

RESOLUTION NO. RS2019-1644

A resolution authorizing an economic and community development incentive grant to be made to The Industrial Development Board of The Metropolitan Government of Nashville and Davidson County (the "IDB") for the benefit of Amazon, Inc.

WHEREAS, The Metropolitan Government of Nashville and Davidson County ("Metropolitan Government") is vitally interested in the economic welfare of the citizens living within the area of the Metropolitan Government (such area, the "County") and wishes to provide the leadership necessary to enhance this area's capabilities for growth and development; and,

WHEREAS, the provision of quality jobs to area citizens by local business is both necessary and vital to the economic well-being of the Metropolitan Government; and,

WHEREAS, pursuant to Tenn. Code Ann. § 5-9-101(26), the Metropolitan Government is authorized to use available funds to make grants for economic and community development purposes; and,

WHEREAS, pursuant to Chapter 2.210 of the Metropolitan Code, in order to encourage economic and community development within the County, the Metropolitan Government is authorized to make economic and community development incentive grants with respect to "qualified projects" and "qualified companies" (as such terms are defined in Section 2.210.010 of the Metropolitan Code) if the location of such qualified project or such qualified company's applicable facility within the County is expected to result in the creation of at least five hundred additional jobs within the County during the first five years of operations or during the first five years of an expansion of operations; and,

WHEREAS, Chapter 2.210 of the Metropolitan Code provides that the actual amount and period of economic and community development incentive grants pursuant to such Chapter 2.210 shall be made by taking into account, among other things, the number of jobs created, the amount of revenue from all sources that is anticipated to be received by the Metropolitan Government with respect to the location of the qualified company and its operations in the County (or in the qualified project), and other economic and community development opportunities that the qualified company and/or the qualified project is expected to create; and,

WHEREAS, Amazon, Inc. ("Amazon"), an online retail and web services company with employees worldwide, has announced its decision to build an Operations Center of Excellence, a regional headquarters, in the County (the "Project"), and in connection therewith, Amazon reasonably expects to create over 5,000 new jobs in the County during the next five years; and,

WHEREAS, in its initial scope and configuration, the Project will eventually consist of approximately five hundred thousand square feet of office and associated space located at the intersection of Church Street and 10th Avenue North, Nashville, Tennessee; and,

WHEREAS, the Metropolitan Government has found that Amazon meets the criteria to be eligible to receive the benefits of an economic and community development incentive grant as authorized by Chapter 2.210.020(B) of the Metropolitan Code; and,

WHEREAS, the Metropolitan Government has found that Amazon's location of the Project in the County and the related investment and growth in connection therewith will maintain and expand significant employment and other commercial opportunities for area citizens; and,

WHEREAS, in order to promote industry and develop trade and to create jobs and reduce unemployment and to further other public purposes of the Metropolitan Government from the investment and growth in connection with the Project and other economic and community development opportunities that Amazon is expected to create within the County, it is in the best interest of the Metropolitan Government to make an economic and community development incentive grant to the IDB for the benefit of Amazon in an amount calculated each "Grant Year" by multiplying the number of "Amazon Jobs" (as defined in Exhibit A hereto) by \$500 for a period of seven years from the commencement of the Project; and,

WHEREAS, it is in the interest and welfare of the citizens of the Metropolitan Government to approve and execute the Economic and Community Development Incentive Grant Agreement with the Board and Amazon in the form attached hereto as Exhibit A (the "Agreement").

NOW, THEREFORE BE IT RESOLVED BY THE METROPOLITAN COUNTY COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Metropolitan Government shall make annual economic and community development incentive grant payments to the Board for the benefit of Amazon, or an Amazon Entity, during the seven year Grant Period (as defined in Exhibit A hereto).

Section 2. That the amount of the annual incentive grant payments authorized hereby be calculated by multiplying the number of Amazon Jobs (as defined in Exhibit A hereto) for each Grant Year (as defined in Exhibit A hereto) by five hundred dollars (\$500.00).

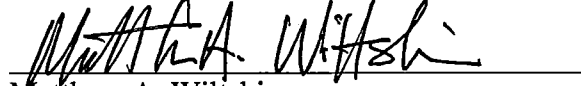
Section 3. Notwithstanding anything to the contrary herein, the Metropolitan Government's obligation to make any payments hereunder is contingent upon the annual appropriation of funds for such purpose by the Metropolitan Council.

Section 4. That the Agreement by and among the Metropolitan Government, the Board and Amazon.com Services, Inc., the form of which is attached hereto as Exhibit A and incorporated herein by reference, is hereby approved, and the Mayor is authorized to execute the same; provided, however, that such Agreement must be approved as to legality by the Metropolitan Government Department of Law prior to being executed by the Metropolitan Government or the Board.

Section 5. That other than as provided at Section 4 of this Resolution, any material amendments, renewals, or extension of the terms of the Agreement must be approved by resolution of the Metropolitan Council.

Section 6. That this Resolution shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED:



Matthew A. Wiltshire
Director of the Mayor's Office
Economic and Community Development

INTRODUCED BY:


APPROVED AS TO AVAILABILITY
OF FUNDS:



Talia Lomax-O'neal
Director of Finance

Member(s) of Council

APPROVED AS TO FORM AND
LEGALITY:



Assistant Metropolitan Attorney

Electronic Signature Page

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

A handwritten signature in black ink, reading "Tanaka Vercher". The signature is written in a cursive, flowing style.

