



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of March 16, 2019

**DATE:** March 8, 2019

**SUBJECT:** Administration of Economic Development Incentive (EDI) grant funds from Arlington County to the Industrial Development Authority of Arlington County, Virginia (IDA) and then to Amazon.com Services, Inc. (Amazon) for the purpose of inducing the company to locate and occupy at least 6,056,000 square feet of commercial space in Arlington, VA, subject to the terms and conditions of the local agreement among Arlington County, the IDA and Amazon.

#### **C. M. RECOMMENDATIONS:**

1. Approve, and authorize the County Manager to sign, on behalf of the Arlington County Board, the attached agreement among Arlington County, the IDA and Amazon, which outlines the disbursement and management terms and conditions of the EDI grant, subject to approval as to form by the County Attorney.
2. Direct the County Manager to include in his annual budget recommendation an allocation and transfer to the IDA beginning in FY 2020 for the benefit of Amazon of an annual grant equal to up to 15% of the incremental Transient Occupancy Tax (TOT) revenue for 15 years (TOT Grant), subject to the terms and conditions of the above agreement among Arlington County, the IDA and Amazon.
3. Direct the County Manager to set aside annually beginning in FY 2022 up to 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 10 years for the County Board's use in financing public infrastructure projects serving, or in the vicinity of, the Amazon Arlington Facility, subject to the terms and conditions of the above agreement among Arlington County, the IDA and Amazon.

**ISSUES:** The County Manager and staff have no remaining issues with the draft performance agreement.

County Manager:

*MJS/SFW*

County Attorney:

*[Signature]*

Staff: Christina Winn, AED

29.

**SUMMARY:** After an extensive national site selection search, Amazon.com Services, Inc. chose Arlington County for its HQ2 location. Amazon is a publicly traded U.S. corporation and is a leading internet retailer and technology company. The company's presence in Arlington will continue to diversify our economic base and solidify our community as a leading technology hub. Amazon will occupy up to 6,056,000 square feet of commercial office space in Crystal City and Pentagon City through 2035. The TOT Grant and strategic public infrastructure investments proposed in this agreement, estimated at \$23 million and \$28 million, respectively, were instrumental in Amazon choosing Arlington for its headquarters.

**BACKGROUND:** In September of 2017, Amazon.com Services, Inc. issued a public Request for Proposal (RFP) soliciting proposals from communities nationwide for a second corporate headquarters (HQ2) that would create as many as 50,000 jobs and \$5 billion in capital investment. Amazon's requirements included a metropolitan area with at least one million people to demonstrate a large enough labor market for Amazon's high-skilled jobs; close proximity to an international airport; a well-developed mass-transit system; and a path for up to eight million square feet of office space. Additionally, Amazon expressed interest in community and quality of life factors such as education systems, diversity and inclusion programs, and parks and recreation.

Immediately upon release of the RFP, four jurisdictions in Northern Virginia (NOVA) began working together with the Commonwealth of Virginia to produce a joint response. This type of collaboration between jurisdictions was unprecedented in the highly-competitive D.C. metro region, but necessary for a project of this scale.

Since the four NOVA communities had never submitted a joint project proposal before, the team simultaneously set about developing regional data and content while also collaborating on a new, regional brand. The new identity, **Innovation Lives Here**, was created to reflect NOVA's unique tech assets, robust business community, regional diversity and forward-thinking culture.

This unprecedented collaboration resulted in a written proposal and project website with customized multimedia features. In addition to highlighting the state and region's advantages for tech talent, transportation, business climate, diversity and quality of life, the proposal featured four unique, world class sites. These four sites further demonstrated the region's new commitment to working together, as two of the four were joint sites presented by two localities (Fairfax-Loudoun and Arlington-Alexandria).

Arlington County and the City of Alexandria's joint site, dubbed National Landing for purposes of tying the neighborhoods together, possessed several unique advantages for Amazon. Located adjacent to Reagan National Airport and spanning the communities of Pentagon City and Crystal City in Arlington and Potomac Yard in Alexandria, the site offered multiple paths of growth with existing multimodal transportation infrastructure and access to a large pool of talent.

