

AGREEMENT FOR LONG-TERM RURAL ENTERPRISE ZONE TAX ABATEMENT

This agreement for Long-Term Rural Enterprise Zone Tax Abatement ("Agreement") is executed by GREATER HERMISTON ENTERPRISE ZONE BOARD, representing the sponsor entities UMATILLA COUNTY, OREGON ("Umatilla County"), the CITY OF HERMISTON, OREGON ("City of Hermiston"), and Amazon Data Services, Inc. (the "Company"). Umatilla County and City of Hermiston are referenced collectively in this Agreement as "Sponsors." In this Agreement, each of the Sponsors and the Company are sometimes individually referenced as a "Party" and collectively referenced as the "Parties."

RECITALS

The Sponsors have established the Greater Hermiston Enterprise Zone (the "Zone") pursuant to Oregon Revised Statute (ORS) 285C.045, *et seq.*

With the aid of tax incentives from the Sponsors, the Company, either directly or through an affiliate, intends to make investments in the Zone by building and operating one or more new data centers located in the Zone.

[The Company has previously made significant investments in the Zone that have contributed to long-term investment and employment in the Zone.] [NTD – Confirm this is correct.]

The Company and the Sponsors desire to enter into this Agreement to encourage the Company to continue to make investments in the Zone and to streamline and simplify the reporting and administration of tax abatements made available to the Company.

The Company has timely and properly filed the Oregon Form OR-AP-CERT, Oregon Enterprise Zone Certificate Application – Long-Term Rural Tax Incentive, 150-310-073 ("Application") with respect to the Facility (as defined below).

The Company has executed a first-source hiring agreement, pursuant to ORS 285C.215, regarding the new permanent jobs to be created in Umatilla County upon completion and operation of the Facility.

NOW, THEREFORE, in recognition of the foregoing recitals, in consideration of the covenants contained herein, and in accordance with ORS 285C.400 through 285C.420, the Parties hereby agree as follows:

AGREEMENT

- I. The Facility:** The "Facility" will consist of investments in data centers to be developed by the Company or its affiliates and located in the Zone, which will include the land, real property improvements, machinery and equipment, related personal property, and related support facilities and buildings, which may be installed, constructed, added, or placed in service in the Zone during the term of this Agreement. The Facility site is located in the Zone on Lot 1 as shown on the STAHL REPLAT - A REPLAT OF PARCEL 1 OF PARTITION PLAT 1997-06 & PARCEL 2 OF PARTITION PLAT 2019-08 (Document No. 2019-6940037, Office of Umatilla County Records) located in the Southeast Quarter of Section 23 and the Southeast Quarter of the Northeast Quarter and the South Half of Section 24, Township 4 North, Range 28, East of the Willamette Meridian, City of

Hermiston, Umatilla County, Oregon (consisting of approximately 204.89 acres) (the "Partition Plat").. No addresses are currently attached to this location. [NTD – Confirm this is correct.] Additional addresses may be attached to the Partition Plat for future data centers developed in the Zone during the term of this Agreement.