Tanaka Vercher
Councilmember, District 28

ECONOMIC AND COMMUNITY DEVELOPMENT INCENTIVE GRANT AGREEMENT

This Economic and Community Development Incentive Grant Agreement (“**Agreement**”) is entered into as of the Effective Date by and among the Metropolitan Government of Nashville and Davidson County (the “**Metropolitan Government**”), the Industrial Development Board of the Metropolitan Government of Nashville and Davidson County (the “**IDB**”) and Amazon.com Services, Inc., a Delaware corporation (“**AMAZON**”).

RECITALS

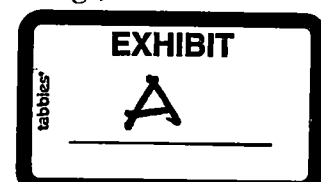
WHEREAS, the Metropolitan Government is vitally interested in the economic welfare of the citizens living within the area of the Metropolitan Government (such area, the “County”) and wishes to provide the leadership necessary to enhance this area’s capabilities for growth and development; and

WHEREAS, the provision of quality jobs to area citizens by local business is both necessary and vital to the economic well-being of the Metropolitan Government; and

WHEREAS, pursuant to Tenn. Code Ann. § 5-9-101(26), the Metropolitan Government is authorized to use available funds to make grants for economic and community development purposes; and

WHEREAS, the Metropolitan County Council adopted Ordinance No. BL2010-806 on February 1, 2011, after determining that, in order to promote industry, develop trade, create jobs and reduce unemployment, and in order to further other public purposes of the Metropolitan Government, it was in the best interest of the Metropolitan Government to make economic and community development incentive grants to companies to encourage the location and growth within the area of the Metropolitan Government of manufacturing facilities, offices, distribution facilities, customer support or call center facilities of well-known and successful companies, comparable, but not limited to, companies on the Fortune 500 listing, involved in the servicing, manufacturing or assembly of computers, or telecommunications equipment or component parts thereof, if the location within the area of the Metropolitan Government is expected to result in the creation of at least five hundred new jobs for citizens within the area of the Metropolitan Government during the next five years of operations; and

WHEREAS, Chapter 2.210 of the Metropolitan Code, as amended by BL2010-806, provides that, in order to promote industry, develop trade, create jobs and reduce unemployment, and in order to further other public purposes of the Metropolitan Government, it is in the best interest of the Metropolitan Government to make economic and community development incentive grants to Technology firms (as redefined in BL2010-806) by taking into account, among other things, the amount of



revenue from all sources that is anticipated to be received by the Metropolitan Government with respect to the location of the qualified company and its operations within the area of the Metropolitan Government and other economic and community development opportunities that the qualified company is expected to create; and

WHEREAS, AMAZON is a wholly owned subsidiary of Amazon.com, Inc.; and

WHEREAS, Amazon.com, Inc., is a leading online retail and web services company; and

WHEREAS, Amazon.com, Inc., has announced its decision to open it Operations Center of Excellence, a regional headquarters, within the County (the “**Project**”); and

WHEREAS, AMAZON has provided the Project Proposal to the Office of Economic and Community Development as required by Chapter 2.210.030 of the Metropolitan Code; and

WHEREAS, the Metropolitan Government has found that AMAZON, as a subsidiary of Amazon.com, Inc., meets the criteria to be eligible to receive the benefits of an economic and community development incentive grant as authorized by Chapter 2.210.020(B) of the Metropolitan Code as amended by Ordinance No. BL2010-806; and

WHEREAS, the Metropolitan Government has found that the location of the Project within the area of the Metropolitan Government and the related investment and growth in connection therewith will maintain and expand significant employment and other commercial opportunities for area citizens; and

WHEREAS, in order to promote industry and develop trade and to create jobs and reduce unemployment and to further other public purposes of the Metropolitan Government, and after taking into account, among other things, the amount of revenue from all sources that is anticipated to be received by the Metropolitan Government from the location of the Project and the related investment and growth in connection therewith and other economic and community development opportunities that AMAZON is expected to create within the area of the Metropolitan Government, the Metropolitan Government and the IDB have found that it is in the best interest of the Metropolitan Government to make an economic and community development incentive grant to AMAZON in an amount calculated by multiplying the number of “AMAZON Jobs” (as defined herein) by Five Hundred and No/100 Dollars (\$500.00) for a period of seven years in recognition of the costs and expenses incurred in acquiring and preparing for permanent office space and job training within the area of the Metropolitan Government.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Parties contained herein and other good and valuable consideration, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINITIONS

- 1.1 **Recitals.** The foregoing Recitals are hereby incorporated herein as if fully set forth below and are material terms and provisions of this Agreement representing the intent of the Parties.
- 1.2 **Definitions.** Certain terms are defined in the text of this Agreement. As used in this Agreement and unless otherwise expressly indicated, the following terms shall have the following meanings:

“**AMAZON Entity**” shall mean (a) AMAZON, (b) any successor to AMAZON, including, without limitation, any corporation, partnership, limited liability company or other entity that (i) acquires, directly or indirectly, a controlling interest in AMAZON (whether through merger, stock purchase, stock swap or otherwise), (ii) merges or consolidates with AMAZON, or (iii) acquires substantially all of the assets of AMAZON, and (c) any corporation, partnership, limited liability company or other entity that is controlled by, or is under common control with, any of the foregoing.

