
**ARLINGTON COUNTY ECONOMIC DEVELOPMENT INCENTIVE
GRANT AGREEMENT
(Amazon.com Services, Inc.)**

This **ARLINGTON COUNTY ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT** (“**Agreement**”) is entered into as of the date of full execution (the “**Effective Date**”), by and among the **COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body corporate and politic of the Commonwealth of Virginia (the “**County Board**”), the **INDUSTRIAL DEVELOPMENT AUTHORITY OF ARLINGTON COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “**IDA**”), and **AMAZON.COM SERVICES, INC.**, a Delaware corporation authorized to transact business in the Commonwealth of Virginia (“**Amazon**”). Individually, the County Board, the IDA, and Amazon may each be referred to hereinafter as a “**Party**” or collectively as the “**Parties**”.

RECITALS

WHEREAS, Amazon desires to establish and maintain its business operations in Arlington County, Virginia (“**Arlington**”); and

WHEREAS, in order to incentivize and induce Amazon to occupy at least ~~six-four~~ million ~~fifty-six thousand~~ (6,0564,000,000) square feet of commercial space (gross floor area) in Arlington at the Amazon Arlington Facility as defined below by June 30, 2035, the County Board has agreed, subject to the terms of this Agreement:

1. to allocate and provide to the IDA for the benefit of Amazon an annual grant equal to up to fifteen (15%) of the incremental Transient Occupancy Tax (“**TOT**”) revenue for fifteen (15) years (“**TOT Grant**”), subject to appropriation and pursuant to the Industrial Development and Revenue Bond Act, §§ 15.2-4900 *et seq.* of the Code of Virginia of 1950, as amended; and
2. to set aside up to fifty percent (50%) of the growth in incremental tax revenue in the existing Crystal City, Potomac Yard and Pentagon City Tax Increment Financing Area for up to ten (10) years for the County Board’s use in financing public infrastructure projects serving, or in the vicinity of, the Amazon Arlington Facility.

WHEREAS, Amazon has agreed to accept the TOT Grant from the IDA as an incentive to occupy the Amazon Arlington Facility, subject to the terms and conditions of this Agreement; and

WHEREAS, the County Board, the IDA and Amazon desire to set forth their understanding and agreement as to the above-listed incentives and the obligations of each of the Parties hereto.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements of the Parties hereto, as are hereinafter set forth, and for other good and valuable

considerations, mutual benefits, promises and undertakings of the Parties to this Agreement, the receipt and adequacy of which are hereby acknowledged by each Party hereto, the Parties covenant and agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are an integral part of this Agreement and set forth the intentions of the Parties and the premises on which the Parties have entered into this Agreement. Accordingly, the foregoing recitals are fully incorporated into this Agreement by this reference as if fully set forth herein.

2. **Definitions.** In addition to any other capitalized term for which a meaning is expressly defined in this Agreement, each of the following terms shall have the meaning assigned to it, such definitions to be applicable equally to the singular and the plural forms of such terms and to all genders. Terms not expressly defined in this Agreement shall have the same meaning as used in the Memorandum of Understanding defined herein:

(a) **“Affiliate”** means any entity that directly or indirectly through one or more intermediaries controls, controls, is controlled by or is under common control with Amazon.

(b) **“Amazon Arlington Facility”** means the building, group of buildings or corporate campus, including related structures, machinery, furniture, fixtures and equipment, located in or near Crystal City and Pentagon City, in Arlington, that is owned, leased, or licensed for use in the administration, management, and operation of Amazon’s business. The Facility includes both existing buildings and new building construction.

(c) **“Annual Facility Target”** means Amazon’s annual cumulative occupied square feet target at the Amazon Arlington Facility (see Facility Target Schedule in Section 5 (a)). The Annual Facility Target does not include the 52,000 rentable square feet of office space that Amazon occupied as of November 9, 2018, whether at 4250 North Fairfax Drive in the Ballston submarket of Arlington or at any successor location, including at the Amazon Arlington Facility.

(d) **“Control”** (including the related terms “controlled by” and “under common control with”) shall exist when any one of the three following criteria are met: (i) the possession, directly or indirectly, of the power or shared power to direct or cause the direction of the management and policies of a business entity (whether through the ownership of voting securities or other ownership interest, by contract or otherwise), (ii) the ownership, either directly or indirectly, of 50% or more of the voting stock or other voting equity interest of such business entity, ~~and-or~~ (iii) the possession, directly or indirectly, of the power or shared power to make decisions regarding the hiring, firing, compensating, and promoting of the employees of such business entity.

(e) **“Fiscal Year”** means Arlington’s fiscal year, which runs from July 1 of the calendar year through June 30 of the following calendar year.

(f) “Memorandum of Understanding” means the memorandum of understanding dated November 12, 2018, among the Commonwealth of Virginia, the Virginia Economic Development Partnership Authority, and Amazon.com Services, Inc.