- II. **Exemption for the Facility:** The Sponsors jointly acknowledge and agree that, upon approval of the Company's Application, and upon certification by the Sponsors and the Umatilla County Assessor, and conditioned upon the satisfaction of other requirements under ORS 285C.400 through 285C.420 and this Agreement, the Facility will be exempt from ad valorem property tax on the Facility as provided in ORS 285C.409(1). The property tax exemption granted by this Agreement will to the maximum extent permitted by law exempt from all ad valorem property taxation the real property improvements, personal property improvements, and tangible and intangible personal property (excluding land, as set forth in ORS 285C.409(5)(a)) comprising or installed, constructed, added or otherwise placed at the Facility site, all as set forth in ORS 285C.409 and Oregon Administrative Rule (OAR) 123-690-0100(2) and 123-690-6200.
- III. **Term of Exemption:** Pursuant to ORS 285C.409(1), and conditioned upon the satisfaction of other requirements under ORS 285C.400 through 285C.420 and this Agreement, the Facility will be exempt from *ad valorem* property tax as follows:
 - A. For the first tax year following the calendar year in which the Company is certified or after which construction of the Facility commences, whichever event occurs later;
 - B. For each subsequent tax year in which the Facility is not yet in service as of the assessment date; and
 - C. For a period of 15 consecutive property tax years commencing as of the first tax year in which the Facility is in service as of the assessment date (the "Exemption Period"). As used in this Agreement, "in service" has the same meaning as "in service" as defined in OAR 123-690-0100(3).
 1. The Company shall notify the Umatilla County Assessor upon the Facility's receipt of the permit to occupy and use the Facility for its intended purpose within 90 days of such receipt.
- IV. **Scope of Exemption:** Pursuant to ORS 285C.409(1) and subject to Section II, the Company and its affiliates are entitled to exemption from ad valorem property tax with respect to all qualified property, whether leased or owned and whether tangible or intangible, of the Company and its affiliates used in connection with the development, construction, and operation of the Facility, including without limitation all subsequent Facility investments as described in OAR 123-690-6200.
- V. **Obligations of the Company:** The Company will comply with the following conditions as authorized under ORS 285C.403(3)(c):
 - A. **Statutory and Administrative Requirements:** The Company agrees to comply with the requirements of ORS 285C.409 and 285C.412([5]) as well as those provided in OAR Chapter 123, Division 690.

B. Additional Obligations: As established solely under this Agreement, the Parties agree to the additional obligations set forth below:

1. **Annual Improvement Payment ("AIP"):** For each year of the Exemption Period, the Company shall pay to the Sponsors an AIP for each data center within the Facility that is issued, and maintains, a permit to occupy and use such data center (a "Qualifying DC"). The AIP for each Qualifying DC is equal to \$5 per square foot thereof; provided, however, that the AIP for each of the first 4 Qualifying DCs that is at least 180,000 square feet is equal to a minimum of \$1 million regardless of their square footage; provided further, that the minimum total AIPs for each year of the Exemption Period will be \$2,000,000. The references to data center square footage in this paragraph refer to the gross square footage within the exterior walls of each data center building.
2. **Additional Annual Fee ("AAF"):** For each year of the Exemption Period, the Company shall pay to the Sponsors an AAF equal to the amount calculated by applying the tax code area ad valorem property tax rate to the AAF Base Amount set forth in Appendix 1.
3. **Public Safety Impact Fee ("PSIF"):** For each year of the Exemption Period, the Company shall pay to the Sponsors a PSIF in the amount set forth in Appendix 1.
4. **Student Success Fee ("SSF"):** For each year of the Exemption Period, the Company shall pay to the Sponsors an SSF in the amount set forth in Appendix 1.
5. **Community Development Contribution ("CDC"):** Within 60 days after the Company has commenced construction, within the meaning of ORS 285C.409(1)(a), of the first new Qualifying DC within the Facility, the Company shall pay to the Sponsors a CDC in the amount of \$5,000,000. The Parties acknowledge that the CDC is intended to assist with costs of capital improvement projects within the tax districts included in the consolidated tax code area in which the Facility is located, which may include payment or defeasance of debt service on, or redemption of, outstanding bonded indebtedness issued for such purposes under applicable law. Nothing in this Section V.B.5 shall modify, extend, waive, or otherwise affect the exemption provided under this Agreement, or constitute an obligation of the Company to support the payment of or satisfy any such bonded indebtedness, or compel the Sponsors to use the CDC for this purpose.
6. **Fee Payment Instructions:** The Company shall make the AIP, AAF, PSIF, SSF, and CDC payable to the "Greater Hermiston Enterprise Zone Board." The Company shall deposit the AIP, AAF, PSIF and SSF to the Umatilla County Assessor on or before November 15 of each year of the Exemption Period.
 - a. The mailing address for all payments is: Greater Hermiston Enterprise Zone Administrator, 235 E Gladys Ave., Hermiston, OR 97838.

