



AlaFile E-Notice

01-CV-2026-902109.00

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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

MADELYN GREENE ET AL V. NEBIUS, INC. ET AL
01-CV-2026-902109.00

The following complaint was FILED on 5/25/2026 11:52:05 AM

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IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION

MADELYN GREENE, individually and as the)
 proposed representative of a class of all residential)
 property owners in the affected area defined herein.)

Plaintiff,)

v.)

CIVIL ACTION NO.: 26-CV-902109

NEBIUS, INC.; NEBIUS GROUP N.V.;)

THE CITY OF BIRMINGHAM, ALABAMA;)

TRIAL BY JURY DEMANDED

THE ZONING BOARD OF ADJUSTMENT)

OF THE CITY OF BIRMINGHAM;)

ALABAMA ADC HOLDINGS LLC; and)

FICTITIOUS DEFENDANTS A, B, C,)

D, and E, being those persons,)

firms, corporations, limited liability)

companies, partnerships, or other)

entities that are the owners, lessees,)

developers, operators, applicants,)

affiliates, subsidiaries, parents, or)

agents of the proposed AI computing)

campus and associated power)

substation and switching station)

at 201, 250, and 260 Milan Parkway)

and 2500 Venice Road, Birmingham,)

Alabama, whose true names and)

legal identities are presently unknown)

to Plaintiff but will be substituted)

by amendment when ascertained,)

Defendants.)

**FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES,
 DECLARATORY JUDGMENT, AND PRELIMINARY
 AND PERMANENT INJUNCTIVE RELIEF**

COMES NOW the Plaintiffs, Madelyn Greene and David Butler, individually and as the proposed representatives of a class of all residential property owners in the affected area defined herein (“Plaintiffs”), by and through undersigned counsel, and for their First Amended Class Action Complaint against Defendants, The City of Birmingham, Alabama (the “City”); the Zoning Board of Adjustment of the City of Birmingham (the “ZBA” or “Board”); Nebius, Inc.; Nebius Group N.V. (Nebius, Inc. and Nebius Group N.V. are collectively referred to as “Nebius”); Alabama ADC Holdings LLC (“Alabama ADC”); Hoar Construction, LLC (“Hoar”); Raeden RE, LLC (“Raeden RE”); 201 Milan Birmingham, LLC (“201 Milan Birmingham”); Lakeshore Data Center, LLC (“Lakeshore Data Center”); and Fictitious Defendants A through E (collectively with Nebius, Alabama ADC, Hoar, Raeden RE, 201 Milan Birmingham, and Lakeshore Data Center, the “Developer Defendants”), respectfully states as follows:

PREFATORY NOTE. This First Amended Class Action Complaint is filed pursuant to Rule 15(a), Ala. R. Civ. P.. It is filed as a matter of course before any responsive pleading has been served. The amendments incorporated herein are: (i) the addition of Raeden RE, LLC, 201 Milan Birmingham, LLC, and Lakeshore Data Center, LLC as named Developer Defendants; (ii) the addition of factual allegations describing the September 30, 2025 acquisition cascade evidenced by six recorded statutory warranty deeds in the Office of the Judge of Probate of Jefferson County, Alabama; (iii) the addition of factual allegations describing the City of Birmingham’s public moratorium process that began with the City’s December 16, 2025 press release and the Developer Defendants’ conduct in response to it; (iv) the expansion of the permit-cascade allegations to capture six separate Project-related permits with disclosed permit fees totaling **\$34,866,222.53**; (v) the addition of three new Counts (Counts IX, X, and XI); (vi) the narrowing of the Class definition to natural persons who are citizens of the State of Alabama and who reside at their residential

property in the Affected Area as their primary residence; and (vii) the addition of explicit factual findings supporting the local-controversy exception under 28 U.S.C. § 1332(d)(4)(A) and the citizenship of each Alabama-citizen Defendant.

I. INTRODUCTION

1. This is a class action brought by Madelyn Greene and David Butler, individually and on behalf of all residential property owners in the affected area, to halt and recover damages arising from the unlawful authorization and ongoing construction of a 300-megawatt, twenty-four-hour, seven-day-per-week hyperscale artificial intelligence (“AI”) computing campus, together with a dedicated industrial power substation and high-voltage switching station, on a multi-parcel, approximately 79.33-acre assemblage located at 201, 250, and 260 Milan Parkway and 2500 Venice Road in the Oxmoor Valley area of Birmingham, Alabama (the “Project”).
2. Plaintiffs seek, individually and on behalf of the proposed Class: (a) compensatory damages for diminution in property value, loss of use and enjoyment, emotional distress and other harms caused by the Project; (b) a declaratory judgment that the Project is unlawful under the Birmingham Zoning Ordinance and Alabama law; and (c) preliminary and permanent injunctive relief halting the Project pending compliance with the law.
3. The Project involves multiple independently fatal zoning violations, any one of which warrants the relief requested, all of which were committed against the backdrop of (i) an orchestrated September 30, 2025 acquisition cascade through three Raeden-affiliated holding companies that booked the Project’s land basis at \$90 million while only \$20 million was paid to the actual third-party sellers, and (ii) a publicly noticed City

moratorium process the Developer Defendants knew about from December 16, 2025 forward, raced to outrun, and ultimately treated as no impediment to their continued post-denial permit-filing campaign.

4. **First**, the demolition of the pre-existing Regions Bank Lakeshore Operations Center on the anchor parcel at 201 Milan Parkway has extinguished any prior-use entitlement on which the Developer Defendants might rely. Under Chapter 9, Article VII, Section 3.A.3 of the Birmingham Zoning Ordinance, a legal nonconforming use “may not be structurally altered, reconstructed, enlarged, structurally altered or extended to extend the useful life of the use or structure without a variance granted by the Board.” Under Section 4.B of the same Article, any commercial structure damaged “to the extent that the repair of that building or structure is valued at 50 percent or more of its current assessed or appraised value, shall not be restored except in conformity with the regulations of this Ordinance unless a variance is granted for this repair by the Board.” Total demolition exceeds the 50% threshold by definition. No variance has been sought or granted. Whatever entitlement the Developer Defendants claim to inherit from the prior use died with the prior building.
5. **Second**, the property on which the Project is being constructed is zoned MXD (Planned Mixed Use District), a process-intensive, community-sensitive classification. The MXD district requires a Council-approved Conceptual Plan, Development Guidelines, and Development Plans, and strictly regulates the intensity and character of permitted uses. A 300-megawatt industrial AI computing campus—with cooling towers, generator arrays, high-voltage transmission infrastructure, and continuous industrial operations—is not a permitted use within the MXD classification as applied to the Site. The change in use group intensity from Commercial Use Group 2 (general office) to a 300-megawatt continuous

industrial operation represents an intensity increase of approximately 1,500% on the energy axis alone, before accounting for water draw, generator capacity, or twenty-four-hour operation. Any such substantial change in use group intensity required a Conceptual Plan amendment under Chapter 4, Article V, Section 7, Subsection 3.D of the Ordinance, adopted only after public hearings before the Zoning Advisory Committee (“ZAC”) and the Birmingham City Council. No such amendment has been adopted.

6. **Third**, and independently, the power substation and switching station that the Project requires fall squarely within the Birmingham Zoning Ordinance’s definition of “Utility Substation” and therefore required approval by the Zoning Board of Adjustment through the special exception process. Nebius filed two such special exception applications with the ZBA: Case No. ZBA2026-00007 (power substation) and Case No. ZBA2026-00006 (switching station). Both applications were heard by the Board on March 26, 2026, and both were denied as a matter of law because neither received the two-thirds (2/3) concurring vote required by Section VII(h) of the ZBA Rules of Procedure and by Ala. Code § 45-37A-56(b) (1975). The applicant did not timely appeal either denial. The denials are final, binding, and res judicata.
7. **Fourth**, the Developer Defendants have engaged in a coordinated post-denial permit-filing campaign that exposes the Project to additional independent legal challenges. Six separate Project-related permits, with disclosed permit fees totaling **\$34,866,222.53**, have been applied for or issued in connection with the Project, the bulk of which were applied for or issued after the City’s December 16, 2025 public notice of the proposed data center moratorium and after the ZBA’s March 26, 2026 denials. A single Phase 2 building permit (BLD2026-00724), with disclosed fees of **\$24,526,632.53**, was applied for on April 10,

2026—thirty-eight days after the moratorium took effect on March 3, 2026—and is therefore a separate post-moratorium application that does not fall within the moratorium’s filing-date carve-out and is not exempted from any data center ordinance subsequently adopted by the City Council.

8. **Fifth**, and underlying all of the foregoing, the Project Site was acquired on September 30, 2025 through an orchestrated cascade of six separate statutory warranty deeds recorded in the Office of the Judge of Probate of Jefferson County, Alabama within a 25-hour window. The cascade moved each parcel of the Site through one or two intermediate Raeden-affiliated holding entities—Lakeshore Data Center, LLC and 201 Milan Birmingham, LLC—before reaching the ultimate Nebius affiliate, Alabama ADC Holdings LLC. The third-party sellers (Regions Bank and U.S. Steel Corporation) received, in the aggregate, approximately **\$20,000,000** in the cascade. Alabama ADC Holdings LLC paid, in the aggregate, approximately **\$90,000,000** in the cascade. The difference—approximately **\$67,500,000** in intra-cascade markup—was captured by the Raeden-affiliated intermediate entities in the same single 25-hour recordation window. On the anchor parcel (Lot 1-A, the former Regions Lakeshore Operations Center campus), the cascade moved the parcel from a **\$17,200,000** sale by Regions Bank to a **\$27,000,000** resale sixteen minutes later, to a final **\$83,500,000** conveyance to the Nebius affiliate fifty-five minutes after that—a 385% markup over the third-party seller’s price within the same legal day. The **\$90,000,000** figure publicly cited by the Developer Defendants to characterize the scale of their investment is, to the extent of approximately **\$67,500,000**, an internal markup that did not pay any third-party seller, did not finance the Site itself, and did not produce any verifiable contribution to the Project’s economic substance.

9. **Sixth**, the Project advanced under the cover of an internal advisory memorandum that purported, after the fact, to rewrite the ZBA’s March 26 denials. On April 9, 2026, the Birmingham City Attorney issued the “Jurisdictional Memorandum,” purporting to determine—after the denials—that the substation and switching station were not “Utility Substations” under the Ordinance. That post-denial reinterpretation is legally unsound, contradicted by the engineering reality of how the proposed facilities operate, and exceeds the City Attorney’s advisory function. The City Attorney has no independent authority to determine the scope of the Board’s jurisdiction or to declare that matters are outside its purview—that interpretive authority is vested by the Ordinance and by Ala. Code § 45-37A-56 (1975) in the ZBA itself. An internal advisory memorandum is not a substitute for the judicial review process prescribed by Ala. Code § 11-52-81 (1975).

10. **Seventh**, on March 3, 2026, the Birmingham City Council unanimously adopted Ordinance No. 26-25, a six-month moratorium on new large data center applications (those exceeding twenty (20) megawatts). The moratorium’s stated purpose was to allow the City to develop “clear rules and guardrails” for hyperscale data centers—an admission that no such rules currently exist. The moratorium was not a March 3 surprise: the City had publicly announced the proposed moratorium by official press release on December 16, 2025, and held the first public hearing on January 13, 2026. The City Council made a discretionary legislative choice to write Ordinance No. 26-25 to exempt applications filed before its effective date; it was under no legal obligation to do so. The City Attorney has expressly confirmed in writing that the moratorium exemption “does not approve any specific project. It only allows those who started the process of regulatory review to continue without an appeal to Council.” Nebius held no vested rights at the time the moratorium was

being considered and adopted; its review process had not been completed, no Conceptual Plan amendment had been adopted, no special exception had been granted, and the City Attorney had not yet issued the April 9, 2026 Jurisdictional Memorandum.

11. The Project is no longer hypothetical. The pre-existing Regions Lakeshore Operations Center has been demolished. The Site is presently being regraded by Hoar Construction. The City of Birmingham has issued six separate Project-related permits with disclosed fees totaling **\$34,866,222.53**, including a Phase 2 building permit (BLD2026-00724) with disclosed fees of **\$24,526,632.53** issued April 27, 2026, in connection with the Project. Each day the Project advances inflicts further irreversible harm on the Site, on Plaintiffs' property, and on the property and quality of life of every member of the proposed Class.

12. Plaintiffs and the Class they seek to represent are residential property owners whose homes lie within the geographic area that will be measurably and adversely affected by the Project. Their properties have already suffered, and will continue to suffer, market-recognized diminution in value as the Project advances toward operation. They are presently exposed to construction-phase nuisance harms—dust, noise, vibration, truck traffic, and altered drainage and topography—and will, upon operation, be exposed to ongoing nuisance harms from cooling towers, transformer hum, backup-generator testing and operation, light pollution, electromagnetic interference, water and electrical infrastructure stress, and the wholesale industrialization of a corridor that the City's own Planning Director has acknowledged was not regulated for such use.

II. PARTIES

13. Plaintiffs Madelyn Greene and David Butler are adult resident citizens of Jefferson County, Alabama. They own and reside at a single-family residence within the geographic area defined herein as the Affected Area. Plaintiffs' residences are located within auditory, visual, and environmental impact range of the Project. The Plaintiffs bring this action individually and as the proposed Class Representatives on behalf of all citizen residential property owners in the Affected Area.
14. Defendant The City of Birmingham, Alabama (the "City"), is a municipal corporation organized and existing under the laws of the State of Alabama, located in Jefferson County, Alabama. The City is an Alabama citizen for purposes of 28 U.S.C. § 1332. The City is the local governmental entity responsible for enforcing the Birmingham Zoning Ordinance, for issuing building permits and other development approvals, and for ensuring that all land uses within its corporate limits comply with applicable law. The City, through its Department of Planning, Engineering and Permits ("PEP"), issued each of the six Project-related building, demolition, grading, and earthwork permits identified in paragraph 103 hereof, with disclosed permit fees totaling **\$34,866,222.53**. **The City has a direct, substantial, and ongoing financial interest in the Project.** The City collected, or stands to collect, the **\$34,866,222.53** in permit fees, including the **\$24,526,632.53** fee on the Phase 2 Building Permit (BLD2026-00724), issued by the City on April 27, 2026. The City stands to collect substantial ad valorem and other tax revenues on the Project once operational. The City's coordinated, expedited processing of post-denial Project permits—including the April 27, 2026 same-day triple issuance and the April 28, 2026 same-day issuance of the Electrical permit—demonstrates that the City has aligned its administrative apparatus to advance the Project notwithstanding the absence of lawful zoning authority. Through its

City Attorney, the City issued the April 9, 2026 Jurisdictional Memorandum challenged herein, the legal effect of which is dispositive of the substantive zoning questions in this case. **The City is a significant Defendant from whom significant declaratory and injunctive relief is sought, and the City's alleged conduct forms a significant basis for the claims asserted herein.**

15. Defendant The Zoning Board of Adjustment of the City of Birmingham (the "ZBA") is a body created and empowered under Ala. Code §§ 11-52-80 and 45-37A-56 (1975) and the Birmingham Zoning Ordinance to hear and decide applications for variances, special exceptions, and appeals from administrative zoning determinations. The ZBA is an Alabama citizen for purposes of 28 U.S.C. § 1332. The ZBA held the public hearings on the special exception applications that are the subject of this action and entered the March 26, 2026 denials. **The ZBA is a significant Defendant from whom significant declaratory and injunctive relief is sought, and the ZBA's alleged conduct forms a significant basis for the claims asserted herein.**

16. Defendant Nebius Group N.V. is a public limited company (*naamloze vennootschap*) organized under the laws of the Netherlands, headquartered in Amsterdam, and publicly traded on the NASDAQ under the ticker symbol "NBIS." Nebius is the ultimate parent entity of the Nebius group of companies, which has publicly announced the Project and appeared through representatives before the ZBA in connection with the applications for the power substation and switching station.