(g) “**Occupy**” means the active use of the commercial space at the Amazon Arlington Facility by Amazon employees for the administration, management and operation of Amazon’s businesses. Space Amazon owns, leases or licenses that is vacant will not be counted towards Amazon’s Annual Facility Target.

(h) “**TOT Grant Performance Date**” means each annual date by which Amazon shall have Occupied a required minimum amount of square footage at the Amazon Arlington Facility, as set forth in this Agreement The TOT Grant Performance Date corresponds with the end of each Fiscal Year.

(i) “**TOT Grant Distribution Date**” means each date on which the IDA shall disburse to Amazon all or the earned portion of the TOT Grant, as set forth in this Agreement (see Section 7 (a) Grant Distribution Schedule).

(j) “**TOT Grant Reporting Date**” means each date each year on which Amazon shall provide the County Manager of Arlington with the required notarized affidavit attesting to the square footage that Amazon has Occupied during the reporting period. Each TOT Grant Reporting Date is thirty-one (31) days after the end of each Fiscal Year.

3. **Covenants and Obligations.**

(a) Provided that the plans for the Amazon Arlington Facility receive all final and necessary approvals, and such plans will accommodate at least four million (4,000,000) square feet of commercial space, Amazon covenants and agrees to Occupy at least six million, fifty-six thousand (6,056,000) at least such square ~~feet~~ footage of commercial space at the Amazon Arlington Facility by June 30, 2035 (“**Facility Target**”).

(b) Amazon covenants and agrees to use the TOT Grant proceeds exclusively to pay for or reimburse the cost of the Amazon Arlington Facility, including, but not limited to, build-out, construction, tenant up-fit and furniture, fixtures, and equipment.

(c) All covenants and obligations of Amazon set forth in this Agreement may be satisfied by Amazon or its Affiliates, or any combination thereof.

4. **IDA Covenants and Obligations.** Upon appropriation by the County Board of TOT revenues to fund the TOT Grant payments to Amazon, and receipt thereof by the IDA, the IDA shall, subject to the Disbursement Prerequisites in Section 5 below, disburse the TOT Grant payments to Amazon pursuant to Section 6 below.

5. **Disbursement Prerequisites.** Notwithstanding any other provision in this Agreement to the contrary, the obligation of the IDA to disburse all or the earned portion of an

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TOT Grant to Amazon on the applicable TOT Grant Distribution Date, as set forth in the Grant Distribution Schedule in Section 7(a), is subject to and conditioned on the fulfillment of the following preconditions (the “Disbursement Prerequisites”):

(a) Notarized Affidavit. On or before the applicable TOT Grant Reporting Date, Amazon shall provide the County Manager, or his/her designee (the “County Manager”) with a notarized affidavit, the form of which is attached as **Exhibit XA**, attesting to, among other things:

(i) The cumulative amount of square footage Occupied by Amazon at the Amazon Arlington Facility as of the TOT Grant Performance Date for the corresponding TOT Grant Performance Period, listed in the Facility Target Schedule below; and;

(ii) The percent that Amazon has achieved as of the corresponding TOT Grant Performance Date of the Annual Facility Target set forth in the following Facility Target Schedule.

(iii) **Facility Target Schedule**

| TOT Grant Performance Date | TOT Grant Performance Period | Annual Facility Target (Gross Floor Area) |
|----------------------------|------------------------------|---|
| 6/30/2020 | Effective Date – 6/30/2020 | 64,000 |
| 6/30/2021 | 7/1/2020 – 6/30/2021 | 252,800 |
| 6/30/2022 | 7/1/2021 – 6/30/2022 | 567,040 |
| 6/30/2023 | 7/1/2022 – 6/30/2023 | 797,280 |
| 6/30/2024 | 7/1/2023 – 6/30/2024 | 1,223,680 |
| 6/30/2025 | 7/1/2024 – 6/30/2025 | 1,600,000 |
| 6/30/2026 | 7/1/2025 – 6/30/2026 | 1,862,800 |
| 6/30/2027 | 7/1/2026 – 6/30/2027 | 2,216,000 |
| 6/30/2028 | 7/1/2027 – 6/30/2028 | 2,696,000 |
| 6/30/2029 | 7/1/2028 – 6/30/2029 | 3,176,000 |
| 6/30/2030 | 7/1/2029 – 6/30/2030 | 3,544,800 |
| 6/30/2031 | 7/1/2030 – 6/30/2031 | 4,120,000 |
| 6/30/2032 | 7/1/2031 – 6/30/2032 | 4,456,000 |
| 6/30/2033 | 7/1/2032 – 6/30/2033 | 5,080,000 |
| 6/30/2034 | 7/1/2033 – 6/30/2034 | 5,576,000 |
| 6/30/2035 | 7/1/2034 – 6/30/2035 | 6,056,000 |

Commented [AL1]: to be updated to reflect 4M sq. ft.

(b) Verification of Square Footage Occupied.

(i) Establish Gross Floor Area. As an attachment to its County building permit applications for all buildings at the Amazon Arlington Facility, Amazon shall provide the gross floor area for each individual floor “Per Floor GFA” and the total building gross floor area. “Building GFA”. Amazon also shall include the corresponding Per Floor GFA figures on its partial certificate of occupancy applications for the Arlington Amazon Facility.