7. **Application Processing Fee:** Within 14 days after the Sponsors and the Umatilla County Assessor have approved the Application with respect to the Facility pursuant to Section VI.B. of this Agreement, the Company shall pay to the Sponsors an application processing fee equal to \$120,000. Payment of the application processing fee shall be made to the Umatilla County Assessor, 216 SE 4th St., Pendleton, OR 97801.
8. **Payment Reduction for Charitable Payment:** The Company may make payments to or for the benefit of charities or non-profit entities that benefit the City of Hermiston, or residents of the City of Hermiston, and that are reasonably approved by the Sponsors (a "Charitable Payment"). If the Company makes a Charitable Payment, the Company may reduce its payments due under this Section V.B on a dollar-for-dollar basis in an amount equal to the Charitable Payment made during each year, up to a total reduction each year in the amount of \$150,000.
9. **Permit Fees:** The Company will pay all standard building permit and other permit fees related to the Facility. The Company further agrees that if it has a choice between obtaining an equivalent permit, license, or similar approval for the Facility from either a local governmental entity or a state entity, the Company will obtain the permit, license, or similar approval from the local governmental entity.
10. **Payments Generally:** With respect to the Facility, and to the fullest extent permitted by applicable law, the Company will not be required to pay sums to any local taxing authority in which the Facility is located other than the AIP, AAF, PSIF, SSF, and CDC due under this Section V.
11. **Future Bonding.**
 - a. During each year of the Exemption Period, the Company will contribute an amount to the Sponsors (the "Bond Contribution") to be used solely for the payment or prepayment of debt service on newly-issued general obligation bond indebtedness incurred to finance public utilities, public educational services, fire services, or public safety services and issued pursuant to voter approval of a measure passed on or after [September 1], 2022 by any taxing district included in the consolidated tax area in which the Facility is located (a "Qualifying Bond"). The annual Bond Contribution will be equal to 100% of the aggregate amount the Company would have been assessed with respect to such Qualifying Bonds for all property owned by the Company within the taxing district subject to the Qualifying Bond but for the exemption pursuant to this Agreement and any other exemption for property owned by the Company within such taxing district. The Company will not unreasonably object to any local measures for Qualifying Bonds.
 - b. Following voter approval of a Qualifying Bond and prior to the first due date of any related Bond Contribution, the Company, the Sponsors and the Umatilla County Assessor will collaborate to ensure that (a) Bond Contributions are expended solely to prepay or to make debt service payments on Qualifying Bonds, (b) tax levy

rates imposed on taxpayers are adjusted to take into account any Bond Contributions, and (c) Bond Contributions do not violate any tax-exemption requirements for Qualifying Bonds. The Parties may enter into additional agreements to implement these provisions.