17. Nebius, Inc. is a Delaware corporation associated with the Nebius group of companies.

Nebius, Inc. purports to have an ownership interest in the Site made the basis of this litigation and purports to be associated with the Project.

18. Defendant Alabama ADC Holdings LLC (“Alabama ADC”) is a Delaware limited liability company registered or required to be registered to do business in Alabama and is an affiliate of Nebius. Alabama ADC acquired the four parcels comprising the Site on or about September 30, 2025 (effective date), as evidenced by three recorded statutory warranty deeds recorded in the Office of the Judge of Probate of Jefferson County, Alabama, as Inst. Nos. 2025089775, 2025089776, and 2025089777, for an aggregate consideration paid by Alabama ADC of approximately **\$90,000,000**. The tax-notice addresses on the deeds direct tax notices to Nebius, Inc., 10 State Street, Newburyport, MA 01950, Attention: Victoriya Vidma, confirming Alabama ADC’s affiliation with Nebius. Alabama ADC holds legal title to the four parcels comprising the Site and is the development entity through which the Project is being implemented in Alabama.

19. Defendant Hoar Construction, LLC (“Hoar”) is an Alabama limited liability company with its principal place of business at Two Metroplex Drive, Suite 400, Birmingham, Alabama 35209. Hoar is an Alabama citizen for purposes of 28 U.S.C. § 1332. Hoar is the general contractor performing all demolition, grading, site preparation, and construction work on the Site in furtherance of the Project. Hoar is the named recipient and the operating user of each of the six Project-related building, demolition, grading, and earthwork permits identified in paragraph 103 hereof, with disclosed permit fees totaling **\$34,866,222.53**. Hoar applied for, paid the fees on, and is presently exercising the rights conferred by each of those permits. Hoar is continuously mobilized at the Site, operates heavy equipment and

supervises subcontractors on a daily basis at the Site, directs and controls the physical alteration of the Site, and is the principal cause of the construction-phase nuisance and trespass injuries alleged in Counts V and VI hereof. **Hoar is a significant Defendant from whom significant relief is sought, and Hoar's alleged conduct forms a significant basis for the claims asserted herein. Hoar is not a mere nominal participant in the Project or an arm's-length independent construction contractor; Hoar is part and parcel of the entire scheme alleged in this First Amended Complaint.** The facts pled herein support that characterization on multiple independent grounds. **First**, Hoar shares its principal place of business address — Two Metroplex Drive, Suite 400, Birmingham, Alabama 35209 — with Defendant Lakeshore Data Center, LLC, the Alabama-citizen single-purpose holding entity that served as an intermediate grantee in the September 30, 2025 acquisition cascade described in paragraphs 43 through 47 hereof. The shared address is probative of common control, common management, common direction, and concerted conduct between Hoar and Lakeshore Data Center that exceeds any ordinary contractor-developer relationship. **Second**, Robert O. Burton, the natural person who signed the deeds by which Lakeshore Data Center acquired and immediately conveyed Lot 1-A in the September 30–October 1, 2025 acquisition cascade (Inst. Nos. 2025089695 and 2025089723), and the natural person who signed the December 30, 2025 Articles of Dissolution purporting to dissolve Lakeshore Data Center, is also the Chief Executive Officer of Defendant Hoar Construction, LLC. Robert O. Burton's simultaneous service as Manager of Lakeshore Data Center and as Chief Executive Officer of Hoar Construction is the strongest possible evidence that Hoar and Lakeshore Data Center are not independent counterparties in an arm's-length transaction but are commonly controlled, commonly

directed instrumentalities of the same scheme, operating from the same office address under the direction of the same individual. **Third**, Hoar applied for, paid the disclosed permit fees on, and is presently operating under six separate Project-related permits with aggregate disclosed permit fees of **\$34,866,222.53**, the bulk of which were applied for or issued after the City's December 16, 2025 public notice of the proposed data center moratorium and after the March 26, 2026 ZBA denials of Case Nos. ZBA2026-00007 and ZBA2026-00006. Hoar's post-notice and post-denial permit-filing acceleration is itself a component step of the scheme alleged herein and is not the conduct of a neutral construction contractor mechanically processing paperwork supplied by an owner. **Fourth**, Hoar is the sole entity physically present on the Site, physically demolishing the prior structure, physically grading and excavating the four-parcel assemblage, physically operating heavy equipment, physically supervising the subcontractors, and physically causing every dust, noise, vibration, light, particulate, and electromagnetic intrusion that gives rise to the construction-phase nuisance and trespass claims pled in Counts V and VI hereof. Without Hoar, there is no Project on the ground. Hoar is not merely one defendant among many — Hoar is the sole physical actor by which the Project advances day-to-day. The construction-phase injuries to Plaintiffs and the Class are not attributable to Nebius or to any other out-of-state Defendant through any theory of imputed conduct; they are the direct, immediate, and exclusive consequence of Hoar's own physical acts on the Site. **Fifth**, every member of the proposed Class has and will continue to have direct claims against Hoar arising from Hoar's own conduct on the Site. The relief sought against Hoar is not derivative of any other Defendant's conduct; it arises from Hoar's independent role as the operating construction agent of the Project. **Sixth**, Hoar is a large, well-capitalized

Alabama general contractor with substantial assets, ongoing operations, and demonstrated ability to satisfy a monetary judgment in the amount of the damages sought against it in this action. Hoar's ability to satisfy a judgment is not less than, and indeed is comparable in scale to, the ability of the out-of-state Developer Defendants to satisfy a judgment. The relief sought from Hoar is therefore significant in both absolute and comparative terms.

20. **Defendant Raeden RE, LLC** ("Raeden RE") is a Delaware limited liability company that is, on the face of the recorded deeds, the Manager of Defendant 201 Milan Birmingham, LLC. Raeden RE acted in connection with the September 30, 2025 acquisition cascade through which the Site was acquired. Specifically, Raeden RE—acting through Karin Schrader, Authorized Signatory of Raeden RE, LLC—executed on behalf of 201 Milan Birmingham, LLC each of the three deeds recorded as Inst. Nos. 2025089775, 2025089776, and 2025089777, conveying Lot 4, Lots 5-A and 6, and Lot 1-A, respectively, to Alabama ADC Holdings LLC on October 1, 2025 with effective date of September 30, 2025. By operating as Manager of the holding company through which the Site was assembled and conveyed, by directing the recording of warranty deeds in Jefferson County, Alabama, and by causing approximately **\$89,500,000** of the aggregate **\$90,000,000** paid by Alabama ADC to be received by an entity that Raeden RE itself manages, Raeden RE has purposefully availed itself of Alabama law and is subject to specific personal jurisdiction in this Court.

21. **Defendant 201 Milan Birmingham, LLC** ("201 Milan Birmingham") is a Delaware limited liability company with a principal address at 838 Walker Road, Suite 21-2, Dover, Delaware 19904. 201 Milan Birmingham is managed by Defendant Raeden RE. 201 Milan Birmingham was the grantee on Inst. No. 2025089420 (acquiring Lots 5-A and 6 from U.S.

Steel Corporation for **\$2,800,000** on September 30, 2025) and on Inst. No. 2025089723 (acquiring Lot 1-A from Lakeshore Data Center, LLC for **\$27,000,000** on October 1, 2025, with effective date September 30, 2025). 201 Milan Birmingham was the grantor on three further deeds recorded the next morning (Inst. Nos. 2025089775, 2025089776, and 2025089777), conveying Lots 4, Lots 5-A and 6, and Lot 1-A respectively to Alabama ADC Holdings LLC for aggregate consideration of **\$90,000,000**. 201 Milan Birmingham, in the aggregate, captured approximately **\$67,500,000** of intra-cascade markup on the conveyances among the three Raeden-affiliated holding companies and Alabama ADC, all in a single 25-hour recordation window.

22. **Defendant Lakeshore Data Center, LLC** (“Lakeshore Data Center”) is, and at all relevant times has been, an Alabama domestic limited liability company organized under the laws of the State of Alabama, with its registered office and principal place of business at Two Metroplex Drive, Suite 400, Birmingham, Alabama 35209, Jefferson County, Alabama. Lakeshore Data Center is an Alabama citizen for purposes of 28 U.S.C. § 1332. Lakeshore Data Center was formed on September 17, 2024 by Certificate of Formation filed with the Alabama Secretary of State, bearing Alabama Entity ID No. 001-154-660. The Certificate of Formation identifies Robert O. Burton as the initial registered agent at the Two Metroplex Drive, Suite 400 address. **Robert O. Burton is the Chief Executive Officer of Defendant Hoar Construction, LLC and, at all relevant times, has held that position.** The Two Metroplex Drive, Suite 400 address is the principal place of business of Hoar Construction, LLC. Lakeshore Data Center thus shares its principal place of business address, its registered agent, and the natural person who serves as its Manager with Defendant Hoar Construction, LLC, the Alabama general contractor presently

mobilized at the Site. That convergence of address, agent, and senior management is probative of common control, common direction, and concerted conduct between Lakeshore Data Center and Hoar that exceeds any ordinary contractor-developer relationship and that bears directly on the joint-and-several liability of each. ***Role in the Acquisition Cascade.*** Lakeshore Data Center was the grantee on Inst. No. 2025089695, acquiring Lot 1-A — the former Regions Lakeshore Operations Center campus and the anchor parcel of the Site — from Regions Bank for **\$17,200,000** on October 1, 2025, with effective date September 30, 2025. Sixteen minutes later, Lakeshore Data Center conveyed that same Lot 1-A to 201 Milan Birmingham, LLC for **\$27,000,000**, as evidenced by Inst. No. 2025089723. Robert O. Burton signed each of those deeds in his capacity as Manager of Lakeshore Data Center, LLC. Lakeshore Data Center captured **\$9,800,000** of intra-cascade markup on Lot 1-A in the sixteen minutes between recordation of Inst. Nos. 2025089695 and 2025089723. Lakeshore Data Center received that consideration in cash, by wire, or by other immediately available funds at or about the time of the recorded conveyance. ***The December 30, 2025 Purported Dissolution.*** On December 30, 2025 — fourteen days after the City of Birmingham’s December 16, 2025 public press release announcing the proposed hyperscale data center moratorium, and after Lakeshore Data Center had captured the **\$9,800,000** of intra-cascade markup described above — Robert O. Burton signed and caused to be filed with the Alabama Secretary of State a one-page Articles of Dissolution form purporting to dissolve Lakeshore Data Center, LLC effective December 31, 2025. The Articles of Dissolution recite, as the only stated reason, that “[t]he limited liability company is winding up its business and distributing its remaining assets to its members.” The form does not identify the members of Lakeshore Data Center, does not

disclose the amount or identity of the remaining assets to be distributed, does not address Lakeshore Data Center's known and reasonably foreseeable liabilities at the time of filing, and does not state that any provision has been made for the payment of present, future, or contingent claims against Lakeshore Data Center, including claims of the character asserted in this action. The purported dissolution is, on its face, ineffective to terminate the existence of Lakeshore Data Center for purposes of this action and is, in any event, a transparent attempt to shed liability for the conduct alleged herein. The Articles of Dissolution were filed only after Lakeshore Data Center had completed its participation in the September 30–October 1, 2025 acquisition cascade and captured its intra-cascade markup; only after the City of Birmingham had publicly announced the proposed moratorium; and only after it had become reasonably foreseeable that Lakeshore Data Center's conduct in the cascade would be subject to legal challenge. ***Lakeshore Data Center Is Not Dissolved for Purposes of This Action.*** Under the Alabama Limited Liability Company Law of 2014, Ala. Code §§ 10A-5A-1.01 *et seq.* (1975), and under the common law of Alabama, the filing of Articles of Dissolution does not extinguish a limited liability company; the company continues to exist for purposes of winding up its activities and affairs, including (i) prosecuting and defending actions, suits, claims, and proceedings, civil, criminal, or administrative, by or against the company; (ii) settling and closing the company's business; (iii) collecting and discharging the company's obligations; and (iv) disposing of and conveying the company's property. A purported "dissolution" that is undertaken without making adequate provision for known and reasonably foreseeable claims, including the claims of Plaintiffs and the Class herein, does not terminate the company's capacity to be sued, does not protect its members or managers from liability for

distributions made in disregard of those claims, and does not relieve the company of its joint-and-several liability for the wrongful conduct alleged herein. Lakeshore Data Center has the legal capacity to be sued in this action, to appear and defend in this action, and to be held jointly and severally liable for the injuries alleged herein notwithstanding the Articles of Dissolution filed December 30, 2025. *Lakeshore Data Center Has, On Information and Belief, Sufficient Assets to Satisfy a Monetary Judgment.* Sixteen minutes apart on October 1, 2025, Lakeshore Data Center paid **\$17,200,000** to Regions Bank for Lot 1-A and received **\$27,000,000** from 201 Milan Birmingham, LLC for the same parcel, capturing **\$9,800,000** of intra-cascade markup. On information and belief, that **\$9,800,000** of consideration, in whole or in substantial part, remains traceable to Lakeshore Data Center, its members, its affiliates, its successor entities, or persons or entities holding such consideration in trust, in escrow, or otherwise for the benefit of Lakeshore Data Center, and is recoverable by Plaintiffs and the Class as compensatory damages, restitution, disgorgement, or otherwise. The **\$9,800,000** of consideration received by Lakeshore Data Center for its role in the cascade vastly exceeds Lakeshore Data Center's pro rata share of the monetary damages sought against it in this action, and is alone sufficient to satisfy any monetary judgment that may be entered against Lakeshore Data Center. To the extent that distributions of the **\$9,800,000** of consideration were made by Lakeshore Data Center to its members, managers, or affiliated entities in connection with or in anticipation of the December 30, 2025 purported dissolution, such distributions were made in disregard of the known and reasonably foreseeable claims of Plaintiffs and the Class, and the recipients of such distributions hold the same subject to a constructive trust in favor of Plaintiffs and the Class. Through its participation in the September 30, 2025 acquisition cascade, its capture

of **\$9,800,000** of intra-cascade markup on Lot 1-A, its joint role with Hoar at the Two Metroplex Drive address under the common management of Robert O. Burton, its purported but ineffective dissolution timed to follow public notice of the moratorium, and its participation in the civil conspiracy and joint enterprise alleged in Count XI, **Lakeshore Data Center is a significant Defendant from whom significant relief is sought, and Lakeshore Data Center's alleged conduct forms a significant basis for the claims asserted herein.**

23. **Joint Conduct of the Raeden-Affiliated Defendants and Alabama ADC.** Raeden RE, 201 Milan Birmingham, and Lakeshore Data Center (collectively, the “Raeden-Affiliated Defendants”), together with Alabama ADC and Nebius, engaged in a single, coordinated scheme to acquire, assemble, and develop the Site as a 300-megawatt hyperscale data center campus. The six recorded deeds dated effective September 30, 2025 were not independent arm’s-length transactions; they constituted a single integrated transaction structured as multiple recorded conveyances. The Raeden-Affiliated Defendants and Alabama ADC operated in concert to (a) acquire title to the four-parcel assemblage from the third-party sellers; (b) route the parcels through intermediate Raeden-controlled holding companies; (c) book a final **\$90,000,000** land basis at Alabama ADC notwithstanding aggregate third-party-seller consideration of approximately **\$20,000,000**; (d) cause the City of Birmingham to issue Project-related permits to Hoar Construction without the predicate zoning authority; and (e) initiate construction of the Project before the regulatory processes of the City of Birmingham could be completed. The Raeden-Affiliated Defendants are jointly and severally liable with Nebius, Alabama ADC, and Hoar for the conduct alleged in this First Amended Complaint.

24. Fictitious Defendants A, B, C, D, and E are those persons, firms, corporations, limited liability companies, partnerships, joint ventures, or other legal entities that are owners, lessees, developers, operators, applicants, affiliates, subsidiaries, parents, contractors, subcontractors, or agents of the Project or the Site, whose true names and legal identities are presently unknown to Plaintiffs after reasonable investigation but whose wrongful conduct contributed to or is responsible for the matters set forth in this First Amended Complaint. Plaintiffs will amend this First Amended Complaint to substitute their true names when ascertained, pursuant to Rule 9(h) of the Alabama Rules of Civil Procedure.