The NOVA proposal also included a new, innovative approach to economic development incentives. Presented as a 'new model for economic development', the Commonwealth and localities proposed substantial new investments in education to significantly enhance Virginia's tech talent pipeline, regional and local transportation infrastructure and affordable housing, in

addition to performance-based incentives. This package was designed to provide Amazon with the investments it needs to be successful as the company grows in NOVA and to benefit existing communities and companies statewide.

As part of the package offered to Amazon:

- The Commonwealth proposed to invest up to \$195 million of non-general fund money in transportation projects that will improve mobility in the region, including additional entrances to the Metro stations at Crystal City and Potomac Yard, improvements to Route 1, a connector bridge from Crystal City to Washington National Airport and a transitway expansion supporting Pentagon City, Crystal City and Potomac Yard. Additional funding from the Commonwealth would be available if Amazon creates more than 25,000 jobs.
- Arlington County and the City of Alexandria proposed to invest \$570 million in transportation projects, including rail connections, transit facilities, multi-modal streets and transportation technology serving the site, all of which were planned as part of Board- and Council-approved long-term Capital Improvement Plans (CIP). Arlington County's portion of this proposed investment is \$360 million which includes \$222 million in committed funding within the CIP, \$82 million in pending grants and \$55.7 million in proposed grants.
- Arlington and Alexandria proposed to fund affordable and workforce housing, bolstered by revenues generated from Amazon's new presence in the communities. Combined, the communities projected investment of at least \$150 million over the next decade, which will result in the creation and preservation of 2,000 to 2,400 affordable and workforce units in and around the Crystal City, Pentagon City and Columbia Pike areas in Arlington and throughout Alexandria. Arlington County's portion of this proposed investment is \$70 million.
- The Commonwealth proposed to provide post-performance incentives to Amazon that would be paid annually based on job creation and wage levels, with minimum average wages of at least \$150,000. The company would be eligible to receive up to \$22,000 per job or up to \$550 million in incentives. Additional incentives would be available if Amazon creates more than 25,000 jobs.
- Arlington proposed an annual pay-for-performance Transient Occupancy Tax (TOT) grant as its direct financial incentive to Amazon. The proposed grant is based on tax revenues generated by visitors and business travelers staying in Arlington hotels. The grant is tied to the company meeting six million square feet in office occupancy targets over the initial 16 years and is valued at approximately \$23 million.
- Arlington County proposed to use a portion of new incremental revenue generated by Amazon's arrival within the existing Tax Increment Financing (TIF) Area to make strategic infrastructure investments in and around Amazon's proposed site. The estimated new TIF revenue for this purpose is projected to be \$28 million over a 10-year period.
- Arlington also proposed and provided information for several by-right and in-kind incentives should they be applicable, such as the Technology Zone, Workforce Development & Training assistance, Green Building Density Incentive, Relocation Assistance, and Connect Arlington.

To support the growth of the technology sector across the Commonwealth, Virginia proposed to:

- Make performance-based investments in bachelor's degree programs in computer science and related fields that will be distributed statewide based upon a negotiated agreement with each public university or community college that wishes to participate;
- Make performance-based investments of up to \$375 million over 20 years for new master's degree programs in computer science and related fields at George Mason's Arlington campus and for Virginia Tech to establish a new Innovation Campus in Alexandria, both of which are subject to a one-to-one match from the universities with philanthropic funds; and
- Invest \$50 million over 20 years in K-12 tech education and internship programming to connect higher education students to tech jobs.

Amazon's HQ2 RFP was due just over a month after the RFP was made public, by October 19, 2017. As it was the largest economic development project in recent history, 238 communities across the North America submitted proposals.