VI. Obligations of Sponsors: Sponsors will comply with the following conditions:

- A. Resolutions:** Within 30 days of the Effective Date (as defined below), the governing body of each of Umatilla County and City of Hermiston will adopt resolutions approving and authorizing the execution of this Agreement. Such resolutions will serve to approve the Facility for a property tax exemption under ORS 285C.409 and constitute the resolutions described in ORS 285C.403(3)(a).
- B. Certification:** Within 5 days of satisfaction of the criteria set forth under ORS 285C.403(3), Sponsors and the Umatilla County Assessor will request confirmation from the Oregon Business Development Department of administrative sufficiency and confirmation of the County's conformity with ORS 285C.400(3) and the County's status as a "qualified rural county" within the meaning of ORS 285C.400 and 285C.412. Within 30 days of receipt of confirmation from the Oregon Business Development Department, Sponsors and the Umatilla County Assessor will approve and countersign the Application submitted by the Company, thereby certifying the Company as eligible for the property tax exemption contemplated by this Agreement.
- C. Tax Exemption:** Sponsors hereby set the period of the property tax exemption for the Facility for purposes of ORS 285C.409(1)(c) to be 15 consecutive tax years, beginning with the first tax year in which the Facility is in service as of the assessment date.
- D. Allocation of Payments:** Sponsors are solely responsible for the allocation, budgeting, division, and disposition of any payment due under this Agreement, including any portions that may be due or payable to any other jurisdiction. In no event shall the Company have any liability in connection with any disagreement, error, or conflict related to the division, allocation, or distribution of such amounts. In no event will the Company have any liability or obligation to any other person with respect to any payment due under this Agreement after the Company has discharged its duty to pay as set forth in Section V above, and Sponsors shall hold the Company harmless with respect to any claims to the contrary.
- E. Sponsors' Support:** Sponsors will support the Company in the Company's efforts to qualify for and obtain other tax incentives in connection with the Facility, including by promptly executing such letters or other documentation of support as may be reasonably requested by the Company, but Sponsors make no warranty with respect to its ability to affect any outcome in such regards.

VII. Termination Rights: Each Party may terminate this Agreement as follows:

- A. The Company's Termination Right:** The Company may elect to terminate this Agreement for any reason or no reason by delivery of written notice thereof to Sponsors. Upon delivery of any such notice, this Agreement will be of no further force or effect and no party will have any further rights or obligations hereunder, except for obligations owing and unpaid on the date of termination.

- B. Sponsors' Termination Right:** If the Company fails to make any payment required under this Agreement within 30 days of the due date of such payment, or fails to fulfill any other obligation of this Agreement within 30 days of written notice specifying the obligation which is in default, Sponsors may terminate the Agreement upon written notice to the Company. Such notice must provide an additional 60 days in which the Company may cure any such payment deficiency or default. Notwithstanding the foregoing, Sponsors may not terminate the Agreement if the Company's failure to pay is due to the error of any Sponsor.
- C. Mutual Termination Right:** The Parties may terminate this Agreement at any time upon mutual written agreement of termination.

VIII. Confidentiality:

- A.** The Parties acknowledge that this Agreement is a public record subject to Oregon's public records laws. The Sponsors agree that their staff, representatives and agents will exercise the utmost discretion in oral and written communications regarding the Facility and will provide information internally only to those individuals who need the information to facilitate the Parties' performance under this Agreement. If any person or entity requests any data, documents, or notes about the Company or its business practices (other than this Agreement) that are related to this Agreement or its tax exemption ("Confidential Information"), whether by court order, subpoena, Oregon Public Records Request, or other reason, the Sponsors shall not release any such information except as consistent with the following provisions:
1. The Sponsors shall notify the Company within 3 business days of the receipt of such request;
 2. if the Company elects to challenge or appeal the release of such information, the Company shall notify the Sponsors within 9 business days of receipt of the request, and the Company shall assume all responsibilities, costs, and expenses for such defense; and
 3. if the Company does not notify the Sponsors within 9 business days of receipt of such request, the Sponsors shall be authorized to release the requested information to the requester to the extent required by law, and the Sponsors shall have no liability to the Company for such release of such Confidential Information.

Notwithstanding the above, the Sponsors agree to cooperate with the Company in any challenge or appeal to a court order, subpoena, public records request, or other applicable law requiring the release of Confidential Information. The Company shall indemnify and hold the Sponsors harmless for all costs and expenses incurred in the challenge or appeal to the release of such Confidential Information, including court and appeal costs and the Sponsors' attorney's fees and expenses. Nothing in this section requires the Parties to refuse to disclose such Confidential Information after a final order, including any appeal, by a competent judicial authority. If Oregon law is amended to require responses to public records requests be made less than 12 business days from the request, the number of business days specified in Paragraphs (1) and (2) of this Section VIII.A shall be reduced to 2 business days, and the number of business days to respond

to a public records request as mandated by Oregon law less 2 business days, respectively.