III. JURISDICTION AND VENUE

25. This Court has subject-matter jurisdiction over this action pursuant to Ala. Code § 12-11-30 (1975) (general equity and law jurisdiction of the circuit courts), Ala. Code §§ 6-6-220 et seq. (1975) (Alabama Declaratory Judgment Act), the Court's inherent equitable power to issue injunctive relief, and its general jurisdiction over claims sounding in tort, including nuisance and trespass.

26. This Court has personal jurisdiction over each of the Developer Defendants. The City and the ZBA are Alabama governmental entities subject to general jurisdiction. Hoar Construction, LLC and Lakeshore Data Center, LLC are Alabama limited liability companies subject to general jurisdiction. Nebius, Nebius Group N.V., Nebius, Inc., Alabama ADC, Raeden RE, and 201 Milan Birmingham have each purposefully directed activities at Alabama by (among other things) acquiring or conveying Alabama real property; recording deeds in the public records of the Office of the Judge of Probate of Jefferson County, Alabama; paying Alabama deed tax on those conveyances; or by

appearing through counsel and authorized representatives before the Birmingham Zoning Board of Adjustment, the Birmingham City Council, and other Alabama governmental bodies in connection with the Project. The claims set forth herein arise from those purposeful contacts. Personal jurisdiction is constitutionally proper as to each Developer Defendant.

27. Venue is proper in Jefferson County, Alabama, pursuant to Ala. Code §§ 6-3-2 and 6-3-7 (1975), because the real property that is the subject of this action is located in Jefferson County; the Defendant City of Birmingham is located in Jefferson County; the deeds evidencing the September 30, 2025 acquisition cascade are recorded in the Office of the Judge of Probate of Jefferson County; the acts and omissions complained of occurred in Jefferson County; and Plaintiffs and the members of the proposed Class reside or own real property in Jefferson County.

IV. CLASS ACTION ALLEGATIONS

28. Plaintiffs bring this action individually and as a class action pursuant to Rule 23(a) and Rule 23(b)(2) and (b)(3) of the Alabama Rules of Civil Procedure on behalf of the following Class (the “Class”):

All natural persons who are citizens of the State of Alabama and who, as of the date of filing of this First Amended Complaint, (i) own residential real property located within the Affected Area, defined as the geographic area lying within the City of Birmingham in the Oxmoor Valley corridor and currently possessing a zoning classification by the City of Birmingham as MXD and surrounding residential neighborhoods of Birmingham, Alabama; AND (ii)

personally reside at that residential property as their primary residence and as the residential property at which they are domiciled for purposes of state citizenship. Excluded from the Class are: (i) the Defendants and their officers, directors, members, affiliates, and employees; (ii) any judicial officer presiding over this action and the members of his or her immediate family; (iii) the legal representatives, heirs, successors, or assigns of any excluded persons; (iv) corporations, limited liability companies, partnerships, trusts, and other non-natural-person entities; (v) persons who own residential property within the Affected Area but do not personally reside at that property as their primary residence; and (vi) any natural person who is not a citizen of the State of Alabama, including any person whose domicile is in any other State, the District of Columbia, a United States Territory, or a foreign country, regardless of whether such person owns or resides at residential property within the Affected Area.

29. Plaintiffs reserve the right to modify or amend the definition of the Class and the boundaries of the Affected Area, including by reference to specific census blocks, zoning districts, school attendance zones, or expert-defined zones of impact, as further factual development, expert analysis, and discovery may warrant.

Numerosity — Rule 23(a)(1)

30. The members of the proposed Class are so numerous that joinder of all members is impracticable. Plaintiffs are informed and believe, and on that basis aver, that the Affected Area contains hundreds of owner-occupied residential parcels. While the precise number of Class members is presently unknown to Plaintiffs, that number is readily ascertainable from the Jefferson County tax assessor's records, the City's zoning maps, and other public records.

Commonality — Rule 23(a)(2)

31. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class members. Common questions include, without limitation:

- (a) Whether the demolition of the Regions Lakeshore Operations Center, in the absence of a variance granted by the Board, extinguished any legal nonconforming use status under Chapter 9, Article VII, Sections 3.A.3 and 4.B of the Birmingham Zoning Ordinance;
- (b) Whether the Project is a permitted use within the MXD zoning classification as applied to the Site;
- (c) Whether the change in use group intensity from the prior Commercial Use Group 2 use to a 300-megawatt continuous industrial operation required a Conceptual Plan amendment under Chapter 4, Article V, Section 7, Subsection 3.D of the Ordinance, adopted only after public hearings before the Zoning Advisory Committee and the City Council;
- (d) Whether the proposed power substation and switching station are “Utility Substations” within the meaning of the Birmingham Zoning Ordinance;
- (e) Whether the phrase “for distribution to individual neighborhoods” in the Ordinance’s definition of “Utility Substation” is a geographic descriptor of distribution-scale infrastructure or a customer-count threshold limiting application of the definition to facilities serving multiple end users;

- (f) Whether the proposed facilities, regardless of customer count, materially affect the public distribution grid serving the surrounding neighborhoods through fault current loading, harmonic propagation, voltage regulation, and protection coordination;
- (g) Whether the ZBA had jurisdiction over Case Nos. ZBA2026-00007 and ZBA2026-00006, and whether the March 26, 2026 denials of those applications are final, binding, and res judicata;
- (h) Whether the City Attorney exceeded her advisory function by issuing a post-vote jurisdictional determination that purports to nullify the Board's exercise of jurisdiction;
- (i) Whether the April 9, 2026 Jurisdictional Memorandum of the Birmingham City Attorney is without legal effect insofar as it purports to reverse, nullify, or circumvent the ZBA's denials;
- (j) Whether each of the six Project-related permits identified in Section VI hereof is null and void as having been issued without lawful zoning authority;
- (k) Whether the City of Birmingham's December 16, 2025 public press release announcing the proposed moratorium fixed the date from which the Developer Defendants are charged with constructive notice that the regulatory framework for hyperscale data centers was changing;

- (l) Whether the Phase 2 building permit (BLD2026-00724), applied for thirty-eight days after the moratorium took effect, is within the moratorium's filing-date carve-out or is, instead, a separate post-moratorium application;
- (m) Whether any subsequently adopted data center ordinance of the City of Birmingham applies to permit applications for the Project that post-date the adoption of that ordinance;
- (n) Whether the September 30, 2025 acquisition cascade described in Section VI hereof produced approximately **\$67,500,000** of intra-cascade markup captured by the Raeden-Affiliated Defendants, and whether, for purposes of any takings, vested-rights, or balance-of-equities analysis advanced by the Developer Defendants in this action, the Court should consider only the approximately **\$20,000,000** in arm's-length consideration actually paid to third-party sellers;
- (o) Whether the Raeden-Affiliated Defendants and Alabama ADC engaged in a civil conspiracy or joint enterprise to acquire, assemble, and develop the Site without lawful zoning authority;
- (p) Whether the Project, as constructed and as proposed to be operated, constitutes a public and private nuisance to the residential properties in the Affected Area;
- (q) Whether the Defendants' conduct constitutes a continuing trespass through invasion of the Affected Area by dust, noise, vibration, light, electromagnetic emissions, and other physical intrusions;

- (r) Whether the Defendants are jointly and severally liable for the harms suffered by the Class;
- (s) Whether the City and the ZBA are estopped from authorizing the Project under existing zoning by their own contemporaneous admissions, including those embodied in Ordinance No. 26-25 and the Proposed Data Center Ordinance, and whether the City Council's discretionary legislative choice to exempt pre-filed applications from the moratorium confers or evidences any vested rights in the Developer Defendants;
- (t) Whether Plaintiffs and the Class are entitled to declaratory and injunctive relief; and
- (u) Whether Plaintiffs and the Class are entitled to compensatory damages, and the proper methodology for the determination of class-wide damages, including, but not limited to, by reference to a market-based assessment of property-value diminution attributable to the Project.

Typicality — Rule 23(a)(3)

32. Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and each member of the Class own residential real property within the Affected Area; each is exposed to the same Project, the same conduct of the Defendants, and the same legal violations; and each has suffered, and will continue to suffer, harms of the same character—diminution in property value, loss of use and enjoyment, and exposure to construction-phase and operational nuisance—arising out of the same operative facts and the same legal theories. Plaintiffs' injuries are not unique; they are illustrative of the injuries sustained by the Class as a whole.

Adequacy — Rule 23(a)(4)

33. Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs have no interests antagonistic to or in conflict with those of the Class, have retained competent counsel experienced in class action and complex civil litigation, and are committed to vigorously prosecuting this action. Plaintiffs' counsel has the experience, resources, and willingness to represent the Class through trial and any appeals.

Forum-State Class Composition and Local-Controversy Findings

33A. **Forum-State Citizenship of the Class.** Greater than two-thirds (2/3) of the proposed Class members are citizens of the State of Alabama. The Class as defined in paragraph 28 hereof is limited to natural persons who reside at their residential property in the Affected Area as their primary residence. Persons who own residential property within the Affected Area but do not reside there are excluded; corporate, LLC, partnership, and trust owners are excluded; and absentee, out-of-state, and investor owners are excluded. The Affected Area lies entirely within the City of Birmingham in the Oxmoor Valley corridor. Public records of the Jefferson County Tax Assessor and the City of Birmingham will confirm that the overwhelming majority of owner-occupied residential parcels in the Affected Area are owned and occupied by Alabama-citizen natural persons. The 2/3 threshold for the local-controversy exception under 28 U.S.C. § 1332(d)(4)(A)(i)(I) is satisfied.

33B. **Principal Injuries Incurred in Alabama.** The principal injuries alleged in this action—diminution in the value of residential real property located in Jefferson County, Alabama; loss of use and enjoyment of residential property located in Jefferson County,

Alabama; nuisance and trespass to residential property located in Jefferson County, Alabama; and impairment of the procedural protections of the Birmingham Zoning Ordinance—were each incurred in Alabama and arise from conduct occurring in Alabama. The Site is in Alabama; the Class is in Alabama; the City and the ZBA are Alabama governmental bodies; and the deeds evidencing the September 30, 2025 acquisition cascade are recorded in the Office of the Judge of Probate of Jefferson County, Alabama. The principal-injuries requirement of 28 U.S.C. § 1332(d)(4)(A)(i)(III) is satisfied.

33C. **Significant In-State Defendants.** Multiple Defendants whose conduct forms a significant basis for the claims asserted in this action are citizens of the State of Alabama. Specifically: (i) the City of Birmingham is an Alabama municipal corporation; (ii) the Zoning Board of Adjustment is an Alabama governmental body; (iii) Hoar Construction, LLC is an Alabama limited liability company; and (iv) Lakeshore Data Center, LLC is an Alabama limited liability company. Each of these Alabama-citizen Defendants is jointly and severally liable for the harms alleged herein. Significant declaratory and injunctive relief is sought against each of them, and the alleged conduct of each forms a significant basis for the claims asserted in this First Amended Complaint. The significant-in-state-defendant requirement of 28 U.S.C. § 1332(d)(4)(A)(i)(II) is satisfied.

33D. **No Overlapping Class Action.** No other class action has been filed asserting the same or similar factual allegations against any of the Defendants in this action during the three-year period preceding the filing of this First Amended Complaint. The no-overlapping-class-action requirement of 28 U.S.C. § 1332(d)(4)(A)(ii) is satisfied.

33E. **Alabama-Citizen Defendants Independently Defeat Traditional Diversity.**

Defendants Hoar Construction, LLC and Lakeshore Data Center, LLC are each Alabama limited liability companies organized under the laws of the State of Alabama. Defendant The City of Birmingham, Alabama is an Alabama municipal corporation. Defendant The Zoning Board of Adjustment of the City of Birmingham is an Alabama governmental body. Each of these four Defendants is a citizen of the State of Alabama for purposes of 28 U.S.C. § 1332. Because each of the named Plaintiffs is also a citizen of Alabama, and because the Class is defined to consist of Alabama-citizen natural persons, complete diversity does not exist between the Plaintiffs and the Defendants under 28 U.S.C. § 1332(a). Additionally, because each of the four Alabama-citizen Defendants is a citizen of the forum state, the forum-defendant rule of 28 U.S.C. § 1441(b)(2) prohibits removal of this action on the basis of traditional diversity jurisdiction.

33F. **Joint and Several Liability of All Defendants.** Each of the Defendants named herein is jointly and severally liable to the Plaintiffs and the Class for the injuries alleged in this First Amended Complaint. The Developer Defendants and the City have engaged in a coordinated, integrated course of conduct that (a) acquired the Site through the September 30, 2025 acquisition cascade described in paragraphs 43 through 47 hereof; (b) accelerated permit filings after the City's December 16, 2025 public notice of the proposed moratorium; (c) caused the City to issue six Project-related permits, with disclosed fees totaling **\$34,866,222.53**, without the predicate zoning authority required by the Birmingham Zoning Ordinance; (d) caused the City Attorney to issue the April 9, 2026 Jurisdictional Memorandum after the ZBA's March 26, 2026 denials of the special exception applications; and (e) initiated and continued construction at the Site

notwithstanding the absence of lawful zoning authority. The City's expedited and coordinated processing of the post-notice and post-denial permits—including the April 27, 2026 single-day issuance of three Project-related permits with combined disclosed fees exceeding **\$34.7 million**, and the April 28, 2026 same-day application and issuance of the Electrical permit—reflects the City's substantial financial interest in the Project and its alignment of administrative function with the Developer Defendants' commercial objectives. Significant relief is sought against each Defendant on the basis of each Defendant's independent conduct and on the basis of the concerted conduct alleged herein.

Rule 23(b)(2) — Final Injunctive and Declaratory Relief

34. Class certification is appropriate under Rule 23(b)(2) of the Ala. R. of Civ. P. because the Defendants have acted, or refused to act, on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole. The conduct challenged—the City's authorization of the Project, the issuance of permits without lawful zoning authority, and the Developer Defendants' construction in violation of the Ordinance—applies uniformly to the Class, and the declaratory and injunctive relief sought, including a halt to construction and a declaration that the Project is unlawful, will benefit each Class member in the same manner.

Rule 23(b)(3) — Predominance and Superiority

35. Class certification is also appropriate under Rule 23(b)(3) of the Alabama Rules of Civil Procedure because the questions of law and fact common to the members of the Class predominate over any questions affecting only individual members, and a class action is

superior to other available methods for the fair and efficient adjudication of the controversy.

36. Predominance is satisfied because the central liability questions—whether the Project is unlawful under the Birmingham Zoning Ordinance, whether the City’s permits are void, whether the Project constitutes a nuisance and trespass to residential properties within a defined geographic radius, whether the Developer Defendants and the Raeden-Affiliated Defendants engaged in concerted action, and whether the Defendants are jointly and severally liable—are common to all Class members and will be resolved with the same evidence. Damages, while measurable on a property-by-property basis, are amenable to class-wide proof through accepted real-estate valuation methodologies, including hedonic regression, repeat-sales analysis, paired-sales analysis, and zone-of-impact mapping.
37. Superiority is satisfied because (a) Class members’ individual damages, while real, are likely to be modest in relation to the cost and complexity of individual litigation against well-resourced municipal and corporate defendants; (b) prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications and would impair the ability of other Class members to protect their interests; (c) all Class members reside in or own property in a single, defined geographic area within the same county and the same court’s jurisdiction; and (d) the concentration of the litigation in this forum is desirable both for judicial economy and for the orderly enforcement of the Birmingham Zoning Ordinance.
38. Plaintiffs are unaware of any difficulty that would be encountered in the management of this action as a class action that would not also exist, and to a far greater degree, in the

management of hundreds or thousands of individual actions. The Class is readily ascertainable from public real-property records; notice can be effected through a combination of mail, publication, and digital means; and the common questions of liability and the use of class-wide damages methodologies will permit efficient adjudication.