“**AMAZON Jobs**” shall mean the sum of (a) individuals who (i) have worked for an AMAZON Entity for at least 26 weeks during the Grant Year, (ii) work on average 36 or more hours per week for an AMAZON Entity, and (iii) are based at the Project, and (b) individuals who (i) have performed services for an AMAZON Entity through employment outsourcing or similar arrangement for at least 26 weeks during the Grant Year, (ii) work on average 36 or more hours per week performing services for an AMAZON Entity, (iii) are based at the Project, and (iv) are paid in excess of the most recently published average wage for “All Occupations” in the Nashville – Davidson County – Murfreesboro – Franklin, Tennessee metropolitan statistical area according to the U.S. Bureau of Labor Statistics, or any replacement metropolitan statistical area in which the Project is located. The foregoing notwithstanding, AMAZON Jobs shall exclude any individual in a position previously filled by such individual at a non-Project location operated by an AMAZON Entity in Davidson County as of November 2, 2018.

“**Annual Settlement Statement**” shall mean the annual reporting document that includes the items set forth in **Exhibit A**.

“**Applicable Law**” shall mean any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any Governmental Authority.

“Covered Expenses” means any of the following costs or expenses incurred after January 1, 2019, and not previously reimbursed with Grant Payment funds: (a) any documented expenses incurred by any AMAZON Entity related to the acquisition, preparation or occupancy of office space and other facilities at or in connection with the Project (including (i) costs of relocating operations of AMAZON Entities or employees of AMAZON Entities in connection with the Project, (ii) costs and expenses for the purchase and/or installation of office furniture or equipment; used by AMAZON Entities in connection with the Project, and (iii) rental payments made pursuant to any sublease or lease agreements pursuant to which AMAZON Entities lease office space or other facilities in connection with the Project), (b) any documented costs incurred by any AMAZON Entity associated with employee training with respect to Project-based employee or contract personnel, and (c) any documented expenses incurred by any AMAZON Entity to improve, maintain, extend, equip or furnish real or personal property used for the Project.

“Director of Finance” shall mean the Director of Finance of the Metropolitan Government.

“Effective Date” shall mean the date this Agreement is fully executed by all parties and filed in the office of the Metropolitan Clerk.

“Governmental Authority” shall mean any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence.

“Grant Payment” shall mean, with respect to each Grant Year, the amount calculated by multiplying the number of AMAZON Jobs as of December 31 by Five Hundred and No/100 Dollars (\$500.00).

“Grant Period” means the seven-year period commencing on the date determined pursuant to Section 3.1.

“Grant Year” shall mean each calendar year during the Grant Period.

“Metropolitan Clerk” shall mean the Metropolitan Clerk of the Metropolitan Government.

“Metropolitan Council” shall mean the Metropolitan County Council of the Metropolitan Government.

“Parties” shall mean the parties to this Agreement.

“**Person**” shall mean any natural person, firm, partnership, association, corporation, limited liability company, trust, entity, public body, government or other entity.

“**Project Proposal**” shall mean the initial proposal provided to the Office of Economic and Community Development which includes the items provided for in Chapter 2.210.030 of the Metropolitan Code and is attached hereto as **Exhibit E**.

“**State**” shall mean the State of Tennessee.

- 1.3 **Additional Terms.** The definitions in Section 1.2 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” All references to Chapters or Sections of the Metropolitan Code shall be deemed references to the applicable Chapter or Section of the Metropolitan Code of the Metropolitan Government as amended as of the date of this Agreement. All reference to Articles, Sections and Paragraphs shall be deemed reference to Articles, Sections and Paragraphs of this Agreement, unless the context shall otherwise require. All references herein to Exhibits shall be deemed to be references to the Exhibits attached to this Agreement. The terms “this Agreement”, “hereof,” “hereunder” and similar expressions refer to this Agreement as a whole and not to any particular Article, Section or Paragraph or other portion hereof and include any agreement supplemental hereto. The conjunction “or” shall be understood in its inclusive sense (and/or).
- 1.4 **Headings.** The division of this Agreement into Articles, Sections and Paragraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

ARTICLE II

ECONOMIC AND COMMUNITY DEVELOPMENT INCENTIVE GRANT

- 2.1 **Economic and Community Development Grant.** Subject to the terms and conditions set forth in this Agreement, the Metropolitan Government shall pay to IDB for the benefit of AMAZON, the Grant Payment for each Grant Year on or before August 15 of the year following the end of such Grant Year. The IDB agrees to pay to AMAZON the amount of any Grant Payment that the IDB receives from the Metropolitan Government pursuant to this Agreement within ten (10) business days following the IDB’s receipt of any such Grant Payment.
- 2.2 **Annual Settlement Statement.** AMAZON shall deliver the Annual Settlement Statement for each Grant Year that includes the items set forth in **Exhibit A** hereto and an affidavit from an authorized representative of AMAZON which

affirms the matters set forth in **Exhibit B** hereto with respect to such Annual Settlement Statement to the IDB and the Director of Finance on or before February 28 of the year following the end of such Grant Year. AMAZON will furnish at least one hardcopy of such Annual Settlement Statement and related affidavit to the IDB, with either a hardcopy or electronic copy to the Director of Finance. Such Annual Settlement Statement will include a calculation of the number of AMAZON Jobs as of December 31 of the applicable Grant Year, the amount of the Grant Payment for such Grant Year determined in accordance with this Agreement, a summary of the Covered Expenses to be paid or reimbursed with the Grant Payment for such Grant Year, and the other information set forth in **Exhibit A**. In addition, such Annual Settlement Statement shall include the average annual wage for the AMAZON Jobs for the applicable Grant Year and the percentage of the AMAZON Jobs (in aggregate) for each (i) gender, (ii) race and (iii) county of residence; provided however, that AMAZON shall not be required to make publicly available any individual employee data. As soon as reasonably practicable, AMAZON shall provide the Director of Finance such additional documentation that supports the Annual Settlement Statement as is reasonably necessary and which the Director of Finance requests within thirty (30) days of receipt of the Annual Settlement Statement and related affidavit for the applicable Grant Year. Each Annual Settlement Statement shall (i) list the information designated in **Exhibit A**, (ii) be prepared by a nationally recognized and reputable independent certified public accounting firm reasonably acceptable to the Director of Finance and the IDB, and (iii) be accompanied by a certification from an official at AMAZON that the information in such statement is true, correct, and complete. Notwithstanding the generality of the foregoing, AMAZON shall not be required to provide any information that is proprietary or legally privileged.