On January 18, 2018, Amazon published a shortlist of 20 metropolitan regions, which included Washington, D.C. (and Northern Virginia). During the second round of Amazon's selection process, the state and regional team looked for innovative ways to set Northern Virginia apart from the other 19 locations still in the running. The resulting second-phase response brought hundreds of individuals together to develop a thorough regional proposal totaling more than 900 pages.

Over the course of the next 10 months, the team worked together to secure the project by coordinating multiple visits with the company, refining the incentive package to maximize the benefits to the community and Commonwealth, and determining the best locations for both Amazon and Virginia Tech's new Innovation Campus within National Landing.

Ultimately, the NOVA team was informed the day before the public announcement, which was made on November 13, 2018, that Amazon will locate 25,000 HQ2 jobs to both National Landing and Long Island City, New York. An hour after Amazon's event in Arlington at the North end of National Landing in Pentagon City, Virginia Tech announced the location of its major new investment in the Potomac Yard area of Alexandria. Just two Metro stops or a short bike ride away from Amazon's new campus, Virginia Tech will anchor the South portion of National Landing, catalyzing not just new education investments, but also new technology businesses and ventures.

Together the Commonwealth, Arlington County, the City of Alexandria and Virginia Tech chose to announce their investments, the positive return on investment of the project and the new tech talent initiatives by making the NOVA written proposal and website available to the public. [www.HQNOVA.com](http://www.HQNOVA.com) provided information about the themes used to market NOVA to Amazon while serving to additional objectives: to clearly address potential concerns of the public, as well as to be transparent about the process and the agreements. The website contains the promotional content, FAQs, proposal documents, MOUs and informational fact sheets. It also shows the magnitude of the collaboration to win the project, listing most of the 400 people who were

involved in the proposal process over the course of 14 months. Additionally, Arlington launched its own one-stop webpage [www.arlingtonva.us/amazon](http://www.arlingtonva.us/amazon) to provide the community with all information and links to partners' information regarding Amazon's selection of Arlington and important topics such as incentives, schools, housing and transportation. The website has been updated as new materials are developed to keep the community informed. In addition to the webpage, Arlington also hosted a series of Virtual Learning Sessions on various topics related to Amazon locating in Arlington, two community listening sessions and staff have made themselves available to speak on numerous panels across the County.

Arlington's proposal, comprised of an estimated \$23 million in a TOT Grant and estimated \$28 million in strategic investments in public infrastructure, and associated \$420 million in community investments for housing and transportation, was critical to inducing Amazon, and ultimately selecting our community for the company's second headquarters. Only 5% of Arlington's proposed incentive package is a direct incentive to Amazon.

Amazon's decision to establish a new headquarters in Crystal City and Pentagon City will help to realize the vision set forth in County plans for these areas and address increased office vacancies stemming from the 2005 Base Realignment and Closure (BRAC) actions. Amazon is expected to occupy 4 million square feet of office space in Arlington by 2030, which could grow to 6 million square feet by 2034. This amount of growth reflects a fraction of the more than 20 million square feet of future mixed-use development potential currently envisioned in adopted sector plans and approved phased development site plans for Crystal City and Pentagon City. These plans were developed in a comprehensive and multi-disciplinary manner to ensure that development, transportation, public open space and other community features are coordinated to deliver a high quality and functional urban place.

The company's initial phases of occupancy are anticipated to include leasing from JBG Smith existing building space in Crystal City at 1800 South Bell Street, 241 18<sup>th</sup> Street South, and 1770 Crystal Drive. Amazon is first expected to hire approximately 400 new employees who will start occupying existing space in the fourth quarter of 2019. The former two buildings will primarily involve interior renovations to provide a temporary home for Amazon workers, while not precluding subsequent site redevelopment opportunities that may further the vision and goals of the sector plan. In comparison, 1770 Crystal Drive will undergo a more complete renovation including major systems and façade replacement included as part of a site plan amendment approved by the County Board in October 2018.