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(ii) Provide Certificate(s) of Occupancy. As an attachment to the Notarized Affidavit, Amazon shall provide the County Manager with copies of all partial certificates of occupancy for the Amazon Arlington Facility and a completed summary memo (see **Exhibit X~~B~~**) listing the certificate of occupancy number, address, floor(s), and gross floor area for all attached certificates of occupancy. In aggregate, the gross floor area of the certificates of occupancy should equal the cumulative square feet reported as Occupied on the notarized affidavit.

(c) Additional Data Verification. To the extent that the County Manager has questions about the data supplied by Amazon in the notarized affidavit or other documents provided under this Agreement, the Parties will engage in good faith efforts to resolve such questions and, upon the County Manager's reasonable request, Amazon will provide access to back-up documentation reasonably sufficient to verify the accuracy and completeness of the notarized affidavit or other document, and to demonstrate the manner in which such items or their contents were calculated or prepared. Notwithstanding the foregoing or any other provision of this Agreement, Amazon shall not be required to disclose, permit the inspection or examination of, or discuss, any document, information or other material that: (a) constitutes trade secrets or proprietary information, (b) in respect of which disclosure is prohibited by law or (c) is subject to attorney-client or similar privilege, employee privacy or constitutes attorney work product.

The Parties agree that any documentation to which the County Manager receives access, but not copies, under this Section 5(c) are to remain documents in the Company's possession, custody, and control and that any public record request for those documents will be treated in accordance with Section 9(o).

To the extent Amazon refuses to provide the County Manager with sufficient information to address reasonable questions, the IDA shall not be obligated to provide any TOT Grant that is dependent on that information until such questions have been reasonably resolved.

(d) Release of Tax Information. Amazon shall have executed the Authorization to Release Confidential Tax Information, attached hereto as **Exhibit X~~C~~**, authorizing the Arlington County Commissioner of Revenue to release Amazon's business license tax (BPOL) and business tangible personal property tax information to the County Manager and essential staff beginning with tax year 2019 and continuing until 2035. The County Board will treat the tax information as confidential and will not release it to the public, except as part of composite real estate and employee-related revenue data in accordance with Section 9(o)).

(e) Payment of Taxes. Subject to any right to contest its taxes, on or before each TOT Grant Reporting Date, Amazon shall be current on all applicable property, business, professional and occupational license taxes assessed to Amazon by Arlington.

(f) Appropriation and Transfer of Funds. The County Board shall have appropriated and transferred to the IDA funds that are sufficient to fund the disbursement of the earned portion of the TOT Grant. The IDA shall have no responsibility to transfer funds to Amazon beyond such funds as are transferred by the County Board to the IDA. Each year of this Agreement, the County Manager shall include in his proposed budget for adoption by the County Board

recommended appropriations sufficient to fund the disbursement of the TOT Grant, and the County Board, in the exercise of its legislative discretion, shall give due consideration to approving the appropriation of funds sufficient for the TOT Grant.

6. Calculation of Maximum TOT Grant.

(a) TOT Baseline Calculation. The “**TOT Baseline**” is equal to the average of the County’s TOT revenues for Fiscal Years 2017, 2018, and 2019. If the TOT rate is changed through action by the County Board, the TOT Baseline will be recalculated using the new TOT rate and the average of the TOT revenues for Fiscal Years 2017, 2018, and 2019.

(b) TOT Actuals Calculation. “**TOT Actuals**” is equal to the County’s TOT revenues for the most recently completed fiscal year.

(c) Maximum TOT Grant Calculation. Each year of the Agreement, Amazon will be eligible to earn a maximum grant disbursement of fifteen percent (15%) of the incremental TOT revenue “**Maximum TOT Grant.**” The Maximum TOT Grant will be calculated annually using the following formula:

$$\text{Maximum TOT Grant} = (\text{TOT Actuals} - \text{TOT Baseline}) * 0.15$$

(d) Tourism Promotion TOT Exclusion. In accordance with authority granted by the Commonwealth of Virginia, Arlington charges a TOT surcharge designated for the promotion of tourism and business travel in Arlington. Revenue derived from the TOT surcharge will be excluded from grant calculations.