2.3 **Manner of Payment.** Each Grant Payment shall be paid annually following receipt and approval of the Annual Settlement Statement by the Metropolitan Government and the IDB (approval process by the IDB and Metropolitan Government is set forth in **Exhibit A**). Payment of each Grant Payment shall be made on or before the dates specified in Section 2.1 by check to AMAZON at its address set forth in Section 4.1 or Automated Clearing House (ACH), and if paid by ACH, the payment shall be made into such bank account as AMAZON may specify in advance from time to time by completing the form in **Exhibit C** attached hereto and returning to the Metropolitan Government. In order to process payments by ACH, AMAZON shall complete and return the Short Vendor Application attached hereto as **Exhibit D**.

2.4 **Annual Appropriation.** Notwithstanding anything to the contrary herein, the Metropolitan Government's obligation to make any payments hereunder is contingent upon the annual appropriation of funds for such purpose by the Metropolitan Council. Without limiting the generality of the foregoing, if the Metropolitan Council does not appropriate funds for payments hereunder during a Grant Year, then the Grant Payment request may be resubmitted in subsequent

Grant Years. Furthermore, if the Metropolitan Government fails to comply with any of its obligations set forth in this Agreement, including the failure to appropriate funds as specified in this Section, AMAZON's obligations under this Agreement shall cease.

- 2.5 **Quarterly Reporting.** AMAZON shall prepare written reports demonstrating compliance with the terms of this Agreement, including the provisions in **Exhibit E**. Such reports shall be provided on a quarterly basis to the Office of Economic and Community Development, beginning with the quarter ending after the date on which the Grant Period commences. AMAZON acknowledges that the reports are subject to the provisions of the State of Tennessee Open Record Act.

ARTICLE III **TERM**

- 3.1 **Term.** The term of this Agreement (the "**Term**") shall commence on the Effective Date and shall expire upon the date payment is made with respect to the Annual Settlement Statement for the seventh Grant Year during the Grant Period. AMAZON shall have the right to specify the date on which the Grant Period commences by giving the IDB and the Metropolitan Government written notice of such date not later than thirty (30) days before such designated commencement date. Notwithstanding the foregoing, the Grant Period must commence on a January 1.

ARTICLE IV **STANDARD TERMS AND CONDITIONS**

- 4.1 **Notices.** All notices, requests, demands and other communications which are required or may be given pursuant to the terms of this Agreement shall be in written or electronic form and shall be deemed delivered (i) on the date of delivery when delivered by hand, (ii) on the date of transmission when sent by overnight courier maintaining records of receipt, or (iii) three days after dispatch when sent by certified mail, postage prepaid, return-receipt requested; provided that, in any such case, such communication is addressed as provided below:

To the Metropolitan Government:

The Metropolitan Government of
Nashville and Davidson County
106 Metropolitan Courthouse
P.O. Box 196300
Nashville, TN 37219
Attention: Director of Finance
Telephone: (615) 862-6151

With copy to:

Director of Law of the Metropolitan Government
108 Metropolitan Courthouse
P.O. Box 196300
Nashville, TN 37219
Telephone: (615) 862-6341

If to the Industrial Development Board:

c/o Executive Director
The Industrial Development Board of the Metropolitan Government of
Nashville and Davidson County
100 Metropolitan Courthouse
P.O. Box 196300
Nashville, TN 37219
matt.wiltshire@nashville.gov
Telephone: 615-862-6021

If to AMAZON:

Amazon.com Services, Inc.
2121 7th Ave.
Seattle, WA 98121
Attention: Economic Development
E-mail: economicdevelopment@amazon.com

With a copy to:

Amazon.com, Inc.
P. O. Box 81266
Seattle, WA 98108-1226
Attention: General Counsel (Real Estate)
E-mail: contracts-legal@amazon.com

Any Party may change its address or the designation of the intended recipient of notice provided that it notifies the other Parties in accordance herewith.

4.2 **Applicable Law; Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Parties hereby agree that any suit, action or proceeding may be instituted with respect to this Agreement in any federal or state court in Davidson County. The Parties hereby consent to *in personam* jurisdiction of such courts and irrevocably waive any objection and any right of immunity on the ground of venue, the convenience of forum or the *in personam* jurisdiction of such courts or from the execution of judgments resulting therefrom.

4.3 **Entire Agreement; Amendments and Waivers.** This Agreement and the Exhibits hereto constitute the entire agreement between the Parties pertaining to

the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties, and there are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the Parties. Amendments, supplements, or modifications to the terms of the calculation of the Grant Payment must first be approved by the Metropolitan County Council by Resolution. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless expressly agreed to in writing by the affected Party. Any Party's failure to enforce any provision of this Agreement or its acceptance of any payment shall not constitute a waiver thereof and shall not prevent such Party from enforcing that provision or any other provision of this Agreement in the future.