Proposed deal terms between Amazon and JBG Smith are reported to include Amazon's purchase of the Metropolitan Park Phases 6-8 and PenPlace sites (land), and retention of JBG Smith as Amazon's development partner, property manager and retail leasing agent. Based on current approvals, Metropolitan Park 6-8 has phased development site plan entitlements for 1,403 residential units and 23,064 square feet of retail. The PenPlace parcel has an approved phased development site plan that allows over 1.8 million square feet of office/commercial development and 300 hotel rooms (with the option to build 300 residential units in place of an equal amount of office space). Of these development entitlements, only Metropolitan Park Phase 6 was previously the subject of a final site plan approved by the County Board in 2016.

The construction of up to 4 million square feet of office development at Metropolitan Park and PenPlace will require future amendments to the Pentagon City Phased Development Site Plan for these blocks. If the County Board approves this performance agreement, it is anticipated that Amazon and JBG Smith will subsequently file pertinent land use and development applications and participate in Arlington County's standard development review processes to pursue the necessary County Board approvals to build the company's headquarters.

Since 2001, Arlington lost about 34,000 federal jobs associated with major facility relocations and 24,000 of those jobs were in the Crystal City area. BRAC was the main driver of the job losses along with the departures of large federal tenants such as Patent Trademark Office and the National Science Foundation. Arlington's commercial vacancy rate rose to 21.7% in 2015, which resulted in significant property and business tax losses needed to fund community services and programs. As a result, there is excess capacity in Arlington's multi-modal transportation services including Metrorail, VRE commuter rail, Metrobus, and local and regional bus lines, that can accommodate Amazon's future employees. In the Crystal City and Pentagon City areas, Metrorail weekday ridership is down 25% from its prior peak in 2010. Almost all bus lines serving the area have experienced steep declines in ridership, with some losses approaching 30%. Additionally, Amazon plans to fully fund transit benefits for employees at its Arlington headquarters.

Based on U.S. Census and Arlington County data pertaining to the percentage of Arlington-based workers who also live in Arlington, it is estimated that 15 to 20% of the future Amazon employees will reside in Arlington County and the remaining 80 to 85% will live elsewhere in the region. The proportion of employees who live in Arlington will have access to the full array of existing housing unit types and inventory. Based on the average countywide student generation rate of 0.228 (APS County-Wide K-12 Student Generation Rates, fall 2017) per housing unit, across all housing types, it is estimated 73 to 98 students per year in Arlington Public Schools will be associated with an Amazon employee household on average over the first 12 years. Since Amazon employment will be ramping slowly over the next 12 years, within the first 3 years, it is estimated that 40 to 54 students per year on average will be associated with this project.

Arlington County has adopted sector and phased development site plans with capacity for more than 21 million square feet of mixed-use development in Pentagon City, Crystal City and Potomac Yard (Arlington). With investment in the transportation system already underway, and the excess capacity in the areas transportation systems as a result of past job losses, Arlington is well positioned to accommodate Amazon's future growth and manage associated impacts.

**DISCUSSION:** The attached agreement among Arlington County, the IDA and Amazon outlines the pay-for-performance-based EDI grant and its disbursement conditions. There are two components of the agreement: the Transient Occupancy Tax (TOT) Grant and the Strategic Infrastructure Investments (SII).

The TOT Grant is designed to use 15% of net new hotel tax revenues associated with increased business travel to Arlington related to the Amazon headquarters. In Seattle, it is estimated that the Amazon headquarters generates approximately 300,000 occupied hotel room nights per year from business travel. The campus in Seattle is twice as large as what is proposed in Arlington. It is

estimated that when Amazon is fully operational in Arlington, the company will generate between 100,000 and 150,000 occupied hotel room nights locally.