V. LOCAL CONTROVERSY ALLEGATIONS

Purpose and Scope of This Section

38A. This Section sets forth, in one place, the factual allegations supporting application of the local-controversy exception to federal jurisdiction under the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d)(4)(A), and supporting application of the home-state exception under 28 U.S.C. § 1332(d)(4)(B), the forum-defendant rule under 28 U.S.C. § 1441(b)(2), and the general bar on removal where complete diversity is lacking. Plaintiffs incorporate by reference each of the factual allegations set forth elsewhere in this First Amended Complaint, including without limitation the Parties allegations of paragraphs 13 through 24 hereof and the Class Action Allegations of paragraphs 28 through 38 hereof (including paragraphs 33A through 33F). This Section is intended to comply with the comparative-conduct and comparative-relief pleading standards announced by the United States Court of Appeals for the Eleventh Circuit in *Evans v. Walter Industries, Inc.*, 449 F.3d 1159 (11th Cir. 2006), and *Simring v. GreenSky, LLC*, 29 F.4th 1262 (11th Cir. 2022). The allegations of this Section are pled with the understanding that the burden of establishing each element of the local-controversy exception rests on the Plaintiffs as the party invoking it, and Plaintiffs accept that burden.

A. Forum-State Citizenship of the Class — 28 U.S.C. § 1332(d)(4)(A)(i)(I)

38B. The Class as defined in paragraph 28 hereof is, by its express terms, limited to natural persons who are citizens of the State of Alabama. Persons who are not citizens of the State of Alabama, including any person whose domicile is in any other State, the District of Columbia, a United States Territory, or a foreign country, are excluded from the Class regardless of whether they own or reside at residential property within the Affected Area. The Class definition is therefore self-limiting on citizenship in the manner approved by the Eleventh Circuit in *Simring v. GreenSky, LLC*, 29 F.4th 1262 (11th Cir. 2022), and does not depend upon any extrinsic evidence or inference from descriptive language elsewhere in this First Amended Complaint to establish the two-thirds (2/3) citizenship requirement of 28 U.S.C. § 1332(d)(4)(A)(i)(I). One hundred percent (100%) of the Class members — not merely two-thirds — are by definition Alabama citizens. The two-thirds citizenship threshold is therefore necessarily satisfied as a matter of the Class definition itself.

38C. Independently and in the alternative, even if the Class were defined more broadly than the express terms of paragraph 28 hereof, the affirmative evidence supporting the two-thirds citizenship requirement is overwhelming. The Affected Area lies entirely within the City of Birmingham in the Oxmoor Valley corridor of Jefferson County, Alabama. The Class is composed exclusively of natural persons (i) who own and (ii) who personally reside at residential real property within that Affected Area as their primary residence. By operation of the structural definition of state citizenship under 28 U.S.C. § 1332 and applicable Alabama and federal law — namely, that a natural person's state citizenship is determined by the person's domicile and that a natural person's domicile is presumptively

at his or her primary residence — persons who own and personally reside at residential property in Alabama as their primary residence are presumptively domiciled in, and therefore citizens of, the State of Alabama. The Jefferson County Tax Assessor’s records, the City of Birmingham’s zoning maps, the United States Postal Service records, voter registration records, motor vehicle registration records, and state and federal tax records will confirm, on the order of well in excess of two-thirds, that the owner-occupiers of residential property in the Affected Area are citizens of the State of Alabama. The two-thirds citizenship requirement of 28 U.S.C. § 1332(d)(4)(A)(i)(I) is independently satisfied on this evidentiary basis.

B. Significant Alabama-Citizen Defendants — 28 U.S.C. § 1332(d)(4)(A)(i)(II) — Comparative Analysis

38D. Four (4) of the named Defendants are citizens of the State of Alabama: (i) The City of Birmingham, Alabama, an Alabama municipal corporation; (ii) The Zoning Board of Adjustment of the City of Birmingham, an Alabama governmental body; (iii) Hoar Construction, LLC, an Alabama domestic limited liability company; and (iv) Lakeshore Data Center, LLC, an Alabama domestic limited liability company. Each of these four Defendants is, independently of the others, a Defendant from whom “significant relief is sought by members of the plaintiff class” within the meaning of 28 U.S.C. § 1332(d)(4)(A)(i)(II)(aa), and a Defendant “whose alleged conduct forms a significant basis for the claims asserted by the proposed plaintiff class” within the meaning of 28 U.S.C. § 1332(d)(4)(A)(i)(II)(bb). The allegations that follow address each Alabama-citizen Defendant separately and provide the comparative analysis required by *Evans v. Walter Industries, Inc.*, 449 F.3d 1159, 1167 (11th Cir. 2006). The basis for joint-and-several

liability and significance is the independent conduct of each Alabama-citizen Defendant, and not any theory of imputed conduct, joint-and-several liability bootstrapping, or conspiracy or enterprise allegations that lump Defendants together.

1. The City of Birmingham, Alabama

38E. The City of Birmingham is an Alabama municipal corporation and a citizen of the State of Alabama. The City's alleged conduct forms a significant — indeed, central — basis for the claims asserted in this action, viewed both in absolute terms and in comparison to the conduct of every other Defendant. The City issued each of the six Project-related permits identified in paragraph 103 hereof, with aggregate disclosed permit fees of **\$34,866,222.53**; the City processed each of those permits without the predicate zoning authority required by the Birmingham Zoning Ordinance; the City's Building Official accepted and processed the post-notice and post-denial permit applications; the City Attorney issued the April 9, 2026 Jurisdictional Memorandum on which the post-denial permit-filing campaign rests; and the City received and retains the **\$34,866,222.53** of disclosed permit fees paid by Hoar Construction. Every Class member's claim for declaratory and injunctive relief that the six Project-related permits are null and void runs against the City. Every Class member's claim for declaratory relief concerning the validity of the Jurisdictional Memorandum runs against the City. Every Class member's claim for declaratory relief concerning the applicability of the moratorium and any subsequently adopted data center ordinance runs against the City. The relief sought against the City is therefore not derivative of, and is not bootstrapped from, the conduct of any other Defendant; it arises directly from the City's own administrative conduct. Significant

declaratory and injunctive relief is sought from the City by every member of the proposed Class.

2. The Zoning Board of Adjustment of the City of Birmingham

38F. The Zoning Board of Adjustment is an Alabama governmental body and a citizen of the State of Alabama. The ZBA’s March 26, 2026 denials of Case Nos. ZBA2026-00007 and ZBA2026-00006 are central to multiple counts of this First Amended Complaint, including Count III (Declaratory Judgment regarding Utility Substation; ZBA Denials; Excess of City Attorney Advisory Authority) and Counts I, II, IV, VII, VIII, IX, and X to the extent they incorporate the *res judicata* effect of those denials. Every Class member’s claim that the ZBA denials are final, binding, and *res judicata*, that the April 9, 2026 Jurisdictional Memorandum is without legal effect, and that the proposed substation and switching station are “Utility Substations” within the meaning of the Ordinance runs against the ZBA. The relief sought against the ZBA is direct, substantial, and necessary to the relief sought by every Class member.

3. Hoar Construction, LLC — Comparative Conduct and Comparative Relief

38G. Hoar Construction, LLC is an Alabama domestic limited liability company and a citizen of the State of Alabama. As alleged in detail in paragraph 19 hereof, Hoar is not a mere nominal participant in the Project and is not an arm’s-length independent construction contractor mechanically processing paperwork supplied by an owner. Hoar is part and parcel of the entire scheme alleged in this First Amended Complaint. The comparative analysis required by *Evans* confirms that Hoar’s conduct is a significant — and, on key dimensions, the most significant — basis for the claims asserted in this action:

(a) Hoar is the sole physical actor on the Site. No other Defendant — not Nebius, not Alabama ADC, not Raeden RE, not 201 Milan Birmingham, not Lakeshore Data Center, not the City — physically demolishes any structure, physically grades any earth, physically operates any heavy equipment, or physically supervises any subcontractor on the Site. The construction-phase nuisance and trespass injuries alleged in Counts V and VI — dust, noise, vibration, particulates, light, electromagnetic emissions, truck traffic — are caused immediately, directly, and exclusively by Hoar’s own physical acts. By comparison, the conduct of every other Developer Defendant during the construction phase is indirect and derivative.

(b) Hoar applied for, paid the fees on, and presently operates under each of the six Project-related permits identified in paragraph 103 hereof, with aggregate disclosed permit fees of **\$34,866,222.53**. No other Defendant is the named recipient of, the applicant for, or the operating user of those permits. By comparison, the participation of the other Developer Defendants in the permit-filing campaign is, at most, that of a financial principal directing the permit applicant; Hoar is the permit applicant itself, the permit-holder of record, and the entity exercising the rights conferred by each permit.

(c) Robert O. Burton, the Chief Executive Officer of Hoar Construction, LLC, is also the Manager of Lakeshore Data Center, LLC and signed the deeds (Inst. Nos. 2025089695 and 2025089723) by which Lakeshore Data Center acquired and immediately conveyed Lot 1-A in the September 30–October 1, 2025 acquisition cascade, capturing **\$9,800,000** of intra-cascade markup. Robert O. Burton also signed the December 30, 2025 Articles of Dissolution purporting to dissolve Lakeshore Data Center. By comparison, the other Developer Defendants are managed by different natural persons and operate through

different corporate offices and different signatories. Hoar's direct overlap with Lakeshore Data Center — same office, same registered agent, same Chief Executive Officer of Hoar serving as Manager of Lakeshore Data Center — is unique among the Defendants and demonstrates that Hoar is operationally part of the acquisition-and-development scheme, not merely a downstream construction contractor.

(d) Every member of the Class has a direct claim against Hoar for the construction-phase nuisance and trespass injuries pled in Counts V and VI hereof. One hundred percent (100%) — not merely a meaningful share — of the Class members have claims against Hoar. The relief sought against Hoar is therefore independently significant on the class-coverage dimension identified by Evans.

(e) Hoar is a large, well-capitalized Alabama general contractor with substantial assets, ongoing operations across multiple projects, and the demonstrated ability to satisfy a monetary judgment in the amount of the damages sought against it. Hoar's ability to satisfy a judgment is comparable in scale to the ability of the out-of-state Developer Defendants to satisfy a judgment, and in any event is fully sufficient to satisfy the relief sought against Hoar herein. The relief sought against Hoar is significant in both absolute terms and in comparative terms to the relief sought against every other Defendant.

(f) Plaintiffs do not rely on joint-and-several liability, civil conspiracy, joint enterprise, or any other imputed-conduct theory to establish Hoar's significance. Hoar's significance is established by Hoar's own conduct: its physical demolition, grading, and construction operations on the Site; its direct applications for and direct payment of fees on the six

Project-related permits totaling **\$34,866,222.53**; and its own management overlap with Lakeshore Data Center through Robert O. Burton.

4. Lakeshore Data Center, LLC — Comparative Conduct and Comparative Relief

38H. Lakeshore Data Center, LLC is an Alabama domestic limited liability company and a citizen of the State of Alabama, and was an Alabama citizen at all times relevant to this action including at the time of the September 30–October 1, 2025 acquisition cascade and at the time of its purported December 30, 2025 dissolution. As alleged in detail in paragraph 22 hereof, the purported dissolution is ineffective to terminate Lakeshore Data Center’s existence for purposes of this action. The comparative analysis required by *Evans* confirms that Lakeshore Data Center’s conduct is a significant basis for the claims asserted in this action:

(a) Lakeshore Data Center was the indispensable Alabama-domiciled intermediate vehicle through which the acquisition cascade was structured on the anchor parcel. Lakeshore Data Center took title to Lot 1-A from Regions Bank for **\$17,200,000** and, sixteen minutes later, conveyed Lot 1-A to 201 Milan Birmingham, LLC for **\$27,000,000**, capturing **\$9,800,000** of intra-cascade markup in those sixteen minutes. Without Lakeshore Data Center, there is no **\$9,800,000** intra-cascade markup on Lot 1-A; without Lot 1-A, there is no Project. Lakeshore Data Center’s role in the cascade is essential and not duplicative of the role of any other Defendant.

(b) Lakeshore Data Center is the only Alabama-citizen Defendant that is also a transactional party to the September 30–October 1, 2025 acquisition cascade. The other Raeden-Affiliated Defendants (Raeden RE, LLC and 201 Milan Birmingham, LLC) are

Delaware entities. Lakeshore Data Center's Alabama citizenship is, by deliberate structural design, the Alabama anchor of the cascade on the anchor parcel.

(c) Lakeshore Data Center received **\$9,800,000** of consideration in cash, by wire, or by other immediately available funds in connection with its sixteen-minute role in the cascade. On information and belief, that **\$9,800,000** of consideration, in whole or in substantial part, remains traceable to Lakeshore Data Center, its members, its affiliates, its successor entities, or persons or entities holding such consideration in trust, in escrow, or otherwise for the benefit of Lakeshore Data Center. The **\$9,800,000** is therefore an actual fund — not a theoretical recovery — available to satisfy a monetary judgment against Lakeshore Data Center. The relief sought against Lakeshore Data Center is supported by Lakeshore Data Center's own demonstrated receipt of consideration, and is not bootstrapped from the assets or solvency of any other Defendant.

(d) The purported December 30, 2025 dissolution of Lakeshore Data Center does not impair the significance of the relief sought from Lakeshore Data Center. Under Alabama law, the filing of Articles of Dissolution does not extinguish a limited liability company; the company continues to exist for purposes of winding up, including prosecuting and defending suits and discharging its obligations. The December 30, 2025 Articles of Dissolution were filed fourteen days after the City's December 16, 2025 public announcement of the proposed moratorium and after Lakeshore Data Center had captured its \$9,800,000 of intra-cascade markup; they identify no provision for known and reasonably foreseeable claims; and they are, on the face of the record, a transparent attempt to shed liability. The purported dissolution does not insulate Lakeshore Data Center, its

members, or its managers from the relief sought herein, and does not diminish the significance of that relief for purposes of 28 U.S.C. § 1332(d)(4)(A)(i)(II)(aa).

(e) Plaintiffs do not rely on joint-and-several liability, civil conspiracy, joint enterprise, or any other imputed-conduct theory to establish Lakeshore Data Center's significance. Lakeshore Data Center's significance is established by Lakeshore Data Center's own conduct in the cascade, by Lakeshore Data Center's own capture of **\$9,800,000** of intra-cascade markup, and by the suspect timing and substance of Lakeshore Data Center's own purported dissolution.

C. Principal Injuries Incurred in Alabama — 28 U.S.C. § 1332(d)(4)(A)(i)(III)

38I. The principal injuries alleged in this action were each incurred in the State of Alabama and arise from conduct that occurred in the State of Alabama. The injuries pled herein consist of: (i) diminution in the market value of residential real property located in Jefferson County, Alabama; (ii) loss of use and enjoyment of residential real property located in Jefferson County, Alabama; (iii) construction-phase and operational nuisance affecting residential real property located in Jefferson County, Alabama; (iv) trespass by dust, particulates, noise, vibration, light, and electromagnetic emissions upon residential real property located in Jefferson County, Alabama; (v) impairment of the procedural protections of the Birmingham Zoning Ordinance, an Alabama municipal ordinance; (vi) emotional distress and stigma damages suffered by Alabama residents at their Alabama residences; and (vii) the violation of Alabama property rights protected by Alabama law. Each of these injuries was incurred in Alabama. Each was caused by conduct that occurred in Alabama, namely the demolition, grading, site preparation, and construction work at the Site in Jefferson County, Alabama; the issuance of permits by an Alabama municipal

corporation for an Alabama site; the recordation of deeds in the Office of the Judge of Probate of Jefferson County, Alabama; and the acquisition and assemblage of an Alabama-sited four-parcel real estate assemblage. The principal-injuries requirement of 28 U.S.C. § 1332(d)(4)(A)(i)(III) is satisfied.