- 4.4 **Remedies Cumulative.** No reference to any specific right or remedy shall preclude any Party from exercising any other right or from having other remedy or from maintaining any other action to which it would otherwise be entitled at law or in equity.
- 4.5 **No Third Party Beneficiaries.** This Agreement is solely for the benefit of the Parties hereto, and their successors and assigns permitted under this Agreement, and no provisions of this Agreement shall be deemed to confer upon any other Person any remedy, claim, liability, reimbursement, cause of action or other right. AMAZON may assign this Agreement to an AMAZON Entity, without the prior written consent of any other Party hereto. In the event of any such assignment, AMAZON shall provide written notice of such assignment to the Metropolitan Government and the IDB.
- 4.6 **No Merger.** The terms and provisions of this Agreement (including, without limitation, the representations, warranties and covenants) shall not merge, be extinguished or otherwise affected by the delivery and execution of any document delivered pursuant to this Agreement unless such document shall specifically so state and shall be signed by the Metropolitan Government, the IDB and AMAZON.
- 4.7 **Relationship.** Nothing contained in this Agreement shall be deemed or construed by the Parties or by any third Person to create the relationship of principal and agent, partnership, joint venture or any association between or among the Metropolitan Government, the IDB and AMAZON.
- 4.8 **Multiple Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

- 4.9 **Compliance with Laws.** In performing its obligations under this Agreement, AMAZON agrees to comply with all applicable federal, state and local laws and regulations.
- 4.10 **Contingent Fees.** AMAZON hereby represents that AMAZON has not been retained or retained any persons to solicit or secure this Agreement upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is material breach of this Agreement. For the purposes of this Agreement, the term “bona fide commercial selling agency” means an established commercial business or entity maintained for the purpose of securing business that neither exerts nor proposes to exert improper influence to solicit or obtain government contract or contracts through improper influence.
- 4.11 **Nondiscrimination.** It is the policy of the Metropolitan Government not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. Any AMAZON Entity that occupies the Project will comply with its policy with respect to its hiring, employment and other practices within the County. No person shall be excluded from participation in, be denied benefits of, be otherwise discriminated against in the employment practices of AMAZON, on the grounds any classification protected by federal or Tennessee State Constitutional or statutory law.
- 4.12 **Ethical Standards.** It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any requirement of this Agreement. Breach of the provisions of this paragraph is material breach of this Agreement.
- 4.13 **Examination of Records.** The Metropolitan Government or the IDB, or their respective designees, shall have the right to perform examinations of the Annual Settlement Statements and supporting documentation, generated and provided by AMAZON and pertaining to this Agreement, solely for the purpose of verifying AMAZON's compliance with the provisions of this Agreement. AMAZON agrees to make books and records and all other relevant information available to the Metropolitan Government and to the IDB as reasonably required to verify the information AMAZON provides in its Annual Settlement Statement. Any

such examination must: (i) not be disruptive to AMAZON's business and must take place at a mutually agreed time during AMAZON's normal business hours; (ii) not occur more than once during any 12-consecutive-month period; (iii) take place on at least thirty (30) days' prior written notice; (iv) be completed in an expeditious manner, and (v) be conducted by the Metropolitan Government or the IDB alone and not in conjunction or cooperation with any other party. The Metropolitan Government or the IDB may not schedule an examination to take place in the fourth calendar quarter of any year. In the event an examination reveals a payment deficiency or discrepancy, the parties will cooperate in good faith to address and resolve such deficiency or discrepancy. The Metropolitan Government or the IDB will be solely responsible for all costs of any examination they conduct. Information, documents and materials that do not constitute public records under the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-101, et seq. ("TPRA"), or are exempt from disclosure under TPRA, learned by the Metropolitan Government's or the IDB's examiners in connection with any such examination shall be treated as confidential information of AMAZON, and the Metropolitan Government and the IDB both agree to maintain the confidentiality of such information to the maximum extent permitted by Applicable Law. Information, documents and materials provided by AMAZON that constitute public records under the TPRA shall be treated as described in Section 4.18 of this Agreement. Notwithstanding the foregoing or any other provision of this Agreement, AMAZON shall not be required to disclose, permit the inspection of or examination of, or discuss, any document, information or other matter that: (a) constitutes trade secrets, (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 right to perform such examinations shall extend three (3) years from the termination of this Agreement.

- 4.14 **Liability.** The Metropolitan Government and the IDB shall have no liability arising out of their performance or non-performance under this Agreement except as specifically provided in this Agreement. Notwithstanding anything to the contrary in this Agreement, no AMAZON Entity shall be liable for any exemplary, special, consequential or similar damages that may arise in connection with this Agreement. AMAZON's cumulative liability under this Agreement shall be limited to the total financial benefit realized by AMAZON under this Agreement.
- 4.15 **Force Majeure.** The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause. If AMAZON is delayed in creating AMAZON Jobs at the Project due to any such force majeure event, the Grant Period shall be extended by a reasonable amount of time to permit AMAZON to create the number of AMAZON Jobs the Parties reasonably agree would have been created but for the force majeure event.

