the project costs in acquiring, developing, financing and preparing the TIF Property for development will qualify for reimbursement within the meaning of SDCL § 11-9-14 and SDCL § 11-9-15. Developer anticipates requesting reimbursement of those eligible reimbursement costs that relate to site work, street and utility build-out, and engineering, together with financing costs and imputed interest expense. The City Council will consider the TIF project costs requested, and will determine the extent of approved TIF project costs. The amount and terms of reimbursement will be determined through a Development Agreement to be mutually agreed upon between the City and Developer. Per SDCL 11-9-15 (8), the City will convey this amount in the form of a grant with terms and conditions to be set forth in the Development Agreement.

Given that the expansion will be phased in, and it is too early to estimate the build out schedule, the Developer is requesting this MOU to help set forth the understanding of the Parties, secure the overall project financing and support the performance of more due diligence with respect to TIF eligible costs.

Under SDCL 11-9-25 the maximum duration of the Tax Increment District is 20 years from the year of creation of the TIF District or until the approved TIF amounts have been reimbursed.

Developer agrees to supervise the construction of the Project and use commercially reasonable efforts to cause the construction to be performed substantially in accordance with the Project Plan and the plans and specifications approved by the City. Developer also agrees to provide periodic reports of such construction to City upon reasonable request.

The City will designate this Tax Increment District as an annual appropriation TIF, thus not counting against the Constitutional Debt of the City.

4. Financing of the Project. The cost of the Project and Public Infrastructure Improvements and all other improvement expenses associated with the Project shall be through the use of Developer's own capital or through commercial or private construction loans/lines of credit secured solely by Developer. Developer may use any or part of the TIF Property as collateral for the construction loan or loans as required for the financing of the Project. **THE AVAILABLE TAX INCREMENT FUND PAYMENTS MADE TO DEVELOPER ARE NOT INTENDED TO REIMBURSE DEVELOPER FOR ALL OF ITS COSTS INCURRED IN CONNECTION WITH PERFORMING ITS OBLIGATIONS UNDER THIS MOU.**

The projected development costs that will be presented at a later date in a formal TIF application will be considered preliminary but developed on the good-faith estimate of the Developer following the due diligence completed by Developer. Prior to bringing the proposed TIF to the City Planning Commission, the Parties will further delineate the project costs, TIF eligible project costs and requested reimbursable project costs for the development of the TIF Property. If a TIF is approved along the parameters outlined above, Developer will waive its right to participate in any city tax abatement programs during the duration of the TID.

5. Property and TIF Development Process. Developer will develop a TIF proposal for presentation to the City Planning Commission. The City's staff will be available to review and provide Developer with comments as Developer prepares its TIF proposal. During this period, Developer will continue to work with City staff and leadership concerning the project and site plans. Prior to the City Council consideration of the TIF application, the Developer will draft the TIF project plan and an associated development agreement for City review and approval. The TIF Project Plan and Development Agreement ("Development Agreement") will outline the duties, rights, respective financial commitments, and responsibilities of the Parties in connection with the development of the Property. The milestone events and dates the parties will attempt to achieve in the development of the TIF and project will be determined before any formal action is requested. The creation of the TIF requires the approval of the City Council. No representation is made by virtue of this Memorandum that the City Council will approve the TIF or the amount of TIF approved project costs, or the creation of a contractual or debt obligation.

6. Revenue Share from Positive Tax Increment. City and Developer will participate in a revenue share agreement from the total positive tax increment derived from the proposed Tax Increment District. The percentages of the revenue shares of each party will be defined in the Development Agreement.

7. Cooperation with State and Federal Agencies. Some of the project's costs may be eligible for State or Federal grants. Typically speaking, to apply for these grants requires the local government to be the applicant. The City and Developer will work jointly on these applications with the intent that First District may be retained to minimize the time the City would have to dedicate. The Developer will research potential grants and inform the City of the requirements for grant applications. All associated administrative costs will be reimbursed to the City, if applicable.

8. Assignment, Counsel, Reliance and Severability

- a. Prohibition Against Assignment and Delegation of Duties. No rights under this MOU may be assigned and no duties under this MOU may be delegated without the prior written consent of the Party who is not seeking assignment or delegation, and any attempted assignment or delegation without such consent shall be void. Notwithstanding the foregoing, either Party may assign this MOU, in whole or in part, to an affiliate or subsidiary, or to an acquirer or successor in interest, including, without limitation, Developer's assignment in connection with Developer's spinoff of its healthcare business, without the prior written consent of the other Party.
- b. Independent Advice. Each Party hereby represents and warrants that in executing this MOU it does so with full knowledge of the rights and duties it may have with respect to the other. Each Party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this MOU and the rights and duties arising out of this MOU.
- c. Reliance on Representations. Each party hereby represents and warrants that all representations and statements made concerning the subject matter of this MOU are or were materially true at the time conveyed.

d. Severability. Should any provision herein be found or deemed to be invalid, this MOU shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect. To this end, the provisions of this MOU are declared to be severable.

9. Entire Agreement. This MOU is the entire agreement of the parties. There are no understandings or agreements pertaining to this MOU except as are expressly stated in writing in this MOU or in any document attached hereto or incorporated herein by reference.

10. Material, Terms, Waiver and Counterparts

- a. Materiality. The parties consider each and every term, covenant, and provision of this MOU to be material and reasonable.
- b. Waiver. Waiver by either party of a breach of any covenant of this MOU will not be construed to be a continuing waiver of any subsequent breach. A Party's failure to immediately address a violation of a covenant does not waive its right to enforce any covenant of this MOU. The parties shall not waive any provisions of this MOU unless the waiver is in writing and signed by all parties.
- c. Authority and Capacity. The City and 3M / Solventum signatories each warrant and represent that each has full authority and capacity to enter into this MOU.
- d. Counterparts. This MOU may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one MOU.

11. Miscellaneous.

- a. The Development Agreement, when and if it is approved by the Parties, shall be governed and construed in accordance with the laws of the State of South Dakota.
- b. All parties agree to negotiate in good faith using commercially reasonable efforts to achieve the outcomes set forth in this MOU.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the date set forth above.

CITY:  
CITY OF BROOKINGS

DEVELOPER:  
3M COMPANY / SOLVENTUM CORPORATION

By: \_\_\_\_\_

By  \_\_\_\_\_  
4EB5536D6C08468

Its: \_\_\_\_\_

Its: Senior Vice President  
\_\_\_\_\_

ATTEST:  
City Clerk