D. No Overlapping Class Action — 28 U.S.C. § 1332(d)(4)(A)(ii)

38J. No other class action has been filed against any of the Defendants in this action asserting the same or similar factual allegations during the three-year period preceding the filing of the original Complaint herein or the filing of this First Amended Complaint. Plaintiffs’ counsel has, after reasonable inquiry including searches of state-court and federal-court dockets in Alabama and in the home jurisdictions of the out-of-state Developer Defendants, identified no such prior class action. The no-overlapping-class-action requirement of 28 U.S.C. § 1332(d)(4)(A)(ii) is satisfied.

E. Home-State Exception — 28 U.S.C. § 1332(d)(4)(B)

38K. Independently of the local-controversy exception, the home-state exception of 28 U.S.C. § 1332(d)(4)(B) also requires the federal district court to decline jurisdiction over this action because (i) greater than two-thirds (and indeed, one hundred percent, by the express terms of the Class definition) of the members of the proposed Class are citizens of the State of Alabama, and (ii) the “primary defendants” in this action include Alabama-citizen Defendants from whom the principal relief is sought, namely the City of Birmingham, the ZBA, Hoar Construction, LLC, and Lakeshore Data Center, LLC. The factual allegations set forth in paragraphs 38B through 38H hereof are incorporated by reference in support of this Subsection.

F. Forum-Defendant Rule and Absence of Complete Diversity — 28 U.S.C. §§ 1441(b)(2) and 1332(a)

38L. Each of the four Alabama-citizen Defendants identified herein — the City of Birmingham, the ZBA, Hoar Construction, LLC, and Lakeshore Data Center, LLC — is a citizen of the State of Alabama, which is both the forum State and the home State of the named Plaintiffs and the Class. Because the named Plaintiffs and each member of the Class are by definition Alabama citizens, and because four of the named Defendants are also Alabama citizens, complete diversity within the meaning of 28 U.S.C. § 1332(a) is lacking. Additionally and independently, because each of the four Alabama-citizen Defendants is a citizen of the forum State, the forum-defendant rule of 28 U.S.C. § 1441(b)(2) prohibits removal of this action on the basis of traditional diversity jurisdiction. Finally, this action does not arise under the Constitution, laws, or treaties of the United States within the meaning of 28 U.S.C. § 1331; the claims asserted in this First Amended Complaint sound exclusively in Alabama state law (declaratory judgment under the Alabama Declaratory Judgment Act, nuisance under Alabama common law and Ala. Code § 6-5-120, trespass under Alabama common law, negligence per se under Alabama law, and civil conspiracy and joint enterprise under Alabama common law) and in the interpretation and application of the Birmingham Zoning Ordinance, an Alabama municipal ordinance. There is no basis for federal-question jurisdiction under 28 U.S.C. § 1331, and no basis for diversity jurisdiction under 28 U.S.C. § 1332(a) or CAFA jurisdiction under 28 U.S.C. § 1332(d).

VI. FACTUAL ALLEGATIONS

The Site and the Affected Area

39. The subject property is a multi-parcel, approximately 79.33-acre assemblage located at 201 Milan Parkway (the anchor parcel housing the former Regions Lakeshore Operations Center), 250 Milan Parkway, 260 Milan Parkway, and 2500 Venice Road in the Oxmoor Valley area of Birmingham, Alabama (the “Site”). The Site is part of the Oxmoor Corporate Park. The constituent parcels are described in the Office of the Judge of Probate of Jefferson County, Alabama as: Lot 1-A according to the Final Plat of Regions Lakeshore Operations (Map Book 240, Page 22) (201 Milan Parkway); Lot 5-A according to the Resurvey of Lot 5, USS Oxmoor Corporate Park (Map Book 45, Page 83) and Lot 6 according to the Final Plat of USS Oxmoor Corporate Park (Map Book 207, Page 24 and Bessemer Map Book 37, Page 30) (250 and 260 Milan Parkway); and Lot 4 according to the survey of the Research Park at Oxmoor (Map Book 218, Page 86) (2500 Venice Road).
40. The Site is zoned MXD (Planned Mixed Use District) under the Birmingham Zoning Ordinance. The MXD is a process-intensive, community-sensitive classification that requires a Council-approved Conceptual Plan, Development Guidelines approved by the Director of Planning, Engineering and Permits, and Development Plans approved for each phase before any development may proceed.
41. The prior and most recent use of the 201 Milan Parkway anchor parcel was the Regions Bank Operations Center, a Commercial Use Group 2 (general office and operations) facility consistent with the MXD framework. The remaining parcels were vacant, underutilized, or institutionally held.

42. The Site lies in close proximity to established residential neighborhoods in Birmingham, including residential blocks lying within several hundred feet of one or more of the parcels. Plaintiffs and the members of the Class own residential property within the Affected Area, defined as the geographic area lying within the City of Birmingham in the Oxmoor Valley corridor and currently possessing a zoning classification by the City of Birmingham as MXD and surrounding residential neighborhoods of Birmingham, Alabama.

The September 30, 2025 Acquisition Cascade

43. On September 30, 2025 (the effective date of each of the conveyances described in this section), the Developer Defendants and the Raeden-Affiliated Defendants effected the acquisition of the Site through a coordinated cascade of six separate statutory warranty deeds. Each of those six deeds was recorded in the Office of the Judge of Probate of Jefferson County, Alabama within a 25-hour window beginning at 1:23 PM on September 30, 2025 and ending at 11:17 AM on October 1, 2025. The six deeds, in order of recordation, are as follows:

- (a) **Inst. No. 2025089420** (recorded September 30, 2025 at 1:23 PM): United States Steel Corporation conveyed Lot 6 and Lot 5-A (250 and 260 Milan Parkway) to 201 Milan Birmingham, LLC for **\$2,800,000**;
- (b) **Inst. No. 2025089695** (recorded October 1, 2025 at 10:06 AM): Regions Bank conveyed Lot 1-A (201 Milan Parkway, the former Regions Lakeshore Operations Center campus) to Lakeshore Data Center, LLC for **\$17,200,000**;
- (c) **Inst. No. 2025089723** (recorded October 1, 2025 at 10:22 AM, sixteen minutes after Inst. No. 2025089695): Lakeshore Data Center, LLC conveyed Lot 1-A to 201

Milan Birmingham, LLC for **\$27,000,000**—a **\$9,800,000** (57%) markup over the consideration just paid by Lakeshore Data Center;

(d) **Inst. No. 2025089775** (recorded October 1, 2025 at 11:15 AM): 201 Milan Birmingham, LLC conveyed Lot 4 (2500 Venice Road) to Alabama ADC Holdings LLC for **\$2,500,000**;

(e) **Inst. No. 2025089776** (recorded October 1, 2025 at 11:16 AM, one minute later): 201 Milan Birmingham, LLC conveyed Lots 5-A and 6 to Alabama ADC Holdings LLC for **\$4,000,000**—a **\$1,200,000** (43%) markup over the consideration paid to U.S. Steel less than 22 hours earlier; and

(f) **Inst. No. 2025089777** (recorded October 1, 2025 at 11:17 AM, one minute later): 201 Milan Birmingham, LLC conveyed Lot 1-A to Alabama ADC Holdings LLC for **\$83,500,000**—a **\$56,500,000** (209%) markup over the consideration paid by 201 Milan Birmingham fifty-five minutes earlier in Inst. No. 2025089723, and a **\$66,300,000** (385%) markup over the consideration paid by Lakeshore Data Center to Regions Bank seventy-one minutes earlier in Inst. No. 2025089695.

44. The aggregate effect of the cascade was that (a) approximately **\$20,000,000** was paid to the two third-party sellers (Regions Bank, which received **\$17,200,000**, and U.S. Steel Corporation, which received **\$2,800,000**); (b) approximately **\$90,000,000** was paid by Alabama ADC Holdings LLC in the aggregate (**\$83,500,000 + \$4,000,000 + \$2,500,000**); and (c) approximately **\$67,500,000** of intra-cascade markup was captured by the Raeden-Affiliated Defendants (Lakeshore Data Center capturing **\$9,800,000** in 16 minutes on Lot

1-A and 201 Milan Birmingham capturing **\$57,700,000** in aggregate across the three steps reaching Alabama ADC).

45. The cascade was orchestrated. The same day-of-effective-date, the close recording timestamps (six deeds in a 25-hour window, three of them recorded in a 71-minute window on the morning of October 1, 2025), the identity of the intermediate grantees as Raeden-affiliated single-purpose entities, the common signatories (Karin Schrader signing in her capacity as Authorized Signatory of Raeden RE, LLC, on multiple deeds; Robert O. Burton signing in his capacity as Manager of Lakeshore Data Center, LLC on both Lot 1-A deeds), and the common preparing law firms all reflect that the six deeds were not independent arm's-length transactions but a single coordinated transaction executed in multiple recorded steps.
46. The **\$90,000,000** figure publicly cited by the Developer Defendants to characterize the scale of their investment in the Site is, on the face of the recorded deeds, a transaction-internal figure rather than a measure of arm's-length economic investment. To the extent of approximately **\$67,500,000**, the figure represents markup that did not pay any third-party seller, did not finance the Site, and did not produce any verifiable contribution to the Project's economic substance. For all purposes for which the magnitude of the Developer Defendants' actual economic investment in the Site is legally relevant—including the balance of equities on any preliminary injunction, any takings or vested-rights analysis, and any equitable defense to the relief sought herein—the operative figure is approximately **\$20,000,000** in arm's-length third-party-seller consideration, not the booked **\$90,000,000**.

47. The Raeden-Affiliated Defendants’ sophistication in structuring and executing the acquisition cascade in a single day, through three interlocking holding companies in two states (Delaware and Alabama), with separate counsel on the in-bound and out-bound legs, defeats any defense premised on lack of notice of subsequent regulatory developments. A party capable of orchestrating a six-step, **\$90 million** same-day deed cascade with **\$137,000** in Alabama deed tax paid on the recited consideration of each step cannot credibly claim to have been unaware of, or to have been ambushed by, the City’s December 16, 2025 public announcement of the proposed data center moratorium—which occurred 77 days after the cascade.

The Project

48. The Project is a 300-megawatt, twenty-four-hour, seven-day-per-week hyperscale AI computing campus, marketed publicly as the “Birmingham AI Factory” or “BHM01,” consisting of multiple data center buildings, a dedicated industrial power substation, a high-voltage switching station, on-site backup-generator infrastructure, fuel storage, cooling systems, and supporting facilities.

49. The Project’s 300-megawatt energy demand is more than fifteen times the twenty (20) megawatt threshold the City Council has identified as the trigger for special regulatory scrutiny under Ordinance No. 26-25. The Project will draw electricity comparable to that consumed by a small city, will require substantial water and stormwater infrastructure, and will operate continuously, including throughout overnight hours.

50. The Project, as constructed and as proposed to be operated, will produce continuous and intermittent noise, vibration, electromagnetic emissions, light pollution, heat plume effects,

generator emissions, and truck traffic. These effects will radiate into the Affected Area in measurable degrees that diminish residential property values, impair the use and enjoyment of residential property, and impose construction-phase and operational nuisance on Plaintiffs and the Class.

The Demolition of the Regions Operations Center Extinguished Any Prior-Use Entitlement

51. The Birmingham Zoning Ordinance, at Chapter 9, Article VII, governs Legal Nonconforming Uses and Structures. Section 1 of that Article expressly limits the protection of nonconforming uses, providing that such uses “shall be subject to the following limitations and controls in order to protect and preserve the full use and enjoyment of nearby properties.”

52. Section 3.A.3 of Article VII provides, in pertinent part:

A legal nonconforming use, structure, or premise may not be structurally altered, reconstructed, enlarged, structurally altered or extended to extend the useful life of the use or structure without a variance granted by the Board.

53. Section 4.B of Article VII provides, in pertinent part:

Any commercial, manufacturing and or industrial building or structure damaged by explosion, fire, act of God, or public enemy, to the extent that the repair of that building or structure is valued at 50 percent or more of its current assessed or appraised value, shall not be restored except in conformity with the regulations of this Ordinance unless a variance is granted for this repair by the Board.

54. The pre-existing Regions Lakeshore Operations Center has been fully demolished by or at the direction of the Developer Defendants. Total demolition exceeds the 50% threshold contemplated by Section 4.B by definition: a fully demolished structure cannot be repaired at less than 100% of its assessed value, because there is no structure remaining to repair.
55. No variance has been sought from or granted by the Board to authorize the reconstruction, replacement, or substitution of the demolished structure with a 300-megawatt hyperscale AI computing facility.
56. Accordingly, even assuming *arguendo* that the prior Regions facility carried any form of nonconforming-use entitlement—which Plaintiffs deny, because the Regions facility was a conforming Commercial Use Group 2 use under the MXD classification, not a nonconforming use—any such entitlement was extinguished by the demolition under Section 3.A.3 and Section 4.B.
57. The Developer Defendants’ “grandfathering” theory therefore fails on the face of the Ordinance and on the basis of an undisputed factual record. Whatever entitlement the Developer Defendants claim to inherit from the prior use died with the prior building. Any new construction on the Site must conform to current Ordinance requirements, including the MXD Conceptual Plan amendment process and, where applicable, the special exception process.

The MXD Zoning Violation

58. Under the Birmingham Zoning Ordinance, the MXD district is intended for “large, master-planned developments that blend residential, office, commercial, cultural, and industrial uses,” and that emphasize “efficient services, natural resource protection, and community

interaction.” Permitted uses are those identified in the Council-approved Conceptual Plan; substantial deviations from approved uses require an amendment to the Conceptual Plan, accompanied by public hearings before the Zoning Advisory Committee and the Birmingham City Council.

59. Chapter 4, Article V, Section 7, Subsection 3.D of the Ordinance expressly provides that no amendment to a Conceptual Plan shall be made without public hearings before the ZAC and the City Council where the proposed amendment would, among other things:

- (a) “increase the overall densities or intensity of uses by more than ten percent (10%) of the Council approved Conceptual Plan”; or
- (b) “alter the MXD’s relationships to adjacent developed property or relationships to planned uses.”

60. The change in use group intensity from the prior Regions Bank Operations Center—a Commercial Use Group 2 office facility consuming under twenty (20) megawatts of electricity—to a 300-megawatt continuous-operation industrial AI computing campus represents an intensity increase of approximately 1,500% on the energy axis alone, before accounting for water draw, generator capacity, twenty-four-hour operation, transformer hum, cooling-tower noise, or any other operational characteristic. This is not a minor amendment under Subsection 3.D and cannot be made administratively by the Director. It requires public hearings before the ZAC and the City Council.

61. No Conceptual Plan amendment has been adopted authorizing a 300-megawatt hyperscale AI computing campus, a dedicated industrial power substation, or a high-voltage switching

station at the Site. The Project is not consistent with any approved Development Plan for any phase of the Oxmoor Corporate Park MXD.

62. The Project is not the kind of “industrial” use the MXD ordinance contemplates. The MXD ordinance contemplates industrial uses that are integrated into a master-planned, mixed-use environment oriented toward community interaction and natural resource protection. A single-purpose, energy-intensive, continuously operating industrial computing campus with high-voltage transmission infrastructure and backup generator arrays is incompatible with that framework.

63. Moreover, the most permissive use group within the MXD framework potentially applicable to the Project—Commercial Use Group 3, “Commercial/Limited Manufacturing Use”—expressly limits light manufacturing uses to those that “do not create any danger to health or safety in surrounding areas and which do not create any objectionable noise, vibration, smoke, dust, odor, heat or glare, or release any pollutant which would require a permit from a state or federal agency.” The Project’s own publicly committed operational characteristics—twenty-four-hour mechanical operations, extensive generator arrays, cooling-tower noise and heat plumes, and high-voltage transmission infrastructure—are in direct and irreconcilable tension with this standard.

The Special Exception Denials and the Substation Violation

64. Title 1, Chapter 1, Article III, Section 1, Item 218 of the Birmingham Zoning Ordinance defines a “Utility Substation” as follows:

Utility Substation. A facility that regulates electric current, telephone switching or natural gas pressure for distribution to individual neighborhoods.