- 4.16 **Severability.** If any covenant or provision hereof is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the invalidity of any other covenant or provision, each of which is hereby declared to be separate and distinct. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable. If any provision of this Agreement is declared invalid or unenforceable for any reason other than overbreadth, the offending provision will be modified so as to maintain the essential benefits of the bargain among the Parties to the maximum extent possible, consistent with Applicable Law and public policy.
- 4.17 **Interpretation.** Each of the Parties has agreed to the use of the particular language of the provisions of this Agreement, and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the draftsman, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the Parties hereto and the limitations and restrictions upon such rights and benefits intended to be provided.
- 4.18 **Confidentiality.** AMAZON acknowledges and agrees that this Agreement is a public record subject to disclosure under TPRA. The Metropolitan Government and the IDB each acknowledge that TPRA exempts from disclosure certain types of records, materials and information. AMAZON acknowledges that this Agreement and the materials, communications, data and information related to this Agreement generally constitute public records subject to disclosure under the TPRA and acknowledges that the Metropolitan Government and the IDB may be obligated to disclose such portions of this Agreement and the materials, communications, data and information related to this Agreement as required by law. If the Metropolitan Government or the IDB receives a request pursuant to TPRA for documents related to this Agreement, the Metropolitan Government or IDB, whichever is the applicable party, agrees, to the extent permitted by Applicable Law, to (a) give AMAZON prior written notice sufficient (in no event less than 8 business days) to allow AMAZON to seek a protective order or other appropriate remedy, (b) disclose only such information as is required under Applicable Law, (c) cooperate with AMAZON in responding to any such records request, and (d) limit disclosure, refuse to disclose, and redact and/or omit portions of materials. The Metropolitan Government and the IDB each agrees that its staff, representatives and agents will exercise the utmost discretion in oral and written communications regarding the Project and will provide information internally only to those individuals who need the information to facilitate the parties' performance under this Agreement.
- 4.19 **Information Security.** The Metropolitan Government and the IDB each agrees to use adequate physical and technical measures to maintain the security of all electronic and tangible records relating to this Agreement including at a minimum: a working network firewall to protect data accessible via the Internet;

up-to-date security patches; up-to-date anti-virus software; policies restricting access to information (and physical records embodying information) to those with a need to know (subject to applicable public records and freedom of information laws); unique user identifications and credentials for each person with access to information, and; a policy requiring the use of “strong passwords” on all computer systems. The Metropolitan Government and the IDB each agrees to promptly notify AMAZON in the event either experiences a security breach that could have impacted any electronic or tangible records relating to this Agreement. The Metropolitan Government and the IDB each acknowledges and agrees that AMAZON must comply with its information security policies in performing its obligations under this Agreement and that to the extent AMAZON is required to deliver sensitive employment related information (such as social security numbers, compensation information, employee names, employee addresses, job titles and hours worked) in connection with this Agreement, AMAZON may deliver such information in password protected and encrypted files.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of this ____ day of _____, 2019, the Effective Date.

**METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY**

David Briley, Mayor

APPROVED AS TO AVAILABILITY OF FUNDS:

Talia Lomax-O'dneal, Director of Finance

APPROVED AS TO FORM AND LEGALITY:

Jon Cooper, Metropolitan Attorney

ATTEST:

Elizabeth Waites, Metropolitan Clerk

**INDUSTRIAL DEVELOPMENT BOARD OF
NASHVILLE AND DAVIDSON COUNTY**

Ginger Hausser, Chair

ATTEST:

Aubrey Gregory, Secretary

AMAZON.COM SERVICES, INC.

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A
Annual Settlement Statement
Requirements

Each Annual Settlement Statement shall include a calculation of the number of AMAZON Jobs as of December 31 of the applicable Grant Year, the amount of the Grant Payment for such Grant Year determined in accordance with the Agreement, and a summary of the Covered Expenses to be paid or reimbursed with the Grant Payment for such Grant Year. The Annual Settlement Statement shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).

- (1) Reference Number (assigned by the IDB)
- (2) Expense Date
- (3) Expense Period
- (4) AMAZON Federal Employer Identification
- (5) AMAZON Address
- (6) AMAZON Contact for the Annual Settlement Statement Questions (name, phone, and/or fax)
- (7) Itemization of Reimbursement Requested for the Grant Year— it must detail, at minimum, all of the following:
 - i. The amount expended
 - ii. The total amount requested (all line-items) for the Grant Year.
 - iii. Specific Covered Expense item
 - iv. The amount reimbursed under the Agreement to date
- (8) The average annual wage for the AMAZON Jobs for the applicable Grant Year
- (9) The percentage of AMAZON Jobs for each:
 - i. Gender
 - ii. Race
 - iii. County of Residence
- (10) The percentage of AMAZON Jobs that exceed the average annual wage

The IDB and Metropolitan Government will approve or deny Covered Expenses within forty-five (45) days from submission of the Annual Settlement Statement. Should the Metropolitan Government or the IDB submit any questions, challenges or requests for additional information with respect to the calculation of the number of AMAZON Jobs or any Covered Expense to AMAZON in writing within thirty (30) days from such submission date, AMAZON shall submit a modified Annual Settlement Statement and/or supplemental information or documentation for review by the IDB and the Metropolitan Government within thirty (30) days after AMAZON's receipt of such writing (or within such longer period as is commercially reasonable in the event that AMAZON must obtain additional information not readily available to it). Any revised Annual Settlement Statement shall be approved within thirty (30) days after AMAZON's submission thereof to the IDB and the Metropolitan Government and AMAZON be paid per Sections 2.1 and 2.3.

Exhibit B
Affidavit

State of _____ County of _____

After first being duly sworn according to law, the undersigned (Affiant) states that he/she is the _____ (Title) of Amazon.com Services, Inc., a Delaware corporation ("AMAZON"), and certifies the following in connection with the Economic and Community Development Incentive Grant Agreement ("Agreement") into by and among the Metropolitan Government of Nashville and Davidson County (the "Metropolitan Government"), the Industrial Development Board of the Metropolitan Government of Nashville and Davidson County, and AMAZON:

Compliance with Laws: AMAZON is presently in compliance with, and will continue to maintain compliance with, all applicable laws with respect to its performance under the Agreement. Thus, Affiant states that AMAZON has all applicable licenses required to perform under the Agreement, including business licenses, copies of which are attached hereto. AMAZON is current on its payment of all State of Tennessee or Metropolitan Government gross receipt taxes and personal property taxes which are not in dispute in connection with a good faith claim regarding the appropriateness of such taxes.