7. Disbursement of TOT Grants.

(a) Upon Amazon’s satisfaction of the Disbursement Prerequisites in Section 5, on each TOT Grant Distribution Date, the IDA shall disburse to Amazon all of the earned portion of the TOT Grant in accordance with the following Grant Distribution Schedule, subject to the Grant Distribution Conditions set forth in Section 7(b):

Grant Distribution Schedule

| TOT Grant Performance Date | TOT Grant Reporting Date | TOT Grant Distribution Date | Annual Facility Target (Gross Floor Area) |
|----------------------------|--------------------------|-----------------------------|---|
| 6/30/2020 | 7/31/2020 | 8/31/2020 | 64,000 |
| 6/30/2021 | 7/31/2021 | 8/31/2021 | 252,800 |
| 6/30/2022 | 7/31/2022 | 8/31/2022 | 567,040 |
| 6/30/2023 | 7/31/2023 | 8/31/2023 | 797,280 |
| 6/30/2024 | 7/31/2024 | 8/31/2024 | 1,223,680 |
| 6/30/2025 | 7/31/3025 | 8/31/2025 | 1,600,000 |
| 6/30/2026 | 7/31/2026 | 8/31/2026 | 1,862,800 |
| 6/30/2027 | 7/31/2027 | 8/31/2027 | 2,216,000 |
| 6/30/2028 | 7/31/2028 | 8/31/2028 | 2,696,000 |

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| | | | |
|-----------|-----------|------------------------------|-----------|
| 6/30/2029 | 7/31/2029 | 8/31/2029 | 3,176,000 |
| 6/30/2030 | 7/31/2030 | 8/31/2030 | 3,544,800 |
| 6/30/2031 | 7/31/2031 | 8/31/2031 | 4,120,000 |
| 6/30/2032 | 7/31/2032 | 8/31/2032 | 4,456,000 |
| 6/30/2033 | 7/31/2033 | 8/31/2033 | 5,080,000 |
| 6/30/2034 | 7/31/2034 | 8/31/2034 | 5,576,000 |
| 6/30/2035 | 7/31/2035 | Report only, no distribution | 6,056,000 |

Commented [AL2]: to be updated with 4M sq ft.

(b) Grant Distribution Conditions.

(i) *Full Distribution of TOT Grant.* If, as of the applicable TOT Grant Performance Date, Amazon has Occupied at the Amazon Arlington Facility at least ninety percent (90%) of the required cumulative square feet, then on the corresponding TOT Grant Distribution Date, the IDA shall disburse to Amazon an amount equal to the Maximum TOT Grant.

(ii) *Partial Distribution of TOT Grant.* If, as of the applicable TOT Grant Performance Date, Amazon has Occupied at the Amazon Arlington Facility at least fifty percent (50%) but less than ninety percent (90%) of the required cumulative square feet, then on the corresponding TOT Grant Distribution Date, the IDA shall disburse to Amazon an amount equal to the actual percentage of square feet Occupied by Amazon at the Amazon Arlington Facility as of the corresponding TOT Grant Performance Date multiplied by the Maximum TOT Grant.

(iii) *No Distribution of TOT Grant.* If, as of a TOT Grant Performance Date, Amazon has not Occupied at the Amazon Arlington Facility at least fifty percent (50%) of the required cumulative square feet, then on the corresponding TOT Grant Distribution Date, the IDA shall not disburse any amount to Amazon for the TOT Grant.

8. Strategic Infrastructure Investment (SII). By resolution dated October 23, 2010, the County Board established the Crystal City, Potomac Yard and Pentagon City Tax Increment Financing Area (“**TIF Area**”), the boundaries of which are set forth in the aforesaid resolution and which encompasses the Amazon Arlington Facility, and created a separate fund comprised of incremental real property tax revenues from within the area, as such increment is defined in the resolution, to help finance infrastructure and other public improvements in support of the Crystal City Sector Plan and plans for Potomac Yard and Pentagon City. The County Board determines the use of the TIF funds as part of the County’s biannual Capital Improvement Plan.

To support the continued realization of the aforesaid land use plans the County Board has envisioned for this area, particularly in and around the Amazon Arlington Facility, each year, based on Amazon’s achievement of the Annual Facility Target and subject to appropriation, the County Board will segment a portion of the incremental real property tax revenue from the TIF Area from Fiscal Years 2022 through 2031 and, through the County’s Capital Improvement Plan (“**CIP**”) process, will identify projects to be funded, in whole or in part, with these resources.

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(a) SII Calculation Method. Within sixty (60) days of the end of Fiscal Year 2022 and continuing annually until the end of Fiscal Year 2031, the County Board will determine the portion that will be segmented for SII use using the following method:

(i) *SII Calculation Definitions*

- “**SII Baseline**” is equal to twenty-five percent (25%) of the incremental real property tax revenues for the TIF Area in Fiscal Year 2021. The SII Baseline will be escalated by one percent (1%) annually for the SII calculation for Fiscal Years 2023-2031.
- “**TIF Actuals**” is equal to 25% of incremental real property tax revenues in the TIF Area for the most recently completed Fiscal Year.
- “**Facility Performance**” is equal to the percent of achievement of Amazon’s Annual Facility Target for the most recently completed reporting period.

(ii) *SII Calculation Formulas*

A. Full Achievement of Annual Facility Target. If Amazon achieves at least ninety percent (90%) of its Annual Facility Target for the most recently completed performance year, the calculation for the SII is as follows:

$$\text{SII} = (\text{TIF Actuals} - \text{SII Baseline}) * 0.5$$

B. Greater than fifty percent (50%) of Annual Facility Target. If Amazon achieves at least fifty percent (50%) but less than ninety percent (90%) of its Annual Facility Target for the most recently completed performance year, the calculation for the SII is as follows:

$$\text{SII} = [(\text{TIF Actuals} - \text{SII Baseline}) * 0.5] * \text{Facility Performance}$$

C. Less than fifty percent (50%) of Annual Facility Target. If Amazon has achieved less than (50%) of its Annual Facility Target for the most recently completed performance year, no monies will be dedicated to the SII.