IX. Miscellaneous Provisions:

- A. Effective Date:** This Agreement becomes effective on the date at which this Agreement has been signed by all of the Parties.
- B. Assignment:** None of the Parties may assign this Agreement without the prior written consent of the other Parties, except that the Company may assign this Agreement to any of its affiliates, or to a new entity without the prior written consent of the other Parties. Subject to the foregoing, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Nothing in this Agreement shall be deemed to constitute a restriction or condition on the ability of the Facility owner to freely sell, transfer or assign ownership of the improvements or the underlying land or any portion thereof or any ownership interest in the Facility owner at any time.
- C. Amendment:** This Agreement may be amended only by a written document signed by the Party against whom enforcement is sought.
- D. Waiver:** No waiver will be binding on a Party unless it is in writing and signed by the Party making the waiver. A Party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.
- E. Notices:** All notices and communications relating to this Agreement shall be in writing and shall be personally delivered or sent by registered or certified mail, return receipt requested, or delivered by nationally recognized express courier service. Such notices and other communications shall be effective upon receipt if hand delivered, 3 business days after mailing if sent by mail, and 1 business day after dispatch if sent by express courier, to the following addresses:

<p><u>If to the Company:</u></p> <p>Amazon.com, Inc. 410 Terry Ave. N Seattle, WA 98109 Attn: Infrastructure Global Expansion, Economic Development</p> <p><u>With copies to:</u> Amazon.com, Inc. Attn: General Counsel P.O. Box 81226 Seattle, WA 98108</p>	<p><u>If to Sponsors:</u></p> <p>Greater Hermiston Enterprise Zone Administrator 235 E Gladys Ave. Hermiston, OR 97838</p> <p><u>With copies to:</u> Umatilla County Assessor 216 SE 4th St. Pendleton, OR 97801</p>
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A copy of all notices and communications relating to this Agreement shall also be sent, on or before the date in which they become effective, by email to:

<u>If to the Company:</u> Aws-econ-dev@amazon.com & contracts-legal@amazon.com	<u>If to Sponsors:</u>
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- F. Limitation of Liability:** Notwithstanding anything to the contrary in this Agreement, neither the Company, nor any of its affiliates, shall be liable for: (a) any indirect, reliance, exemplary, incidental, speculative, punitive, special, consequential or similar damages that may arise in connection with this Agreement, (b) any lost or foregone tax revenues, or (c) any damages, liabilities, fees, costs, expenses, penalties, diminishment 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 the Company under this Agreement and (ii) \$3,000,000.
- G. Force Majeure:** A Party will not be deemed to be in breach, material breach, default or otherwise in violation of any term of this Agreement to the extent such Party's action, inaction or omission is the result of a Force Majeure Event. The Company and Sponsors agree to use commercially reasonable efforts to promptly resolve any Force Majeure Event that adversely and materially impacts their performance under this Agreement. A Force Majeure Event pauses a Party's performance obligation for the duration of the event, but does not excuse it. "Force Majeure Event" means any event or occurrence that is not within the control of such Party or its affiliates and prevents a Party from performing its obligations under this Agreement, including without limitation, any act of God; act of a public enemy; war; riot; sabotage; blockage; embargo; failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority; labor strike, lockout or other labor or industrial disturbance (whether or not on the part of agents or employees of any Party); civil disturbance; terrorist act; power outage; fire, flood, windstorm, hurricane, earthquake or other casualty; any law, order, regulation or other action of any governing authority; any action, inaction, order, ruling moratorium, regulation, statute, condition or other decision of any governmental agency having jurisdiction over a Party hereto, over the Facility or over a Party's operations.
- H. Severability:** The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provision shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. It is the intent of the Parties that, in the event a clause or provision is stricken, that there be added as part of this Agreement a clause or provision as similar in terms as may be possible, legal, and enforceable so as to provide a comparable property tax exemption and comparable payments as provided for in this Agreement.
- I. Governing Law:** This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement.