Contingent Fees: In accordance with 1992 Procurement Code of the Metropolitan Government, it is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Metropolitan Government contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. AMAZON has not retained anyone in violation of the foregoing.

Nondiscrimination: AMAZON, by its employment policy, standards and practices, does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, religion, color, national origin, age, sex, or handicap and/or disability. It is the policy of the Metropolitan Government not to discriminate on the basis of age, race, sex, color, religion, national origin or handicap and/or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services and activities. AMAZON will comply with this policy within the area of the Metropolitan Government in connection with its performance under the Agreement.

By: _____

Title: _____

Address: _____

Sworn to and subscribed before me on this ____ day of _____, 20____.

Notary Public

My commission expires: _____

Exhibit C
ACH Form for Electronic Payment

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
DEPARTMENT OF FINANCE
TREASURY DIVISION
ACH (AUTOMATED CLEARING HOUSE) CREDITS

Company Name: _____

Federal Identification Number or Social Security Number (under which you are doing business with Metro) _____

I (We) hereby authorize the Treasurer of the Metropolitan Government of Nashville and Davidson County, hereafter called METRO TREASURER, to initiate credit entries to my (our) (*select type of account*) ☐ CHECKING or ☐ SAVINGS account indicated below and the depository named below, hereinafter called DEPOSITORY, to credit the same to such account.

This authority is to remain in full force and effect until METRO TREASURER has received written notification from me (or either of us) of its termination in such time and in such manner as to afford METRO TREASURER and DEPOSITORY a reasonable opportunity to act on it.

.....

Many banking institutions use different numbers for ACH. Please call your bank for verification of ACH transit and account number.

Bank Official contacted: _____ Phone _____

.....

DEPOSITORY/BANK NAME _____ BRANCH _____

CITY _____ STATE _____

ACH TRANSIT/ABA NO. _____ ACCOUNT NO. _____

NAME(S) _____

(Please print names of authorized account signatory)

SIGNED _____ DATE _____

SIGNED _____ DATE _____

Phone _____

Please mail to:
Finance - Division of Accts
Attn: Starla Friedmann
700 2nd Ave S Ste 310
Nashville, TN 37210

or Fax to: 615-862-6109
Attn: Starla Friedmann

Exhibit D

Short Vendor Form

Exhibit E

AMAZON Project Proposal

1) Company Name: Amazon.com Services, Inc.

2) Project Description:

Amazon is a publicly traded company that was founded in 1994. Our mission is to be Earth's most customer centric company. We have over 5,000 employees in Tennessee and over 2,000 in the Nashville metro area. We have hired over 1,000 veterans or veterans spouses in Tennessee and over 17,000 nationwide. Since 2011, Amazon has invested over \$160 billion in the U.S. in infrastructure and compensation to our employees.

The new Amazon Operations Center of Excellence will serve as the eastern U.S. hub for our retail operations business, and will include tech and management teams working on customer fulfillment, customer service, transportation, and supply chain management. The Center will be located downtown at the future site of Nashville Yards. We plan to create over 5,000 jobs with an average salary over \$150,000, and lease one million square feet over the next seven years. As part of job creation and lease, we plan to invest over \$280 million.

Education and Amazon in the Community

At Amazon, community engagement is part of our DNA. We are committed to ensuring all children and young adults, especially those from underrepresented and underprivileged communities who reside in communities where we have a physical presence, have the resources and skills they need to build their best and brightest futures. We focus on building long-term and innovative programs that will have a lasting, positive impact in communities around the world. As part of this focus, we work to both inspire and increase access to computer science and Science, Technology, Engineering and Math (STEM) education. Our primary computer science focused initiative is Amazon Future Engineer – a four-part, childhood-to-career program aimed at inspiring and educating 10 million students from underprivileged and underrepresented communities each year to try computer science and coding.

Amazon sponsors Girls Who Code classrooms across the US each year. This seven-week intensive computer science course gives high school girls access to new skills, as well as insights from Amazon speakers, the opportunity to visit Amazon offices and facilities, and the support of their own Amazon mentors. We are also partners with Code.Org.

We also are committed to creating career pathways and we accomplish this in a variety of ways, including our Career Choice program in our fulfillment centers. Career Choice pre-pays 95 percent of the cost of tuition to help provide skills for today's most in-demand fields, regardless of whether those skills are related to jobs at Amazon. Since this program's inception, more than 9,000 associates have participated.

Working at Amazon

We have over 250,000 employees in the U.S. working in a wide range of job categories. We pay all employees (including seasonal and temporary) a minimum of \$15/hour.

Employee Benefits

Amazon recognizes that no two employees are alike and our generous, egalitarian benefits reflect this. We offer comprehensive benefits that support employees and eligible family members, including domestic partners and their children. These include medical, dental, and vision coverage, a 401k savings plan, paid time off, and company paid basic life, accidental death, and short and long-term disability insurance. We also offer a range of fully paid maternity and parental leave options for parents prior to, during, and following the birth or adoption of their child. This includes our “Leave Share” program, which allows Amazon employees to share their parental leave with their spouse if he or she is not eligible for paid parental leave at their place of work. All full-time employees – whether they work in our fulfillment centers or they are senior executives – get the same benefits starting on day one of employment.