(b) Amazon SII Engagement. By October 1, 2022, and continuing annually by each October 1, from 2023 through 2031, the County Manager will provide Amazon with a memo stating the SII value and will schedule an annual “**SII Meeting**” with representatives from appropriate County Departments, which may include, among others, the County Manager’s Office; Department of Economic Development; Department of Community Development, Housing, and Planning; and Department of Environmental Services. The SII Meeting is a forum for Amazon to offer insights on the company’s transportation, open space and other public infrastructure needs and for the County to discuss development within and around the Amazon Arlington Facility and

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to provide information on County infrastructure projects, priorities and processes. Amazon's input for the use of the SII monies will be provided to the County Board for consideration as part of the County's Budget and Capital Improvement Plan processes.

9. Miscellaneous Provisions.

(a) Notices, Demands, and Communications Between the Parties. Formal notices, demands and communications between the Parties shall be given by (i) personal service; (ii) reputable document delivery service, such as Federal Express, with a receipt showing date and time of delivery; or (iii) certified or first-class United States mail, postage prepaid, with a receipt showing date and time of delivery:

To the County Board: Arlington County Board
Office of the County Manager
2100 Clarendon Blvd, Suite 302
Arlington, Virginia 22201
Attn: County Manager
Fax: (703) 228-3218
Email: MSchwartz@ArlingtonVA.US

With Copies to: Arlington County
Office of the County Attorney
2100 Clarendon Blvd, Suite 403
Arlington, Virginia 22201
Attn: County Attorney
Fax: (703) 228-7106
Email: smacisaac@ArlingtonVA.US

Arlington County
Arlington Economic Development
1100 North Glebe Road, Suite 1500
Arlington, Virginia 22201
Attn: Director
Fax: (703) 228-0805
Email: VHoskins@ArlingtonVA.US

To Amazon: ~~Until Amazon has commenced beneficial use of the Amazon Arlington Facility:~~

Amazon.com Services, Inc.
2121 7th Ave.
Seattle, WA 98121
Attn: Economic Development
Email: economicdevelopment@amazon.com

and

With a copy to: Amazon.com, Inc.
Attn: General Counsel (Real Estate)
P. O. Box 81266
Seattle, WA 98108-1226
Email: contracts-legal@amazon.com

To the IDA: Industrial Development Authority of Arlington County
2100 Clarendon Blvd, Suite 501
Arlington, Virginia 22201
Attn: Secretary/Treasurer
Fax: (703) 224-3401
Email: JFriess@ArlingtonVA.US

Written notices, demands and communications shall be sent in the same manner to other addresses that any Party designates in writing.

(b) Entire Agreement; Amendments. This Agreement constitutes the entire agreement among the Parties as to the TOT Grant and may not be amended or modified, except in writing signed by each of the Parties. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Amazon may not assign its rights and obligations under this Agreement without the prior written consent of the County Board and the IDA. Notwithstanding the generality of the foregoing, Amazon may assign this Agreement to an Affiliate without the consent of the County Board or the IDA, provided that Amazon provides prompt written notice of such assignment to the County Board and the IDA.

(c) Governing Law; Venue. This Agreement is made and is intended to be performed in Arlington County, Virginia, and shall be construed and enforced by the laws of the Commonwealth of Virginia. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the County of Arlington or in the United States District Court for the Eastern District of Virginia, and such litigation shall not be brought in any other court.

(d) No Third-Party Beneficiaries. No provision of this Agreement shall be construed to confer any rights upon any person or entity who is not a Party, whether as a third-party beneficiary or otherwise.

(e) Relationship of Parties. The provisions of this Agreement are intended solely for the purpose of defining the relative rights of the Parties and do not create any partnership, joint venture or other joint enterprise among the Parties.

(f) Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the

other provisions will remain in force, to the extent that they are not rendered impractical to perform, taking into consideration the purposes of this Agreement.

(g) Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and not for or against any Party by reason of the authorship or any other rule of construction that might otherwise apply. The Section headings are for purposes of convenience only and shall not be construed to limit or extend the meaning of this Agreement.

(h) No Waiver of Sovereign Immunity by County Board or IDA. Notwithstanding any other provisions of this Agreement to the contrary, nothing in this Agreement nor any action taken by the County Board or the IDA, pursuant to this Agreement nor any document which arises out of this Agreement shall constitute or be construed as a waiver of either the sovereign immunity or governmental immunity of Arlington's or the IDA's respective elected and appointed officials, officers and employees.

(i) Determinations; Disbursements.

(i) Any determination by the County Manager of fulfillment or non-fulfillment of the terms of this Agreement by Amazon shall be binding on the IDA. The IDA may request such determinations by the County Manager as necessary.