65. The proposed power substation and switching station fall squarely within that definition. Each is a facility that regulates electric current: each receives high-voltage electricity from the utility's transmission or distribution lines, steps down or routes that electricity through transformers, circuit breakers, voltage regulators, and protective relay systems, and connects to the public distribution infrastructure serving the surrounding neighborhoods.
66. The phrase “for distribution to individual neighborhoods” in Item 218 is a geographic descriptor of distribution-scale infrastructure—as distinct from regional transmission-scale infrastructure—not a customer-count threshold. The phrase distinguishes local step-down facilities from long-haul transmission switching yards. It does not establish a requirement that a facility serve multiple end users to fall within the definition.
67. This reading is reinforced by the structure of the definition itself. Item 218 covers three distinct utility categories in a single sentence—“electric current, telephone switching or natural gas pressure”—and uses “distribution to individual neighborhoods” to describe the local end-use context across all three. A natural-gas regulator serving a single large industrial customer located within a neighborhood is no less a regulator “for distribution to individual neighborhoods” because of the identity or count of its end customer. The same is true of the electrical infrastructure proposed at the Site.
68. The reading is further reinforced by the absence of limiting language. Other definitions in the Birmingham Zoning Ordinance expressly use phrases like “the general public,” “public

access,” or similar language when the drafters intended to restrict a definition to publicly serving facilities. Item 218 contains no such limiting language. Under the Ordinance’s own rules of construction at Title 1, Chapter 1, Article I, Section 5—which provide that words shall be “construed according to the common and approved usage of the language”—and under standard canons of construction, the absence of limiting language is dispositive: where drafters chose not to include a single-user exclusion, none can be read into the definition.

69. The structural treatment of substations elsewhere in the Ordinance confirms this reading. Title 1, Chapter 1, Article II, Section 17 of the Ordinance addresses “Utility Structures”—poles, wires, conduits, pole-mounted transformers, and similar infrastructure—and expressly carves out “buildings or electric substations” from that section’s blanket permission. The Ordinance thus affirmatively distinguishes electric substations as a separate, individually regulated category requiring special exception review through the ZBA process. The proposed facilities fall within that category.

70. The City Attorney’s contrary reading—that the proposed facilities are not “Utility Substations” because they purportedly serve a single user—imports a customer-count limitation that the Ordinance text does not contain, ignores the geographic and scale-based meaning of “individual neighborhoods,” and contradicts the engineering reality of how the proposed facilities operate.

The Proposed Facilities Materially Affect the Public Distribution Grid Serving the Affected Area

71. Regardless of customer count or commercial arrangement, the proposed power substation and switching station are physically interconnected with the public utility distribution infrastructure that serves the surrounding neighborhoods. That interconnection is not merely administrative. It is the physical mechanism by which the proposed facilities affect every other customer sharing the same distribution feeders.
72. **Fault current loading.** When a short circuit or equipment failure occurs anywhere on a shared distribution feeder, a surge of current—called fault current—flows through every piece of equipment on that feeder until protective devices interrupt it. Every transformer, circuit breaker, and relay on the feeder is rated to handle fault current only up to a specific limit. The connection of a large new load through a private substation increases the fault current that flows through shared equipment during a fault event. Exceeding those ratings can cause catastrophic equipment failures that cascade into widespread outages affecting every customer on the feeder. The proposed substation will have the same fault current impact on the shared grid as a publicly owned substation of comparable capacity.
73. **Harmonic propagation.** Large industrial computing loads connected through private substations routinely introduce power quality disturbances onto the shared distribution grid, including harmonic distortions produced by variable-frequency drives, rectifiers, and other nonlinear loads. Harmonics arising within a customer’s installation propagate onto the network and affect other customers on the same subsystem.
74. **Voltage regulation.** When a large facility draws heavily on the distribution grid, or rapidly varies its demand, it causes voltage fluctuations across the entire feeder, affecting the quality of service delivered to every other customer on the same circuit. Residential

customers may experience flickering lights, equipment damage, or brownout conditions. The utility's voltage regulation equipment—tap changers, capacitor banks, line regulators—is sized for existing loads, and a major new connection can exceed its regulation capacity.

75. **Protection coordination.** A switching station's fault isolation function integrates it into the grid's shared protection architecture. Miscoordinated relay settings at a private switching station can cause neighboring substations' protective devices to fail during a fault event—potentially causing wider outages affecting customers throughout the distribution area.
76. Accordingly, the proposed power substation and switching station, regardless of customer count or commercial arrangement, are facilities that distribute electricity to and materially affect the infrastructure serving the surrounding neighborhoods. They are “Utility Substations” within the meaning of Item 218 of the Ordinance and required special exception approval by the ZBA.
77. Furthermore, zoning approvals run with the land and the physical use, not with the current owner's stated business model. Even accepting the Developer Defendants' current characterization of the facilities as “single-customer,” nothing in the Ordinance, the building permits issued by the City, or any recorded covenant constrains the Developer Defendants from later expanding the facilities' customer base. A facility that may become a multi-customer substation tomorrow—without ever undergoing special exception review—has obtained, by interpretation, an entitlement the Ordinance does not permit. The procedural protections of the special exception process must attach now, when the physical

character of the use is being determined, not after the fact when ownership or commercial arrangements have changed.

The ZBA Denials, the City Attorney's Memorandum, and the Excess of Advisory Authority

78. Nebius filed two special exception applications for the substation and switching station with the ZBA, designated Case Nos. ZBA2026-00007 (substation) and ZBA2026-00006 (switching station). The ZBA held a public hearing on March 26, 2026.
79. Pursuant to Section VII(h) of the ZBA Rules of Procedure and Ala. Code § 45-37A-56(b) (1975), approval of a special exception requires the concurring vote of two-thirds (2/3) of the members present. Neither of Nebius's applications received the required two-thirds concurrence on March 26, 2026. As a matter of law, both applications were denied. Nebius did not timely petition for writ of certiorari under Ala. Code § 11-52-81 (1975) within fifteen days, and the time to do so has expired. The denials are final, binding, and *res judicata*.
80. The Board exercised jurisdiction over both cases without contemporaneous objection. Both parties appeared, evidence was presented, arguments were made, and votes were taken. At no point during the March 26, 2026 hearing did the City Attorney's office advise the Board that it lacked jurisdiction.
81. On April 9, 2026, the Birmingham City Attorney issued an Interoffice Memorandum (the "Jurisdictional Memorandum") opining—after the fact and after the denial votes had been cast—that the substation and switching station were not "Utility Substations" under the Ordinance because they purportedly serve a single user, and that "these matters should not have been before the Zoning Board of Adjustments."

82. The Jurisdictional Memorandum is legally erroneous and exceeds the City Attorney's advisory function. Zoning-interpretive authority over the provisions of the Birmingham Zoning Ordinance is vested by the Ordinance itself and by Ala. Code § 45-37A-56 (1975) in the ZBA, not in the City Attorney's office. The City Attorney serves in an advisory capacity and provides guidance to the Board and to other city officials; she does not have independent authority to determine the scope of the Board's jurisdiction or to declare that matters are outside its purview.
83. By issuing a post-vote memorandum advising that the matters "should not have been before" the Board, the City Attorney effectively purported to issue a jurisdictional ruling—a function that belongs to the Board itself and that is subject to judicial review under Ala. Code § 11-52-81 (1975), not to administrative reversal by advisory memorandum.
84. If the Jurisdictional Memorandum were accepted as legally effective, the consequence would be that both proposed facilities could proceed without any zoning approval— notwithstanding the Board's public-hearing process, notwithstanding the participation of neighboring property owners who appeared at the hearing, and notwithstanding the Board's denial votes—with the Board's denial functionally erased not by judicial review applying legal standards but by an internal administrative memorandum issued only after the denial occurred. That outcome is incompatible with the procedural safeguards Ala. Code § 11-52-81 (1975) was enacted to protect.
85. The Jurisdictional Memorandum cannot operate as an administrative reversal of a final, unappealed Board decision. The April 9, 2026 memorandum is without legal force or effect insofar as it purports to reverse, nullify, or circumvent the ZBA's denials.

The City's Public Moratorium Process and the Developer Defendants' Acceleration

86. On December 16, 2025—seventy-seven (77) days after the September 30, 2025 acquisition cascade through which Alabama ADC took title to the Site—the City of Birmingham issued an official press release on its website at *birminghamal.gov* publicly announcing a proposed 270-day moratorium on data center construction, expansion, or establishment within City limits. The December 16, 2025 press release noticed a first public hearing for January 13, 2026 and identified the regulatory framework for hyperscale data centers as a subject of City Council deliberation.
87. The December 16, 2025 press release was reported on by Birmingham media (including WBRC, the Birmingham Times, ABC 33/40, BirminghamWatch, and CBS 42) on December 19, 2025 and in the days that followed. As of December 16, 2025, the Developer Defendants were on official, public, contemporaneous notice that the City of Birmingham was actively developing a regulatory framework for hyperscale data centers and was preparing to impose a moratorium on new data center applications.
88. From December 16, 2025 forward, every permit application made by or on behalf of the Developer Defendants in connection with the Project was made with constructive and actual notice that the regulatory framework was changing. No permit application in connection with the Project pre-dates the December 16, 2025 public notice. The earliest Project-related permit application, the Regions Demolition permit (BLD2026-00036), was filed on January 7, 2026—three weeks after the public notice and one week before the first public hearing on the moratorium.

89. On January 13, 2026, the Birmingham City Council held the first noticed public hearing on the proposed moratorium. Public testimony was overwhelmingly in favor of the moratorium. The Council delayed a vote and referred the proposal to the Planning & Zoning Committee. The Council’s referral confirmed that a moratorium of some scope would proceed.
90. On January 27, 2026, the Birmingham Planning & Zoning Committee unanimously recommended adoption of a six-month moratorium on new data center applications. On the same date—January 27, 2026—the Developer Defendants filed the two special exception applications with the ZBA (Case Nos. ZBA2026-00007 and ZBA2026-00006). On the following day, January 28, 2026, the Earthwork permit (SEC2026-00033) was applied for. On the next day, January 29, 2026, the Foundation permit (BLD2026-00195) was applied for. The temporal coincidence between the Planning & Zoning Committee’s unanimous moratorium recommendation and the Developer Defendants’ special exception and permit filings was not coincidence; it was acceleration in response to public notice of the impending regulatory change.
91. On March 3, 2026, the Birmingham City Council unanimously adopted Ordinance No. 26-25, a six-month moratorium on new large data center applications (those exceeding twenty (20) megawatts). The moratorium’s stated purpose was to allow the City to develop “clear rules and guardrails” for hyperscale data centers. The City Planning Director publicly stated that the moratorium’s objective was to ensure clear rules and guardrails “rather than relying on a case-by-case interpretation.”

92. Although the City Council was under no legal obligation to exempt any pending application from the moratorium, the Council chose to draft Ordinance No. 26-25 with a filing-date carve-out that exempted applications filed before the moratorium's effective date. The Council could lawfully have written the moratorium to apply to all pending and prospective applications, including the Project. At the time the moratorium was being considered and adopted, Nebius held no vested rights: it was a pending applicant whose review process had not been completed, no Conceptual Plan amendment had been adopted authorizing its use, no special exception had been granted for the required Utility Substations, and the City Attorney had not yet issued the April 9, 2026 Jurisdictional Memorandum.
93. To remove any doubt as to that point, on April 9, 2026, the City Attorney issued a separate Interoffice Memorandum (the "Grandfather Memorandum") expressly confirming that the procedural exemption "does not approve any specific project. It only allows those who started the process of regulatory review to continue without an appeal to Council."
94. The Grandfather Memorandum is a written admission by the City's chief legal officer that the Project has not received substantive zoning approval. It expressly disavows any approval effect of the moratorium exemption and confirms that the "process of regulatory review" required for the Project remains unfinished. The Project is not a 300-megawatt hyperscale facility that has been duly approved; it is a 300-megawatt hyperscale facility that has been allowed to continue an as-yet-unfinished review while every other applicant is barred from filing for the same use.
95. The Grandfather Memorandum forecloses any argument by the Developer Defendants that they have a vested right or reasonable reliance interest in the Project. The Developer

Defendants cannot reasonably rely on a permit that the City's own chief legal officer has expressly stated in writing is not an approval. Moreover, because the Council's filing-date exemption was a discretionary legislative choice rather than the recognition of any pre-existing entitlement, the Developer Defendants cannot invoke the exemption itself as evidence of vested rights. The exemption was the legislative creation of a procedural pathway, not the ratification of an underlying substantive right. A regulatory benefit conferred by discretionary legislative grace cannot be re-characterized by its beneficiary as a vested right that pre-existed the legislative grant.

The Proposed Data Center Ordinance and the City's Active Effort to Strip the Public-Hearing Protection It Embodies

96. Following adoption of the moratorium, the City's Planning Department, working with the Planning & Zoning Commission, drafted a comprehensive new data center ordinance (the "Proposed Data Center Ordinance") and publicly noticed it for City Council consideration. The Proposed Data Center Ordinance, as recommended by the Planning & Zoning Commission, would, among other things, require Special Exception approval, with a public hearing, for hyperscale data centers proposed in mixed-use development and light industrial zoning districts (the very districts in which the Project is sited); impose a minimum 1,000-foot setback from any residential zoning district or urban neighborhood district; require a minimum five-acre lot and expressly forbid satisfying that minimum through aggregation of non-contiguous parcels; and impose detailed substantive requirements on hyperscale facilities addressing water use, closed-loop cooling, stormwater discharge, on-site backup-power generation, noise mitigation, electrical

demand disclosure, ultimate build-out disclosure, and pre- and post-construction noise studies.

97. The Site itself is exactly the kind of non-contiguous, four-parcel assemblage that the Proposed Data Center Ordinance would expressly disallow. The Proposed Data Center Ordinance is, in effect, the City's own diagnostic of the regulatory gap that the Project is exploiting.

98. On April 28, 2026, after hearing testimony from dozens of concerned residents at a public hearing on the Proposed Data Center Ordinance, the Birmingham City Council voted unanimously to postpone a vote on the Proposed Data Center Ordinance until early June 2026. As of the filing of this First Amended Complaint, no comprehensive data center ordinance has been adopted, and no substantive standards specific to hyperscale data centers exist under Birmingham law.

99. Notwithstanding the Planning & Zoning Commission's recommendation, Mayor Randall Woodfin publicly opposed the Special Exception requirement contained in the Proposed Data Center Ordinance. At the April 28, 2026 City Council meeting, Mayor Woodfin stated that the Special Exception requirement "unintentionally politicizes" the approval process and "can be seen as anti-growth." Following those statements, the Mayor's administration publicly indicated that City staff are now seeking to replace the Special Exception process for hyperscale data centers with administrative review.

100. The City's present effort to remove the Special Exception requirement from the Proposed Data Center Ordinance is itself probative of the matters at issue in this action. Whatever course the Council ultimately takes on the Proposed Data Center Ordinance, the

existing Birmingham Zoning Ordinance does not authorize the Project and does not contain substantive standards adequate to govern it; and the Defendants cannot rely on a future, not-yet-adopted, and actively contested ordinance to justify the construction the Developer Defendants have already begun.

The Six-Permit Cascade and \$34,866,222.53 in Disclosed Permit Fees

101. The pre-existing Regions Lakeshore Operations Center building has been demolished. The historic structure on the 201 Milan Parkway anchor parcel—the prior Commercial Use Group 2 use under the MXD framework—is gone.

102. The Site is presently being regraded, with active grading, earthmoving, and site preparation work being conducted by Hoar. Such work is, by its nature, irreversible: once the existing topography, vegetation, drainage patterns, and tree cover have been disturbed, they cannot be meaningfully restored.