Diversity

We are diverse and inclusive at Amazon. We champion individuality and diversity through our affinity groups to bring employees together across businesses and geographies. Our affinity groups bring employees together with shared interests or common goals. With executive and company sponsorship, these groups play an important role in building internal networks for career development, advising Amazon business units, leading in service projects, participating in policy discussions, and reaching out to communities where Amazon employees live and work. Since 2016, enrollment in Amazon's affinity groups has more than doubled in more than 90 chapters worldwide, and include groups focused on diversity and veterans. In 2018, we hosted our first Conversations on Race & Ethnicity (CORE) Conference, a two-day event designed to continue and deepen our internal conversations about racial and ethnic diversity at Amazon. Last year, Amazon received a perfect score of 100 on the Human Rights Campaign's Corporate Equality Index, the national benchmarking for corporate policies and practices as they relate to LGBTQ employees, consumers, and investors. Of our over 200,000 employees in the U.S in 2017, 22% are African American, 14% Asian, 14% Hispanic, and 8% other, with 42% being White. Our diversity statistics are publically posted at amazon.com/diversity.

Construction Phase

N/A. Amazon will not be involved in the development of Nashville Yards; rather we will be a tenant. Nashville Yards had already selected their contractors and project managers of the development prior to our decision. Nashville Yards' developer Southwest Development Partners has presented to Metro Council several times over the last few months and provided a thorough overview of the project. Southwest Development Partners has been engaged in the community and has contracted for \$10.7 million in Disadvantaged Business Enterprise (DBE) spending and is committed to do more.

3) Expected Amazon Jobs

The third column of the table below provides the anticipated percentage of Amazon employees who will earn over the County's median wage rate for the occupation they are hired to perform and the projected number of employees in the proposed categories.

OCC_CODE	OCC_TITLE	County Median Annual Wage	Projected # of Jobs in Nashville	# of Jobs Based in Nashville Above Median	% of Category Expected to Be Residents of Davidson County
00-0000	All Occupations	\$47,110	5,000	90-95%	40%

OCC_CODE	OCC_TITLE	Median Annual Wage	Projected # of Jobs in Nashville	# of Jobs Based in Nashville Above Median	% of Category Expected to Be Residents of Davidson County
11-0000	Management Occupations	\$104,830	50	90-95%	40%
13-0000	Business and Financial Operations Occupations	\$67,370	3,000	90-95%	40%
15-0000	Computer and Mathematical Occupations	\$77,920	1,500	90-95%	40%
23-0000	Legal Occupations	\$92,010	25	90-95%	40%
41-0000	Other (Tech related support, network specialists)	\$39,850	25	90-95%	40%
43-0000	Office and Administrative Support Occupations	\$37,540	400	90-95%	40%

Amazon is committed to creating a local talent pipeline for all positions and will continue to work with local partners on hiring locally. We maintain a website with all of our jobs: www.amazon.com/jobs.

4) Will the ongoing operations of the Project utilize (circle one):

Temporary or Staffing Agencies?

Yes or No

The Nashville Career Advancement Center?

Yes or No

U.S. Dept. of Labor Certified Apprenticeship Programs?

Yes or No

* Please note we do use temporary staffing agencies in Nashville currently for our fulfillment operations and agencies for targeted recruiting.

Recruiting a Diverse Workforce

At Amazon, our long-term vision of workforce diversity and inclusion is building a virtuous cycle that leverages our employees' unique perspectives to innovate on behalf of our customers. We are actively working to develop leaders and shape future talent to help us meet the diverse needs of our customers around the world. We believe this focus is one of

the things that makes Amazon great and helps us build better products for our customers. It is an important consideration across everything we do.

We will be announcing a partnership with Tennessee State University which will help drive our mission to hire diverse applicants. We will commit to two job fairs or recruiting events in partnership with the local universities annually, including HBCUs, focused on diverse hiring over the initial two years. We want to ensure our partnerships are effective and will continue to seek innovative and creative means to diversify our hiring. We are also dedicated to hiring veterans and military spouses, as the men and women who have served our country in the armed forces bring invaluable experience and perspective to our fast-paced work environment.

We have recently joined the Black Chamber of Commerce and the LGBTQ Chamber of Commerce and will work with them on job postings. We are also members of Tennessee Thrives, a partnership of businesses committed to building diverse and inclusive workplaces and communities.

Training

We are constantly iterating on programs that help our employees build career pathways and develop new skills. We focus on building upon employees' existing skills and providing training and tools to ensure that they are prepared for the jobs of today and tomorrow, whether at Amazon or in another industry. One example is our software development program that allows employees to receive a certification for software development. We also offer Friday learning series where employees have the opportunity to learn about the various career pathway programs available to them.

- 5) List the number and type, within the preceding seven (7) years, of (a) violations assessed by the U.S. Department of Labor – Occupational Safety and Health Administration and/or by the Tennessee Occupational Safety and Health Administration against the qualified company, or any contractor or subcontractor of the company retained on the qualified project; or (b) employment or wage-related legal actions filed within federal or state courts against the qualified company, or any contractor or subcontractor of the company retained on the qualified project.

Name	TN OSHA	Dept. of Labor OSHA	Employment or Wage related legal claims
Amazon.com Services, Inc.	None	None	None
Amazon.com.dedc., LLC	1	None	Three employment matters filed in Federal District courts in Tennessee

Scope of reporting: Tennessee (federal and state matters)