(ii) The IDA shall have no responsibility to disburse any funds to Amazon beyond the amount that the IDA has received from or on behalf of the County Board for the purpose.

(j) Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of the County Board or of the IDA shall be personally liable to Amazon in the event of any default or breach by the County Board or by the IDA or for any amount that may become due to Amazon or its successors or assigns Amazon under the terms of this Agreement.

(k) Attorney's Fees. Each Party shall pay its own attorney's fees.

(l) Business Day Convention. If the date of any required action falls upon a weekend day or a holiday when the New York Stock Exchange is not open for business, the required action may be deferred to the next business day.

~~(m)~~ Force Majeure. No Party will be held responsible for failing to fulfill an obligation under this Agreement if such failure is a result of a force majeure event, as hereafter defined. A force majeure event shall mean any of the following: fire, riot, rebellion, natural disaster, act of God, war, terrorism, act of a public enemy, riot, sabotage, embargo, civil disturbance, power outage, natural disaster, action of any governing authority outside of the ordinary course of regulation of the Amazon Arlington Facility or Amazon's operations, or other cause that is beyond the control of the Party and that makes performance impossible or illegal.

(m) If Amazon fails to Occupy the Amazon Arlington Facility as provided in this Agreement as a result of a force majeure event, the Parties shall meet within ninety (90) days of written notice of such force majeure event to discuss the impact of the event on the Occupation of the Amazon Arlington Facility and shall reasonably agree to adjust the Grant Distribution Schedule to reflect the impact of the force majeure event so that Amazon is provided with a fair opportunity to earn the full TOT Grant that it would have earned had the force majeure event not occurred.

(n) Data Sharing Between Virginia and Arlington. Amazon authorizes the Commonwealth of Virginia Secretary of Commerce and Trade and the Virginia Economic Development Partnership (VEDP) to share with the County Board copies of Amazon's written Application for its Workforce Grant Payment or Progress Reports covering Fiscal Years 2020 through 2035. The County Board will treat, and will direct the County Manager to require that all Arlington personnel with access to the Application and data treat, the Application and data in accordance with Section 9(o) of this Agreement.

(o) Confidentiality. Unless otherwise required by applicable law or regulation, the County Board and the IDA will use reasonable efforts to keep all reports and other information submitted by Amazon confidential and will not make such reports available publicly or as part of any Virginia Freedom of Information Act request, except that the County Board may include in periodic public reports Amazon's reported information concerning jobs added, square feet Occupied, incentives that have been paid to Amazon and composite tax and revenue data. If Amazon's confidential reports and information are otherwise required to be made public, the County Board or the IDA will notify Amazon and will cooperate with Amazon to redact any information that is legally permitted to be redacted.

Amazon acknowledges that this Agreement is a public record subject to disclosure under the Commonwealth's public records laws, and that portions of certain materials, communications, data, and information related to this Agreement may constitute public records subject to disclosure under the Commonwealth's public records laws and agrees that the County Board will disclose this Agreement and such portions of the materials, communications, data, and information related to this Agreement as required by law, provided that the County Board: (a) except as to the disclosure of this Agreement, give Amazon prior written notice sufficient (in no event less than two (2) business days) to allow Amazon to seek a protective order or other appropriate remedy, (b) disclose only such information as is required under the applicable law, (c) cooperate with Amazon in responding to any such records request, and (d) limit disclosure, refuse to disclose, and redact and/or omit portions of materials to the maximum extent permitted by applicable law. Amazon acknowledges that the amount of each TOT Grant, the basic information required to calculate the amount of each TOT Grant and the fact that Amazon did or did not timely file a notarized affidavit reflect public records or information that may be disclosed by the County Board without notice to Amazon.

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(p) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall be one and the same instrument. A facsimile, .pdf copy or other electronic signature (e.g., DocuSign) of this Agreement, when signed in compliance with this Section, is an enforceable, original agreement for all purposes.

(q) Dispute Resolution. In the event of any dispute, controversy or claim of any kind arising under this Agreement, upon the written request of either Party, each of the Parties will designate a senior representative to meet with the other Parties' senior representative in good faith and as necessary to attempt to resolve the dispute without formal proceedings. If the negotiated resolution of the dispute requires any Party to take, cause to be taken or cease taking some action, the Party shall do so within a reasonable period of time, not to exceed ninety (90) days. No Party may initiate formal proceedings for the resolution of a dispute until the earlier of (a) a good faith mutual conclusion by the senior representatives that amicable resolution through continued negotiation of the matter does not appear likely or (b) the 90th day after the initial request to negotiate the dispute. After either condition has occurred, a Party may file an action in the jurisdiction and venue stipulated in Section 8(c) of this Agreement and may pursue any other remedy available at law or in equity. Nothing in this Section 8(p) will, however, prevent or delay a Party from instituting formal proceedings to (i) avoid the expiration of any applicable limitations period or (ii) seek injunctive relief.