103. Notwithstanding the absence of lawful zoning authority for the Project, the City of Birmingham has issued, or permitted to be issued, six separate Project-related permits to or for the benefit of the Developer Defendants, with disclosed permit fees totaling **\$34,866,222.53**. The six permits are:

(a) **Earthwork Permit (SEC2026-00033)** — applied for January 28, 2026 (the day after the Planning & Zoning Committee’s unanimous moratorium recommendation); issued February 25, 2026; disclosed fees **\$2,090.00**;

(b) **Foundation Permit (BLD2026-00195)** — applied for January 29, 2026 (two days after the Planning & Zoning Committee’s unanimous moratorium

recommendation); issued March 30, 2026 (four days after the ZBA denials of the special exception applications); disclosed fees **\$70,875.00**;

(c) **Superstructure Permit (BLD2026-00640)** — applied for March 30, 2026 (four days after the ZBA denials); issued April 15, 2026 (after the ZBA denials, after the April 9 Memorandum, and after the Developer Defendants’ April 10 Notices of Appeal); disclosed fees **\$51,450.00**;

(d) **Regions Demolition Permit (BLD2026-00036)** — applied for January 7, 2026 (three weeks after the City’s December 16, 2025 public notice); issued April 27, 2026 (thirty-two days after the ZBA denials); disclosed fees **\$10,215,175.00**;

(e) **Phase 2 Building Permit (BLD2026-00724)** — applied for April 10, 2026 (thirty-eight days after the moratorium took effect on March 3, 2026, and on the same day the Developer Defendants filed their Notices of Appeal with the ZBA); issued April 27, 2026 (seventeen days after application, notwithstanding multiple review revisions and corrections); disclosed fees **\$24,526,632.53**; and

(f) **Electrical Permit (ELE2026-00878)** — applied for and issued April 28, 2026 (same-day processing); disclosed fees not separately stated.

104. On April 27, 2026, in a single day, the City issued three separate Project-related permits: the Regions Demolition Permit (**\$10,215,175.00** in fees), the Phase 2 Building Permit (**\$24,526,632.53** in fees), and an additional Phase 2 review approval. The combined permit fees issued by the City in that single day exceeded **\$34,700,000.00**. The April 27, 2026 same-day triple issuance occurred after the March 26, 2026 ZBA denials, after the

April 24, 2026 administrative appeal of the April 9 Memorandum by the Greater Birmingham Humane Society, and during the pendency of the City's consideration of the Proposed Data Center Ordinance.

105. The Phase 2 Building Permit (BLD2026-00724) warrants particular attention. The Phase 2 Building Permit was applied for on April 10, 2026 — thirty-eight (38) days after the moratorium took effect on March 3, 2026, one hundred fifteen (115) days after the December 16, 2025 public notice, eighty-seven (87) days after the January 13, 2026 first public hearing, seventy-three (73) days after the January 27, 2026 Planning & Zoning Committee recommendation, and fifteen (15) days after the March 26, 2026 ZBA denials. The Phase 2 Building Permit is, by its application date, a permit application made during the moratorium. It is not within the moratorium's filing-date carve-out, which by its plain terms exempts only applications filed before the effective date of the moratorium.

106. Each of the six Project-related permits identified herein was issued by the City notwithstanding (a) the absence of any Conceptual Plan amendment authorizing the proposed use; (b) the demolition of the prior structure, which extinguished any nonconforming-use entitlement under Chapter 9, Article VII, Sections 3.A.3 and 4.B of the Ordinance; (c) the final denial of the substation and switching station special exception applications by the ZBA; and (d) the City Attorney's express written acknowledgment that the moratorium exemption "does not approve any specific project." Each of the six permits is therefore void.

107. The rate and scale of the post-notice and post-denial permit issuance demonstrates a deliberate strategy to outrun the City's regulatory process and this litigation. From the

December 16, 2025 public notice forward, the Developer Defendants knew that the regulatory framework was changing. They accelerated permit filings to commit the Site to industrial use before the framework could be put in place. After losing at the ZBA on March 26, 2026, they accelerated **\$34.7+ million** in post-denial permit issuance to make the Project too far along to undo. Each additional day of construction inflicts irreversible physical alterations on the Site, on Plaintiffs' property, and on the property of every member of the proposed Class.

Injury to Plaintiffs and the Class

108. Plaintiffs and the members of the Class have suffered, and will continue to suffer, the following injuries as a direct and proximate result of the Defendants' conduct:

- (a) Diminution in the fair market value of their residential properties, attributable to the Project's announcement, the demolition of the prior structure, the active grading, the issuance of the six Project-related permits identified above (with disclosed fees totaling **\$34,866,222.53**), and the publicly committed character of the Project as a 300-megawatt hyperscale industrial computing campus on a parcel previously occupied by a low-impact corporate office use;
- (b) Loss of use and enjoyment of their residential properties, including disturbance from construction-phase dust, noise, vibration, truck traffic, and altered drainage and topography;
- (c) Anticipated and partly already realized loss of use and enjoyment from operational nuisances, including continuous transformer hum, cooling-tower noise and emissions, generator testing and operation, light pollution, electromagnetic

emissions, heat-plume effects, and the documented effects on the public distribution grid from fault current loading, harmonic propagation, voltage regulation disturbance, and protection-coordination interference described above;

- (d) Stigma and loss of marketability arising from the publicly committed character of the Project and from the City's issuance of permits without lawful zoning authority;
 - (e) Impairment of the residential character of the Affected Area, including impairment of the natural, scenic, environmental, and community character of the Oxmoor Valley corridor; and
 - (f) Loss of the procedural protections to which they were entitled under the Birmingham Zoning Ordinance, including the public-hearing protections of the MXD Conceptual Plan amendment process and the special exception process before the ZBA.
109. These injuries are common in character to all Class members, vary in degree by reference to objective factors (proximity to the Site, line of sight, prevailing wind direction, comparable sales) that are amenable to class-wide methodology, and were caused by Defendants' unlawful conduct.

VII. CAUSES OF ACTION

COUNT I — DECLARATORY JUDGMENT

(Demolition-Extinguishment of Prior-Use Status Under Chapter 9, Article VII, Sections 3.A.3 and 4.B)

(Against the City and the Developer Defendants)

110. Plaintiffs incorporate by reference the allegations previously set forth herein.
111. An actual, justiciable controversy exists between Plaintiffs and the Class, on the one hand, and the Defendants, on the other, concerning whether the demolition of the Regions Lakeshore Operations Center extinguished any legal nonconforming use status or other prior-use entitlement on the Site, such that any new construction must conform to current Ordinance requirements.
112. Pursuant to Chapter 9, Article VII, Sections 3.A.3 and 4.B of the Birmingham Zoning Ordinance, even assuming *arguendo* that the prior Regions facility carried any form of nonconforming-use entitlement, that entitlement was extinguished by the total demolition of the structure. No variance has been sought from or granted by the Board.
113. Pursuant to Ala. Code §§ 6-6-220 *et seq.* (1975), Plaintiffs and the Class are entitled to a judgment declaring that: (a) the demolition of the Regions Lakeshore Operations Center extinguished any legal nonconforming use status or other prior-use entitlement on the Site; (b) the Developer Defendants may not rely on any “grandfathering” theory derived from the prior use to justify the Project; and (c) any new construction on the Site must conform in all respects to current Ordinance requirements, including the MXD Conceptual Plan amendment process and the special exception process for any “Utility Substation” as defined by the Ordinance.

COUNT II — DECLARATORY JUDGMENT

(MXD Non-Conformance and Required Conceptual Plan Amendment)

(Against the City and the Developer Defendants)

114. Plaintiffs incorporate by reference the allegations previously set forth herein.
115. An actual, justiciable controversy exists between Plaintiffs and the Class, on the one hand, and the Defendants, on the other, concerning whether the Project is a permitted use within the MXD zoning classification as applied to the Site, and concerning whether construction of the Project requires an amendment to the Council-approved Conceptual Plan adopted only after public hearings before the Zoning Advisory Committee and the Birmingham City Council.
116. The change in use group intensity from the prior Commercial Use Group 2 office use to a 300-megawatt continuous-operation industrial AI computing campus exceeds the 10% intensity threshold of Chapter 4, Article V, Section 7, Subsection 3.D of the Ordinance by more than two orders of magnitude. The change also alters the MXD's relationships to adjacent developed property and to planned uses within the meaning of Subsection 3.D. A Conceptual Plan amendment, adopted only after public hearings before the ZAC and the City Council, is therefore required.
117. The Project further fails to satisfy the substantive standard for Commercial Use Group 3 under the MXD framework, which requires that any light manufacturing use "not create any danger to health or safety in surrounding areas" and "not create any objectionable noise, vibration, smoke, dust, odor, heat or glare." The Project's publicly committed operational characteristics violate this standard.

118. Pursuant to Ala. Code §§ 6-6-220 *et seq.* (1975), Plaintiffs and the Class are entitled to a judgment declaring that the Project, as currently proposed and constructed, is not a permitted use under the MXD zoning classification applicable to the Site, and that construction of the Project requires an amendment to the Conceptual Plan, adopted only after public hearings before the Zoning Advisory Committee and the Birmingham City Council, as required by the Birmingham Zoning Ordinance.

COUNT III — DECLARATORY JUDGMENT

(Utility Substation; ZBA Denials; Excess of City Attorney Advisory Authority)

(Against the City, the ZBA, and the Developer Defendants)

119. Plaintiffs incorporate by reference the allegations previously set forth herein.

120. An actual, justiciable controversy exists concerning whether the proposed power substation and switching station are “Utility Substations” within the meaning of Title 1, Chapter 1, Article III, Section 1, Item 218 of the Birmingham Zoning Ordinance; whether the ZBA had jurisdiction over Case Nos. ZBA2026-00007 and ZBA2026-00006; whether the March 26, 2026 denials are final, binding, and res judicata; whether the City Attorney exceeded her advisory function by issuing a post-vote jurisdictional determination; and whether the April 9, 2026 Jurisdictional Memorandum has any legal effect.

121. The proposed power substation and switching station are “Utility Substations” within the meaning of Item 218 based on (a) the plain text of the definition, which describes facilities that regulate electric current for distribution to individual neighborhoods, and which both proposed facilities do; (b) the geographic-scale rather than customer-count meaning of “individual neighborhoods,” and the absence of any limiting language

requiring multiple customers; (c) the structural treatment of substations elsewhere in the Ordinance, including the express carve-out of “buildings or electric substations” from the general utility-structures permission of Title 1, Chapter 1, Article II, Section 17; and (d) the engineering fact that the proposed facilities are physically interconnected with the public distribution grid serving the surrounding neighborhoods and materially affect that grid through fault current loading, harmonic propagation, voltage regulation, and protection coordination, regardless of customer count or commercial arrangement.

122. The ZBA had jurisdiction over Case Nos. ZBA2026-00007 and ZBA2026-00006. The Board exercised that jurisdiction at the March 26, 2026 hearing without contemporaneous objection by the City Attorney’s office. The Board’s denial votes are the operative Board actions on these cases.

123. The City Attorney exceeded her advisory function by issuing a post-vote memorandum purporting to declare that the matters were outside the Board’s jurisdiction. Zoning-interpretive authority is vested by the Ordinance and by Ala. Code § 45-37A-56 in the ZBA, not in the City Attorney’s office. The April 9, 2026 Jurisdictional Memorandum cannot operate as an administrative reversal of a final, unappealed Board decision.

124. Pursuant to Ala. Code §§ 6-6-220 *et seq.* (1975), Plaintiffs and the Class are entitled to a judgment declaring that: (a) the proposed substation and switching station are each a Utility Substation within the meaning of the Ordinance, and each required special exception approval; (b) the ZBA had jurisdiction over Case Nos. ZBA2026-00007 and ZBA2026-00006; (c) the March 26, 2026 denials are final, binding, and *res judicata*; (d) the City Attorney lacked authority to issue a binding jurisdictional determination on the

scope of the Board's authority; and (e) the April 9, 2026 Jurisdictional Memorandum is without legal force or effect insofar as it purports to reverse, nullify, or circumvent those denials.

COUNT IV — DECLARATORY JUDGMENT

(Permits Void)

(Against the City and the Developer Defendants)

125. Plaintiffs incorporate by reference the allegations previously set forth herein.
126. An actual, justiciable controversy exists concerning the validity of the six Project-related permits identified in paragraph 103 hereof, with aggregate disclosed permit fees of **\$34,866,222.53**.
127. A building permit issued for an unauthorized use is void as a matter of law. Each of the six Project-related permits was issued without (a) any Conceptual Plan amendment authorizing the proposed use; (b) any variance authorizing reconstruction following demolition of the prior structure; and (c) any special exception approval for the required Utility Substations. The City Attorney's own written acknowledgment that the moratorium exemption "does not approve any specific project" confirms that no substantive zoning authority underlies any of the permits.
128. Pursuant to Ala. Code §§ 6-6-220 *et seq.* (1975), Plaintiffs and the Class are entitled to a judgment declaring that each of the six Project-related permits identified in paragraph 103 hereof — specifically, SEC2026-00033, BLD2026-00195, BLD2026-00640, BLD2026-00036, BLD2026-00724, and ELE2026-00878 — is null and void.

COUNT V — PRIVATE NUISANCE

(Against Nebius, Alabama ADC, Hoar, the Raeden-Affiliated Defendants, and Fictitious Defendants A through E)

129. Plaintiffs incorporate by reference the allegations previously set forth herein.

130. Pursuant to Ala. Code § 6-5-120 (1975), a nuisance is anything that works hurt, inconvenience, or damage to another. The Developer Defendants' ongoing demolition and grading activities, and the Project's anticipated and committed-to-occur operational characteristics, constitute a private nuisance to the residential properties of Plaintiffs and the Class within the Affected Area.

131. Construction-phase nuisance is presently occurring, including dust, noise, vibration, truck traffic, and disruption of drainage and topography. Operational nuisance is committed-to-occur and reasonably certain in light of the demolition completion, the active grading, and the issuance of the six Project-related permits totaling **\$34,866,222.53**, including continuous transformer hum, cooling-tower noise and emissions, generator testing and operation, light pollution, and electromagnetic emissions.

132. The Developer Defendants' conduct unreasonably interferes with the use and enjoyment of Plaintiffs' and the Class members' properties and has caused, and will continue to cause, diminution in market value, loss of use and enjoyment, and stigma damages. The Raeden-Affiliated Defendants are jointly and severally liable with Nebius and Alabama ADC for these injuries on the basis of the concerted-conduct allegations of paragraphs 23 and 43 through 47 hereof. Plaintiffs and the Class are entitled to

compensatory damages, abatement of the nuisance through injunctive relief, and such other relief as the Court deems just and proper.

COUNT VI — TRESPASS

(Against Nebius, Alabama ADC, Hoar, the Raeden-Affiliated Defendants, and Fictitious Defendants A through E)

133. Plaintiffs incorporate by reference the allegations previously set forth herein.

134. Under Alabama law, the unauthorized invasion of another's property by particulates, vibration, noise of a sufficiently substantial character, electromagnetic emissions, or other physical intrusions can constitute a trespass. The Developer Defendants' ongoing demolition, grading, and site preparation, and the Project's committed operational characteristics, will cause and are causing physical invasions of the properties of Plaintiffs and the Class through dust, particulates, vibration, noise, light, and electromagnetic emissions.

135. Such invasions are intentional in the sense required by Alabama trespass law, in that the Developer Defendants undertook the conduct knowing to a substantial certainty that the resulting emissions and intrusions would reach and affect the Class's properties. The Raeden-Affiliated Defendants are jointly and severally liable on the basis of the concerted-conduct allegations of paragraphs 23 and 43 through 47 hereof. Plaintiffs and the Class are entitled to compensatory damages, abatement through injunctive relief, and such other relief as the Court deems just and proper.

COUNT VII — NEGLIGENCE PER SE

(Against the Developer Defendants)

136. Plaintiffs incorporate by reference the allegations previously set forth herein.

137. The Birmingham Zoning Ordinance was enacted, in part, to protect residential property owners against incompatible, intensive, or industrial uses sited adjacent to or in close proximity to their homes. Plaintiffs and the Class are members of the protected class, and the harms they have suffered are of the kind the Ordinance was designed to prevent.

138. The Developer Defendants' construction of the Project in violation of the Ordinance—following demolition that extinguished any prior-use entitlement, without the required Conceptual Plan amendment, in defiance of the final ZBA denials, and on the strength of six permits issued without lawful zoning authority—constitutes negligence per se. Plaintiffs and the Class are entitled to compensatory damages and other appropriate relief.