- J. Venue:** Any action, suit, or proceeding arising out of the subject matter of this Agreement will be litigated in courts located in Umatilla County, Oregon. Each Party consents and submits to the jurisdiction of any local, state, or federal court located in Umatilla County, Oregon.
- K. Attorney's Fees:** If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Agreement, or otherwise in connection with the subject matter of this Agreement, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, action, suit, or proceeding, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court. Notwithstanding the foregoing, each Party's maximum liability under this Section IX(K) is \$75,000 and in no event will any Party be obligated by this Section IX(K) to pay an amount in excess of \$75,000.
- L. Entire Agreement:** This Agreement contains the entire understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the Parties with respect to the subject matter of this Agreement.
- M. Signatures:** This Agreement may be signed in one or more counterparts, each of which is an original, and all of which together constitute only one agreement between the Parties. A signature page delivered by fax or electronic mail will be considered an original signature page. At the request of a Party, the other Parties will confirm delivery of a signature page (whether by fax or electronic mail) by delivering an original signature page to the requesting Party.
- N. Waiver of Jury Trial:** WITH RESPECT TO ANY PROCEEDING OR ACTION ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE), THE PARTIES KNOWINGLY, INTENTIONALLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE THEIR RIGHT TO TRIAL BY JURY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT IT HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, IT MAKES THIS WAIVER KNOWINGLY AND VOLUNTARILY, AND IT HAS DECIDED TO ENTER INTO THIS AGREEMENT IN CONSIDERATION OF, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, have executed this Agreement on the date shown below.

UMATILLA COUNTY

Dated this [] day of [], 2022

DRAFT

Dan Dorran, Commissioner

DRAFT

George L. Murdock, Commissioner

DRAFT

John M. Shafer, Commissioner

CITY OF HERMISTON

Dated this [] day of [], 2022

DRAFT

Dr. David A. Drotzmann, Mayor

Attest:

DRAFT

Mark I. Morgan, Greater Hermiston Enterprise Zone Administrator

Amazon Data Services, Inc.

Dated this _____ day of [], 2022

DRAFT

Appendix 1

Tax Year	AAF Base Amount*	PSIF Payment Amount	SSF Payment Amount
2023	27,318,175	54,636	54,636
2024	28,137,720	56,275	56,275
2025	28,981,852	57,964	57,964
2026	29,851,307	59,703	59,703
2027	30,746,847	61,494	61,494
2028	31,669,252	63,339	63,339
2029	32,619,330	65,239	65,239
2030	33,597,909	67,196	67,196
2031	34,605,847	69,212	69,212
2032	35,644,022	71,288	71,288
2033	36,713,343	73,427	73,427
2034	37,814,743	75,629	75,629
2035	38,949,185	77,898	77,898
2036	40,117,661	80,235	80,235
2037	41,321,191	82,642	82,642
2038	42,560,827	85,122	85,122
2039	43,837,651	87,675	87,675
2040	45,152,781	90,306	90,306
2041	46,507,364	93,015	93,015
2042	47,902,585	95,805	95,805
2043	49,339,663	98,679	98,679
2044	50,819,853	101,640	101,640
2045	52,344,448	104,689	104,689
2046	53,914,782	107,830	107,830
2047	55,532,225	111,064	111,064
2048	57,198,192	114,396	114,396
2049	58,914,138	117,828	117,828
2050	60,681,562	121,363	121,363
2051	62,502,009	125,004	125,004
2052	64,377,069	128,754	128,754
2053	66,308,381	132,617	132,617
2054	68,297,632	136,595	136,595
2055	70,346,561	140,693	140,693
2056	72,456,958	144,914	144,914
2057	74,630,667	149,261	149,261

* Amount of payment will be calculated by applying the applicable tax code area ad valorem property tax rate to the AAF Base Amount.