(r) Termination. In the event the Memorandum of Understanding is terminated, either Party may terminate this Agreement at the end of a TOT Grant Performance Period upon not less than thirty (30) days' written notice to the other Party.

(s) Pre-submission Evaluation. Before submitting any notarized affidavit or other document, Amazon may request of the County Manager a pre-submission evaluation for the purpose of determining the adequacy of the documentation that Amazon proposes to submit.

(t) Support for Arlington's Economic Development Efforts. Recognizing that it is in the best interest of both parties for the County to achieve sustained economic growth, Amazon will periodically engage with the County Board and the County Manager to advise on Arlington's economic development strategies, such as highlighting important industry trends and/or business development opportunities (e.g., target companies or projects) that Arlington may wish to pursue. Amazon will also periodically take reasonable measures to cooperate with the County Board and the IDA in promoting Arlington's attributes as a place to do business.

(u) ConnectArlington. Arlington established a fiber optic network for its own use, which also includes excess dark fiber capacity designated for long-term expansion. Arlington's ConnectArlington program allows businesses to access this excess dark fiber capacity for high-speed, secure data transmission. The County Board will work with Amazon to explore connecting the Amazon Arlington Facility to the ConnectArlington dark fiber network, subject to approval of and execution by the County Board and Amazon of a separate agreement, in their respective sole discretion.

(v) Limitation of Liability. Notwithstanding anything to the contrary in this Agreement, neither Amazon nor any of its Affiliates shall be liable for any of the following that may arise in connection with this Agreement: (a) indirect, reliance, exemplary, incidental, speculative, punitive, special, consequential or similar damages, (b) lost or foregone tax revenues, or (c) damages, liabilities, fees, costs, expenses, penalties, diminishments in value, losses or payments (including any lost or foregone tax revenues) that exceed, in the aggregate, the lesser of (i) the financial benefit realized by Amazon under this Agreement and (ii) One Million Dollars (\$1,000,000).

[Signatures and acknowledgments appear on the following pages]

IN WITNESS WHEREOF, the County Board, the IDA and Amazon have each executed or caused to be executed, in duplicate, this Economic Development Incentive Grant Agreement.

Approved as to form:

**THE COUNTY BOARD OF
ARLINGTON COUNTY, VIRGINIA**, a
body corporate and politic of the
Commonwealth of Virginia

Stephen A. MacIsaac, County Attorney

By: _____

Mark Schwartz, County Manager

ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA
COUNTY OF ARLINGTON

On this the ____ day of _____, 2019, before me personally appeared Mark Schwartz, who acknowledged himself to be the County Manager of Arlington County, Virginia, and, being authorized so to do, executed the foregoing instrument by signing the name of the County Board of Arlington County, Virginia, a body corporate and politic of the Commonwealth of Virginia, by himself as County Manager of Arlington County, Virginia.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

**INDUSTRIAL DEVELOPMENT
AUTHORITY OF ARLINGTON
COUNTY, VIRGINIA**, a political
subdivision of the Commonwealth of
Virginia

By: _____

Edwin Fountain, Chair

ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA
COUNTY OF ARLINGTON

On this the ____ day of _____, 2019, before me personally appeared Edwin Fountain, who acknowledged himself to be the Chair of the Industrial Development Authority of Arlington County, Virginia, and, being authorized so to do, executed the foregoing instrument by signing the name of the Industrial Development Authority of Arlington County, Virginia, a political subdivision of the Commonwealth of Virginia, by himself as Chair of the Industrial Development Authority of Arlington County, Virginia.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

AMAZON.COM SERVICES, INC., a
Delaware corporation authorized

By: _____

[Full Name], [Title]

ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On this the ____ day of _____, 2019, before me personally appeared [Full Name], who acknowledged [himself/herself] to be the [Title] of Amazon.com Services, Inc. and, being authorized so to do, executed the foregoing instrument by signing the name of Amazon Inc., a [company type], by [himself/herself] as [Title] of Amazon.com Services, Inc.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

Exhibit BA
Sample of the Required
~~AUTHORIZATION TO RELEASE CONFIDENTIAL TAX INFORMATION~~

AFFIDAVIT OF AMAZON

COMMONWEALTH OF VIRGINIA
COUNTY OF ARLINGTON

Subscribed and sworn before me this ____ day of _____, 20 ____.

[Full Name], [Title] of **AMAZON.COM SERVICES, INC.**, a Delaware corporation authorized to transact business in the Commonwealth of Virginia (“**AMAZON**”), after first being duly sworn, appeared before the undersigned authority and affirmed the following under oath:

[Full Name] is [a/an/the] [Title] of Amazon and as [Title] has been duly authorized to execute and deliver this Affidavit on behalf of Amazon. All terms in this Affidavit are as defined in the Grant Agreement.