The Transient Occupancy Tax (TOT) is a tax on the total cost paid on hotel rooms or other paid lodging. This tax is paid by tourists or business travelers, not Arlington residents, and the grant monies are not currently assumed to fund community priorities like transportation, housing and infrastructure. Currently, Arlington County levies a 5.25% TOT; 5.0% goes to the General Fund, and 0.25% is separated for tourism promotion. The TOT Grant is based on the 5.0% of revenues that goes to the General Fund. Arlington proposed an annual grant equal to up to 15% of the incremental revenue generated each year for 15 years. The baseline for the grant is determined using an average of the County's TOT revenues for fiscal years 2017, 2018 and 2019. The annual grant calculation will not include the 0.25% separated for tourism and promotion. The TOT Grant will begin to be paid out in the second year of the performance period. The estimated total value of the TOT Grant incentive is \$23 million over 15 years. Amazon can use the TOT Grant proceeds to pay for the build-out, construction, tenant up-fit and furniture, fixtures, and equipment for their new headquarters in Arlington.

The Strategic Infrastructure Investments (SII) represents a portion of the new incremental revenue within the existing Tax Increment Financing (TIF) Area. In 2010, the County adopted a policy establishing a tax increment financing (TIF) Area and created a separate fund comprised by a portion of incremental real property tax revenues in Crystal City, Potomac Yard and Pentagon City to pay for infrastructure improvements. Amazon's future headquarters site falls within the TIF area.

The TIF is currently set at 25% of the incremental property tax revenue. The existing TIF revenue plus a 1% annual appreciation is needed to fund existing planned transportation projects in the CIP. This revenue would continue to be dedicated to the intended projects. Starting in year 2021, the County would set a baseline and segment half of the new incremental TIF revenue to public infrastructure projects in and around Amazon's headquarters in Crystal City and Pentagon City for 10 years. It is anticipated that Amazon's investments in Pentagon City and Crystal City will generate new TIF revenue above the current level and amount needed to fund existing projects.

The estimated value of half of the new incremental TIF revenue is projected to be \$28 million over the 10-year period. This is not a grant to Amazon. Annually, after each performance reporting period the County will provide to Amazon with a memo stating the value of the SII and schedule a meeting with County staff and Amazon to discuss the County's infrastructure projects, priorities and processes. Amazon's input for the use of SII monies will be provided to the County Board for consideration as part of the County's Budget and CIP processes.

After each performance year, Amazon must provide the County with a notarized affidavit reporting its total occupied square feet, with Certificates of Occupancy indicating whether annual square footage targets have been achieved. The disbursement of TOT Grant funds and utilization of SII will be contingent upon the Amazon being current on all applicable County tax obligations. If Amazon has occupied at least 90% of the square footage target in any given year, then the corresponding TOT Grant and SII allocation will be equal to the maximum amounts for that year. If Amazon has occupied at least 50% but less than 90% of the square footage target in any year, then the corresponding TOT Grant and SII allocation will be set to an amount equal to the percentage of the target achieved. If less than 50% of the square footage target it achieved, no grant

monies will be disbursed and no SII monies will be set aside. As this is a pay-for-performance grant, there are no reimbursement clauses associated with the agreement.

The County will work with Amazon to explore connecting their headquarters facility to ConnectArlington, Arlington’s fiber optic network. If it is determined that Amazon can make use of this excess capacity within the system, a separate agreement will be drafted subject to the approval of the County Board.

As a separate program available to any qualified Arlington company, the Technology Zone is not part of the performance agreement. Technology Zone offers eligible companies a reduced BPOL (Business Professional and Occupational License) tax rate. It remains to be seen whether Technology Zone will be applicable to Amazon because it is not known which business units and affiliated entities will be locating in Arlington and if they will be subject to and/or have transactions exempt from BPOL taxes. As a corporate headquarters and global company Amazon may not have gross receipts attributable to the Arlington location; or it may be classified as a type of company that is not subject to BPOL at all, such as a retailer or wholesaler. For these reasons, BPOL was not factored into the revenue projections. If in the future, Amazon determines that a business unit may qualify for the program, they would follow the standard application and qualification process administered through the Commissioner of Revenue’s Office.