COUNT VIII — PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

(Against All Defendants)

139. Plaintiffs incorporate by reference the allegations previously set forth herein.

140. Plaintiffs and the Class have a substantial likelihood of success on the merits of the foregoing counts; will suffer irreparable injury absent injunctive relief, including from continuing irreversible site work and the wholesale industrialization of an MXD parcel; have no adequate remedy at law for the irreparable component of their injury; and will be benefited by injunctive relief in a manner that substantially outweighs any harm to the

Defendants from the requested relief, particularly in light of (a) the Defendants' own admissions that the regulatory framework for hyperscale data centers does not yet exist, and (b) the fact that the booked **\$90,000,000** land basis the Developer Defendants will assert in opposition is, on the face of the recorded deeds, inflated by approximately **\$67,500,000** of intra-cascade markup that did not pay any third-party seller.

141. Plaintiffs and the Class are entitled to a preliminary injunction and, upon final hearing, a permanent injunction enjoining the Defendants and all persons in active concert with them, including without limitation Hoar, from issuing, relying on, or acting upon any permit for the Project; from undertaking any further demolition, site preparation, grading, construction, equipment installation, or operation in furtherance of the Project; and from in any other manner advancing the Project, pending compliance with the Birmingham Zoning Ordinance and Alabama law.

COUNT IX — DECLARATORY JUDGMENT

(Phase 2 Permit Subject to Moratorium and to All Subsequently Adopted Data Center Regulations)

(Against the City and the Developer Defendants) (NEW)

142. Plaintiffs incorporate by reference the allegations previously set forth herein.
143. An actual, justiciable controversy exists between Plaintiffs and the Class, on the one hand, and the Defendants, on the other, concerning (a) the date from which the Developer Defendants are charged with constructive notice that the regulatory framework for hyperscale data centers was changing; (b) whether the Phase 2 Building Permit (BLD2026-00724), applied for thirty-eight days after the moratorium's effective date, falls

within the moratorium's filing-date carve-out; (c) whether each future permit application for the Project will be governed by the law in effect on the date of that application; and (d) whether any subsequently adopted data center ordinance of the City of Birmingham applies to permit applications for the Project that post-date the adoption of that ordinance.

144. The City of Birmingham's December 16, 2025 public announcement of the proposed moratorium placed the Developer Defendants on constructive notice that the regulatory framework for hyperscale data centers was changing. Every Project permit applied for on or after December 16, 2025 was applied for with notice of the changing regulatory framework. The Developer Defendants' sophistication in structuring and executing the September 30, 2025 acquisition cascade defeats any argument premised on lack of notice of subsequent regulatory developments.

145. The Phase 2 Building Permit (BLD2026-00724) was a separate application, filed on April 10, 2026 — thirty-eight days after the moratorium's effective date of March 3, 2026. It is not within any reasonable reading of the moratorium's filing-date carve-out. The carve-out, by its plain terms and as confirmed by the City Attorney's Grandfather Memorandum, applies only to applications filed before the moratorium's effective date. The Phase 2 Building Permit is, by its application date, a permit application made during the moratorium and should not have been processed or issued.

146. Pursuant to Ala. Code §§ 6-6-220 *et seq.* (1975), Plaintiffs and the Class are entitled to a judgment declaring that:

- (a) the City's December 16, 2025 public notice fixes the date from which the Developer Defendants are charged with constructive notice that the regulatory framework was changing;
- (b) the Phase 2 Building Permit (BLD2026-00724) is void as having been applied for thirty-eight days after the effective date of Ordinance No. 26-25 and outside any reasonable reading of the moratorium's filing-date carve-out, and as having been issued without the predicate special exception authority denied by the ZBA on March 26, 2026;
- (c) the moratorium exemption in Ordinance No. 26-25 applies, on its plain terms and consistent with the City Attorney's Grandfather Memorandum, only to applications filed before the moratorium's effective date; and
- (d) each future permit application for the Project will be governed by the law in effect on the date of that application, including any data center ordinance subsequently adopted by the City Council, and no single pre-moratorium application by the Developer Defendants confers a perpetual exemption from subsequent zoning regulation of the Project.

COUNT X — DECLARATORY JUDGMENT

(Economic Substance of the September 30, 2025 Acquisition Cascade)

(Against Nebius, Alabama ADC, and the Raeden-Affiliated Defendants) (NEW)

147. Plaintiffs incorporate by reference the allegations previously set forth herein.

148. An actual, justiciable controversy exists between Plaintiffs and the Class, on the one hand, and Nebius, Alabama ADC, and the Raeden-Affiliated Defendants, on the other, concerning the economic substance of the September 30, 2025 acquisition cascade and the magnitude of the Developer Defendants' actual arm's-length economic investment in the Site for purposes of any takings, vested-rights, balance-of-equities, or related analysis advanced by the Developer Defendants in this action.

149. The September 30, 2025 acquisition of the Project Site was effected through six separate recorded conveyances among three Raeden-affiliated intermediate entities and Alabama ADC. The aggregate consideration paid to third-party sellers Regions Bank and U.S. Steel Corporation was approximately **\$20,000,000**. The aggregate consideration paid by Alabama ADC was approximately **\$90,000,000**. The approximately **\$67,500,000** difference represents intra-cascade markup captured by the Raeden-Affiliated Defendants and not consideration paid to arm's-length third-party sellers.

150. For purposes of any takings, vested-rights, regulatory-impact, balance-of-equities, or related analysis advanced by the Developer Defendants in this action, the Court should consider only the actual arm's-length economic investment in the Site — approximately **\$20,000,000** paid to third-party sellers, plus subsequent documented Project expenditures — and not the inflated **\$90,000,000** booked land basis.

151. Pursuant to Ala. Code §§ 6-6-220 *et seq.* (1975), Plaintiffs and the Class are entitled to a judgment declaring that:

(a) the September 30, 2025 acquisition cascade, as evidenced by Inst. Nos. 2025089420, 2025089695, 2025089723, 2025089775, 2025089776, and

2025089777 of the Office of the Judge of Probate of Jefferson County, Alabama, produced approximately **\$67,500,000** of intra-cascade markup captured by the Raeden-Affiliated Defendants;

(b) the third-party sellers (Regions Bank and U.S. Steel) received, in the aggregate, approximately **\$20,000,000** in the cascade;

(c) for purposes of any takings, vested-rights, balance-of-equities, or related analysis advanced by the Developer Defendants in this action, the Court will consider the approximately **\$20,000,000** in arm's-length third-party-seller consideration, plus documented subsequent Project expenditures, as the measure of the Developer Defendants' actual economic investment, and not the inflated \$90,000,000 booked land basis.

COUNT XI — CIVIL CONSPIRACY / JOINT ENTERPRISE

(Against Nebius, Alabama ADC, and the Raeden-Affiliated Defendants) (NEW)

152. Plaintiffs incorporate by reference the allegations previously set forth herein.

153. Under Alabama law, a civil conspiracy exists where two or more persons or entities combine to accomplish, by concerted action, an unlawful purpose, or to accomplish a lawful purpose by unlawful means, resulting in damage to the plaintiff. A joint enterprise exists where multiple parties engage in a common undertaking with a community of interest in its purposes and an equal right of control over its prosecution.

154. Nebius, Alabama ADC, and the Raeden-Affiliated Defendants engaged in a coordinated, common-purpose undertaking to acquire, assemble, and develop the Site as a

300-megawatt hyperscale data center campus without first obtaining the lawful zoning authority required by the Birmingham Zoning Ordinance. The September 30, 2025 acquisition cascade, the post-notice permit-filing acceleration, the post-denial permit-filing acceleration, and the ongoing construction by Hoar were each component steps of that single coordinated undertaking.

155. The component steps were undertaken by the Defendants identified herein with knowledge of one another's actions, with shared and consistent objectives, and with an integrated structure of holding companies and operating contracts designed to achieve their common purpose. The Raeden-Affiliated Defendants and Alabama ADC did not act independently. They acted in concert under a coordinated structure managed, at least in part, by Raeden RE, LLC.

156. Plaintiffs and the Class were injured as a direct and proximate result of the concerted conduct of the Defendants identified in this Count, as set forth in paragraphs 108 through 109 hereof. The Defendants identified in this Count are jointly and severally liable for those injuries on the basis of the doctrine of civil conspiracy and the doctrine of joint enterprise.

157. Plaintiffs and the Class are entitled to compensatory damages against the Defendants identified in this Count, jointly and severally, for the injuries set forth in paragraphs 108 through 109 hereof, together with such punitive or exemplary damages as may be permitted by Alabama law on the showing made at trial, and such other relief as the Court deems just and proper.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Madelyn Greene and David Butler, individually and on behalf of all members of the proposed Class, respectfully pray that this Honorable Court enter judgment as follows:

- A.** Certifying this action as a class action pursuant to Rule 23(a) and Rule 23(b)(2) and (b)(3) of the Alabama Rules of Civil Procedure; appointing Plaintiffs as Class Representatives; and appointing the undersigned counsel as Class Counsel;
- B.** Declaring that the demolition of the Regions Lakeshore Operations Center extinguished any legal nonconforming use status or other prior-use entitlement on the Site under Chapter 9, Article VII, Sections 3.A.3 and 4.B of the Birmingham Zoning Ordinance, and that any new construction on the Site must conform in all respects to current Ordinance requirements;
- C.** Declaring that the Project, as currently proposed and constructed, is not a permitted use under the MXD zoning classification applicable to the Site, and that construction of the Project requires an amendment to the Council-approved Conceptual Plan adopted only after public hearings before the Zoning Advisory Committee and the Birmingham City Council as required by the Birmingham Zoning Ordinance;
- D.** Declaring that the proposed power substation and switching station are each a “Utility Substation” within the meaning of Title 1, Chapter 1, Article III, Section 1, Item 218 of the Birmingham Zoning Ordinance, and that each required special exception approval by the Zoning Board of Adjustment;

- E.** Declaring that the Zoning Board of Adjustment had jurisdiction over Case Nos. ZBA2026-00007 and ZBA2026-00006; that the Board’s March 26, 2026 denials of those applications are final, binding, and res judicata; that the City Attorney lacked authority to issue a binding jurisdictional determination on the scope of the Board’s authority; and that the April 9, 2026 Interoffice Memorandum of the Birmingham City Attorney is without legal effect insofar as it purports to reverse, nullify, or circumvent those denials;
- F.** Declaring that each of the six Project-related permits identified in paragraph 103 hereof — specifically, SEC2026-00033, BLD2026-00195, BLD2026-00640, BLD2026-00036, BLD2026-00724, and ELE2026-00878, with aggregate disclosed permit fees of \$34,866,222.53 — is null and void as having been issued without lawful zoning authority;
- G.** Declaring that the City’s December 16, 2025 public notice fixes the date from which the Developer Defendants are charged with constructive notice that the regulatory framework was changing, and that the Phase 2 Building Permit (BLD2026-00724), applied for thirty-eight days after the moratorium’s effective date, is not within the moratorium’s filing-date carve-out and is, additionally and independently, void on that ground;
- H.** Declaring that the moratorium exemption in Ordinance No. 26-25 applies only to applications filed before the moratorium’s effective date, that no single pre-moratorium application by the Developer Defendants confers a perpetual exemption from subsequent zoning regulation of the Project, and that each future permit application for the Project will be governed by the law in effect on the date of that application, including any data center ordinance subsequently adopted by the City Council;

- I. Declaring that the September 30, 2025 acquisition cascade among Regions Bank, Lakeshore Data Center, LLC, U.S. Steel Corporation, 201 Milan Birmingham, LLC, Raeden RE, LLC, and Alabama ADC Holdings LLC, as evidenced by Inst. Nos. 2025089420, 2025089695, 2025089723, 2025089775, 2025089776, and 2025089777 of the Office of the Judge of Probate of Jefferson County, Alabama, produced approximately **\$67,500,000** of intra-cascade markup captured by the Raeden-Affiliated Defendants, and that, for purposes of any takings, vested-rights, balance-of-equities, or related analysis advanced by the Developer Defendants in this action, the Court will consider only the approximately **\$20,000,000** in arm's-length third-party-seller consideration, plus documented subsequent Project expenditures, as the measure of the Developer Defendants' actual economic investment;
- J. Issuing a preliminary injunction, followed by a permanent injunction, enjoining the Defendants, and each of them, and their officers, agents, servants, employees, attorneys, affiliates, subsidiaries, successors, assigns, contractors (including without limitation Hoar Construction), and all persons in active concert or participation with them, from issuing, relying on, or acting upon any permit, approval, or authorization for the Project; from undertaking or permitting any further demolition, site preparation, grading, construction, equipment installation, or operation in furtherance of the Project; and from in any other manner advancing the Project, pending (i) adoption of a valid amendment to the MXD Conceptual Plan authorizing the proposed use, (ii) successful completion of any required variance proceeding before the ZBA to address the demolition of the prior structure under Chapter 9, Article VII of the Ordinance, and (iii) successful completion of the special

exception process before the Zoning Board of Adjustment for any “Utility Substation” within the meaning of the Ordinance;

- K.** Awarding Plaintiffs and the Class compensatory damages, in an amount to be determined by the trier of fact, for diminution in property value, loss of use and enjoyment, mental anguish, stigma damages, construction-phase and operational nuisance, trespass, and the conspiracy and joint-enterprise conduct of Nebius, Alabama ADC, and the Raeden-Affiliated Defendants, together with pre- and post-judgment interest at the lawful rate;
- L.** Awarding Plaintiffs and the Class such punitive or exemplary damages as may be permitted by Alabama law on the showing made at trial, particularly in light of the orchestrated September 30, 2025 acquisition cascade and the deliberate post-notice and post-denial permit-filing acceleration evidenced by the conduct of the Developer Defendants;
- M.** Awarding Plaintiffs their costs of suit, expert witness fees, and reasonable attorneys’ fees on a class-wide common-fund basis, under the Public Benefit Doctrine or other lawful basis; and
- N.** Granting such other, further, and different relief, legal or equitable, to which Plaintiffs and the Class may be justly entitled.

JURY DEMAND

Plaintiffs demand a trial by struck jury on all issues so triable.

Respectfully submitted this 25th day of May 2026.

Respectfully,

/s/ K. Mark Parnell

K. Mark Parnell (PAR039)

parnell@ptlawllc.com

Counsel for the Plaintiffs

OF COUNSEL:

PARNELL THOMPSON, LLC

120 19th Street North, Suite 2134

Birmingham, AL 35203

(205) 582-2652

PLEASE SERVE THE NEW DEFENDANTS AS FOLLOWS:

Raeden RE, LLC

40600 ANN ARBOR ROAD E, STE 201,

PLYMOUTH, MI 48170

201 Milan Birmingham, LLC

C/O Northwest Registered Agent Services, Inc.

212 W. Troy Street, Sute B

Dothan, AL 36303

Lakeshore Data Center, LLC

Two Metroplex Drive, Suite 400

Birmingham, Alabama 35209

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of May 2026, a copy of the foregoing was served upon the Raeden-Affiliated Defendants together with the First Amended Class Action Complaint by the means designated for service of original process in this action, and was provided to all other counsel of record by the AlaFile electronic filing system or by United States Mail, postage prepaid.

The City of Birmingham, Alabama
c/o Office of the City Clerk and City Attorney
710 20th Street North, Birmingham, AL 35203

Zoning Board of Adjustment of the City of Birmingham
c/o Office of the City Clerk
710 20th Street North, Birmingham, AL 35203

Nebius, Inc. and Nebius Group N.V.
10 State Street Newburyport, MA 01950

Hoar Construction, LLC
2 Metroplex Dr., Ste 400
Birmingham, AL 35209

Alabama ADC Holdings, Inc.
641 South Lawrence Street
Montgomery, AL 36104

Charles A. J. Beavers, Jr, *Esq.*
Beavers Law, LLC
4301 Dolly Ridge Road
Birmingham, Al 35243

/s/ K. Mark Parnell