PROJECT PERFORMANCE:

As of [TOT Grant Performance Date], Amazon has fulfilled the criteria set forth in Section 3 of the Grant Agreement and has made the following progress on the Facility Target:

| A. TOT Grant Performance Date | B. TOT Grant Performance Period | C. Annual Facility Target (Gross Floor Area) | D. Cumulative Square Feet Occupied¹ (as of TOT Grant Performance Date) | E. Percent of Annual Facility Target Achieved (Column D/Column C) |
|--------------------------------------|--|---|--|--|
| 6/30/2020 | Execution Date – 6/30/2020 | 64,000 | | |
| 6/30/2021 | 7/1/2020 – 6/30/2021 | 252,800 | | |
| 6/30/2022 | 7/1/2021 – 6/30/2022 | 567,040 | | |
| 6/30/2023 | 7/1/2022 – 6/30/2023 | 797,280 | | |
| 6/30/2024 | 7/1/2023 – 6/30/2024 | 1,223,680 | | |
| 6/30/2025 | 7/1/2024 – 6/30/2025 | 1,600,000 | | |
| 6/30/2026 | 7/1/2025 – 6/30/2026 | 1,862,800 | | |

¹ The cumulative occupied square feet reported on the notarized affidavit should equal the total gross floor area of the attached certificates of occupancy.

Exhibit BA
Sample of the Required
AUTHORIZATION TO RELEASE CONFIDENTIAL TAX INFORMATION

| | | | | |
|-----------|-------------------------|-----------|--|--|
| 6/30/2027 | 7/1/2026 – 6/30/2027 | 2,216,000 | | |
| 6/30/2028 | 7/1/2027 – 6/30/2028 | 2,696,000 | | |
| 6/30/2029 | 7/1/2028 – 6/30/2029 | 3,176,000 | | |
| 6/30/2030 | 7/1/2029 – 6/30/2030 | 3,544,800 | | |
| 6/30/2031 | 7/1/2030 – 6/30/2031 | 4,120,000 | | |
| 6/30/2032 | 7/1/2031 – 6/30/2032 | 4,456,000 | | |
| 6/30/2033 | 7/1/2032 – 6/30/2033 | 5,080,000 | | |
| 6/30/2034 | 7/1/2033 – 6/30/2034 | 5,576,000 | | |
| 6/30/2035 | 7/1/2034 – 6/30/2035 | 6,056,000 | | |

Attached are the partial certificates of occupancy for the Amazon Arlington Facility as of [TOT Grant Performance Date] and corresponding certificate of occupancy summary memo.

AMAZON SIGNATURE:

By: _____
 [Full Name], [Title]
 Amazon.com Services, Inc.

I, _____, a notary public, do hereby certify that _____, the affiant whose name is subscribed to the foregoing Affidavit duly swore and made oath that the facts contained therein are true and correct to the best of his/her information, knowledge and belief, before me in the said City/County of _____, Commonwealth of Virginia, this ____ day of _____, 20____.

My commission expires:

 Notary Public
 Notary Registration No. _____

[Reproducible Notarial Seal]

Exhibit BC
Sample of the Required
AUTHORIZATION TO RELEASE CONFIDENTIAL TAX INFORMATION

Exhibit BC
Sample of the Required
AUTHORIZATION TO RELEASE CONFIDENTIAL TAX INFORMATION



INGRID H. MORROY
COMMISSIONER

ARLINGTON COUNTY, VIRGINIA
OFFICE OF COMMISSIONER OF REVENUE
BUSINESS TAX DIVISION
2100 CLARENDON BOULEVARD, SUITE 208
ARLINGTON, VA 22201



OTILIO SABILLON
DEPUTY COMMISSIONER

AUTHORIZATION TO RELEASE CONFIDENTIAL TAX INFORMATION

Name of taxpayer entity (please give the corporate or personal name which is used for the tax accounts): _____ Trade name (if any) _____

Last four digits of taxpayer ID number (TIN, EIN or SS # to help locate the records): _____

The above named taxpayer gives the office of the Arlington County Commissioner of Revenue permission to share the following confidential tax information with:
[Enter the names of persons or entities allowed to receive the information]

This permission is effective for the following types of taxes:

All information about taxes assessed by the Arlington County Commissioner of Revenue,
OR

Only the following specific tax information (initial each that apply):
 BPOL Tax information, including gross receipts and BPOL taxes assessed
 Meals Taxes collected and remitted
 Transient Occupancy Taxes collected and remitted
 Information about personal property tax assessed. (Note, the total amount of personal property tax assessed to any taxpayer is already public information.)

This permission is for tax years:

All tax years OR
 The following specific tax years: _____

This permission:

Includes future tax years until revoked, or
 Does not include future tax years.

Read before signing. The person signing this form affirms that she/he is authorized to waive tax confidentiality for the named taxpayer and is acting with the explicit authorization of the taxpayer. Fraudulent use of this form could subject the signer to civil and criminal liability.
[Please attach a page of company letterhead or a business card to this form.]

Signature of authorized representative

Print Name of Authorized Representative

Title (i.e. "CFO", "President", "Owner", etc.)

Date:

Telephone: _____ Email: _____

e-mail: business@arlingtonva.us phone: 703-228-3060 fax: 703-228-7048
Visit us on the Web at www.arlingtonva.us/cor