

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: Long Term Enterprise Zone Agreement Amendment

<p>Background:</p> <p>The zone sponsors for the enterprise zones in the Cities of Hermiston and Umatilla have been requested to amend the five most recent agreements for a long term enterprise zone abatement. There are two request changes: (1) The statutory requirements for the development – decrease in investment amount and increase in number of employees; (2) Clarifying that non-owned improvements on the property will not be included in the calculation for bond contribution. The changes are before the Board for approval.</p>	<p>Requested Action:</p> <p>Approve amendments to Long-Term Rural Enterprise Zone Tax Abatement Agreement</p>
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ATTACHMENTS: Proposed Amendment

*****For Internal Use Only*****

Checkoffs:

- () Dept. Heard (copy)
- () Human Resources (copy)
- () Fiscal
- (X) Legal (copy)
- () (Other - List:)

To be notified of Meeting:

Needed at Meeting:

Scheduled for meeting on: February 22, 2023

Action taken:

Follow-up:

Redline of changes to LTREZ Agreement

Section V.A.

The Company agrees to comply with the requirements of ORS 285C.409 and 285C.412(3)(~~5~~) as well as those provided in OAR Chapter 123, Division 690.

Section V.B.11(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, public health services, or public safety services, and issued pursuant to voter approval of a measure passed on or after the date of this Agreement 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 the Facility ~~all property as described in section I of this Agreement owned by the Company within the taxing district subject to the Qualifying Bond~~ but for the exemption pursuant to this Agreement and any other future exemption for property owned by the Company on the Partition Plat ~~within such taxing district~~. The Company will not unreasonably object to any local measures for Qualifying Bonds.

FIRST AMENDMENT TO AGREEMENT FOR LONG-TERM RURAL ENTERPRISE ZONE TAX ABATEMENT

This First Amendment to Agreement for Long-Term Rural Enterprise Zone Tax Abatement (this “Amendment”) is made and entered into as of January [], 2023, (the “Effective Date”) by and among the UMATILLA COUNTY, OREGON (“Umatilla County”), the CITY OF UMATILLA, OREGON (the “City of Umatilla”), and Amazon Data Services, Inc. (the “Company”).

RECITALS

This Amendment is made with reference to the following facts and circumstances:

A. Umatilla County, the City of Umatilla, and the Company are parties to that certain Agreement for Long-Term Rural Enterprise Zone Tax Abatement, dated as of November 4, 2020 (the “Agreement”).

B. Section I of the Agreement defines and describes the location of the “Facility” for purposes of the Agreement.

C. Section V.A of the Agreement describes the “Statutory and Administrative Requirements” of the Company for purposes of the Agreement.

D. The parties wish to amend, pursuant to Section IX.C of the Agreement, the definition of the Facility in Section I of the Agreement to reflect changes to the relevant tax lots, to update the planned layout for the Facility, and to correct errors in the description of the Facility, as originally defined in the Agreement, and Section V.A of the Agreement to correct a statutory reference, which is aligned with the intent of the Parties at the time the Agreement was executed.

TERMS AND CONDITIONS

Now therefore, in consideration of the mutual covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree that the above recitals are made a part of this Amendment and otherwise do hereby agree as follows:

1. Capitalized Terms. All capitalized terms used but not otherwise defined in this Amendment shall have the meanings ascribed to them in the Agreement.

2. The Facility. Section I of the Agreement is hereby amended and restated in its entirety as follows:

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 is currently expected to be located in the Zone on property described as:

LOTS 5 AND 6, THE LONG SUBDIVISION, LOCATED IN THE NORTH HALF OF SECTION 13, TOWNSHIP 5 NORTH, RANGE 28, EAST OF THE WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON, RECORDED JUNE 28, 2007, IN BOOK 15, PAGE 30, RECORD PLATS OF SAID COUNTY.

TOGETHER WITH:

LOT 7, THE LONG SUBDIVISION, LOCATED IN THE NORTH HALF OF SECTION 13, TOWNSHIP 5 NORTH, RANGE 28, EAST OF THE WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON, RECORDED JUNE 28, 2007, IN BOOK 15, PAGE 30, RECORD PLATS OF SAID COUNTY; AND

A PORTION OF LOT 8, THE LONG SUBDIVISION, LOCATED IN THE NORTH HALF OF SECTION 13, TOWNSHIP 5 NORTH, RANGE 28, EAST OF THE WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON, RECORDED JUNE 28, 2007, IN BOOK 15, PAGE 30, RECORD PLATS OF SAID COUNTY; AND

A PORTION OF LOT 1 OF "WANAPA SOUTH REPLAT", LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 5 NORTH, RANGE 28 EAST AND IN THE NORTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 5 NORTH, RANGE 29 EAST, WILLAMETTE MERIDIAN, CITY OF UMATILLA, UMATILLA COUNTY, OREGON, WHICH FOLLOWING A PARTITION OF LAND APPROVED BY THE CITY OF UMATILLA (MNP-7-2022), WILL EXIST AS "PARCEL 1" AS SHOWN ON THE ATTACHED **EXHIBIT A**.

With respect to **EXHIBIT A**, on or around November 2, 2022, the City of Umatilla approved a tentative partition of land into two parcels, Application MnP-7-22. Parties have prepared a final plat and agree that as of the date of the recording of the final plat, Parcel 1 to the west, which is approximately 77.77 acres, will be subject to this Agreement ("Parcel 1"). Parties further agree that as of the date of the recording of the final plat, Parcel 2 to the east, which is approximately 13.16 acres, will not be subject to this Agreement ("Parcel 2").

3. Statutory and Administrative Requirements. Section V.A. of the Agreement is hereby amended and restated in its entirety as follows:

The Company agrees to comply with the requirements of ORS 285C.409 and 285C.412(3) as well as those provided in OAR Chapter 123, Division 690.

4. Miscellaneous. As expressly amended and modified by this Amendment, the terms and provisions of the Agreement are hereby ratified and affirmed in their entirety. This Amendment may be amended only by an agreement in writing, signed by Umatilla County, the City of Umatilla, and the Company. This Amendment shall be governed by and construed in accordance with the laws of Oregon, and without regard to any principles of conflict of laws. This Amendment may be signed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. Any such counterpart may be executed by facsimile or electronic transmission. This Amendment constitutes the entire agreement of Umatilla County, the City of Umatilla, and the Company with respect to this Amendment of the Agreement, and all prior or contemporaneous agreements or communications between the parties on this matter are superseded in entirety by this Amendment.

[remainder of page left blank intentionally]

IN WITNESS WHEREOF, Umatilla County, the City of Umatilla, and the Company, by their respective duly authorized representatives, have executed this Amendment on the date shown below.

UMATILLA COUNTY

Dated this [redacted] day of January, 2023

Daniel N. Dorran, Commissioner

John Shafer, Commissioner

Cindy Timmons, Commissioner

CITY OF UMATILLA

Dated this [redacted] day of January, 2023

David Stockdale, City Manager and Enterprise Zone Manager

Attest:

Nanci Sandoval, City Recorder

Amazon Data Services, Inc.

Dated this [redacted] day of January, 2023