Relocation Assistance is an in-kind service offered by Arlington Economic Development to help employees relocating from outside the region. However, since many of Amazon’ new jobs will come from within the region, it was determined that this service was unnecessary and not included in the performance agreement. The Green Building Density Incentive is administered through Community Planning and Housing Development Department and will be considered through the development review processes. Workforce Development & Training is handled through the Arlington Employment Center that offers programs to assist with employee recruitment, training and retention. As both of these programs are handled through other means, they were also not included in the Performance Agreement.

The agreement requires signatures by the County Manager on behalf of the Arlington County Board, by the Chair of the IDA and by a representative of Amazon.

**PUBLIC ENGAGEMENT:** Since the November 13, 2018 announcement, Arlington County has conducted a series of public engagement sessions to educate and inform the community on Amazon’s plans to locate to Crystal City and Pentagon City. The County held five information sessions as part of a Virtual Learning Series, which began on the evening of the announcement and received nearly 14,000 total views. This series of sessions provided a way for viewers to tune in live and ask questions, as well also view the sessions online later. They covered a range of topics, including economic planning and incentives, transportation, housing, and schools and workforce.

**VIRTUAL LEARNING SERIES STATS** (as of 2/11/19)

	Total Views	Peak Live Viewers
Announcement	4,700	127
Economic Planning	1,300	92
Transportation	578	37



Housing	1,000	80
Schools and Workforce	6,200	25

In addition to the virtual sessions, Arlington County hosted and organized two Community Listening Sessions in which approximately 400 people attended. Staff also organized three small group sessions attended by approximately 40 stakeholders representing business leaders, community leaders and non-profit leaders. County staff across multiple departments (housing, planning, transportation and economic development) have participated in multiple panels and speaking engagements to a variety of organizations and groups regarding Amazon. The AED Director alone has participated in more than 20 speaking engagements to civic associations, business organizations and community groups (e.g. Committee of 100, Rotary Clubs, etc.) to answer questions about Amazon HQ2. The Arlington County Board has also engaged across the community to various groups and civic associations presenting the Amazon 101 PowerPoint presentation. Some of the stakeholders that participated during the sessions included business and community leaders, residents and non-profit organizations representing affordable housing, workforce training and development, and social services. Topics raised by the various stakeholder groups included housing affordability, transportation infrastructure and school capacity.

Additionally, because of the public engagement sessions, Arlington’s one-stop website [www.arlingtonva.us/amazon](http://www.arlingtonva.us/amazon) is continually updated to provide the community with the most current information regarding the Amazon HQ2 project. Since its inception, the County’s Amazon webpage has had nearly 12,000 pageviews. Fact sheets in multiple languages on schools, transportation, housing and economic impacts were developed to respond to questions that were raised during public engagement sessions.

In addition to the outreach by County staff and elected officials, Amazon and JBG Smith has also been actively engaging the community across Arlington, the DMV region, and Virginia. The Amazon team is focused on listening and learning to help identify opportunities where they can grow their participation in Arlington and the region. A sampling of the types of groups they have met with include over 50 Arlington-based non-profit organizations, working with the Crystal City Business Improvement District met with approximately 50 businesses and organizations that will be their future neighbors, and have also engaged the business community working with the Arlington Chamber of Commerce, Northern Virginia Technology Council and the Greater Washington Partnership. Amazon has met with elected leaders across Virginia, metropolitan D.C., and Arlington, as well as the Presidents of their neighborhood Civic Associations. Amazon’s human resource team has many existing partnerships with area universities, but they also have engaged Arlington Public Schools Superintendent and the School Board, Northern Virginia Community College, Arlington/Alexandria Workforce Council and the Arlington Employment Center. As time progresses, Amazon continues to have subject matter experts from their other office locations be available to engage with stakeholders on different topics.

JBG Smith and Amazon staff have met with several building trade groups like Baltimore DC Building Trades, NOVA Labor and Maliuna, where they have begun discussions on labor options for the Amazon HQ2 development. JBG Smith have also met directly with several of the neighborhood residents and have spoken at their civic association meetings.

Amazon, JBG Smith, and Arlington County participated in an interactive community session with hosted by the Metropolitan Washington Council of Governments. There were approximately 130 attendees representing the Arlington community including civic associations, commissions, non-profit organizations and business leaders. The session was live-streamed and the panel answered questions from both the in-person audience and online viewers.

**FISCAL IMPACT:** Amazon is expected to create 25,000 employees and occupy 4 million square feet of office space by 2030. By year 16, if Amazon continues to grow, Amazon could create up to 37,850 new jobs and occupy 6 million square feet of office space. It is estimated that the 12-year and 16-year cumulative gross tax benefit to Arlington will be \$174,160,000 and \$342,260,000, respectively. Once the EDI grants are considered, the 12-year and 16-year net tax benefit will be approximately \$162,360,000 and \$319,540,000, respectively (not assuming any escalations or discounting). These performance years were used because it ties directly to the length of the performance period.

The fiscal impact calculation includes real property, personal property, BPOL (from landlord only), TOT, meals and sales taxes. It assumes constant property tax and no escalation. Estimates of potential BPOL tax revenue from the company are not included because it is not known at this time which business units and affiliated entities will be locating in Arlington or if they will be subject to and/or have transactions exempt from BPOL taxes. Revenue estimates are based on initial project assumptions and no escalation.

Table 1: Fiscal Impact

	12-Year	16-Year
Gross Tax Benefit	\$174,160,000	\$342,260,000
Estimated TOT Grant	(\$11,800,000)	(\$22,720,000)
Net Tax Benefit	\$162,360,000	\$319,540,000

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

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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 the Amazon Arlington Facility, as defined below, 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, 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 Amazon Arlington 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, 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) Amazon covenants and agrees to Occupy the Amazon Arlington Facility.

(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 an earned portion, of the 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 A**, 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

(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.

(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 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 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	7/31/2025	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
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

(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.

(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 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](mailto: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](mailto: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](mailto:VHoskins@ArlingtonVA.US)

**To Amazon:** Amazon.com Services, Inc.  
2121 7th Ave.  
Seattle, WA 98121  
Attn: Economic Development  
Email: [economicdevelopment@amazon.com](mailto:economicdevelopment@amazon.com)

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](mailto: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](mailto: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. 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. Amazon acknowledges that the County and the IDA will comply with the Virginia Freedom of Information Act ("VaFOIA") and other applicable laws and regulations pertaining to the disclosure of records in their possession. Amazon further acknowledges that this Agreement is a public record subject to disclosure under VaFOIA, and that certain materials, communications, data, and information related to this Agreement, including reports and information submitted by VEDP or Amazon as provided in Section 9(n), may constitute public records subject to mandatory disclosure under VaFOIA and other applicable laws and regulations. Upon receipt of a request for such public records, the County Board and the IDA agree that they will disclose this Agreement and such portions of the materials, communications,

data, and information related to this Agreement as is required by law. Prior to doing so, the County Board and the IDA agree to: (a) except as to the disclosure of this Agreement, give Amazon not less than two (2) business days written notice of the request to allow Amazon to take such steps as it deems appropriate with regard to the requested disclosure of records, and (b) disclose only such records as are subject to mandatory disclosure under VaFOIA or other applicable law or regulation. Amazon acknowledges 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. Amazon further 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.

(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 9(c) of this Agreement and may pursue any other remedy available at law or in equity. Nothing in this Section 9(q) 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, nor the County Board, nor the IDA 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 A

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:

Table with 5 columns: A. TOT Grant Performance Date, B. TOT Grant Performance Period, C. Annual Facility Target (Gross Floor Area), D. Cumulative Square Feet Occupied (as of TOT Grant Performance Date), E. Percent of Annual Facility Target Achieved (Column D/Column C). Rows show data from 6/30/2020 to 6/30/2035.

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 A

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 C



INGRID H. MORROY  
COMMISSIONER

**ARLINGTON COUNTY, VIRGINIA**

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



OTILIO SABILLÓN  
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  
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