

**TAX INCREMENT
COOPERATIVE AGREEMENT**

This Tax Increment Cooperative Agreement (the "Agreement") is made as of March __, 2016 by and between the CITY OF SHAKOPEE, a Minnesota municipal corporation (the "City"), the ECONOMIC DEVELOPMENT AUTHORITY FOR THE CITY OF SHAKOPEE, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the "Authority") and SCOTT COUNTY, MINNESOTA, political subdivision under the laws of Minnesota (the "County").

WITNESSETH:

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.090 to 469.1081, as amended (the "EDA Act") and was authorized to transact business and exercise its powers by a resolution of the City Council of the City; and

WHEREAS, the City has undertaken a program to promote economic development and job opportunities and to promote the development and redevelopment of land which is underutilized within the City, and has created the Minnesota River Valley Housing and Redevelopment Project No. 1 (hereinafter referred to as the "Project") in an area (hereinafter referred to as the "Project Area") located in the City pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended (the "HRA Act"); and

WHEREAS, by resolution dated April 4, 1995, the City Council of the City transferred control, authority, and operation of the Project to the Authority, which currently administers the Project, exercising the powers of a housing and redevelopment authority under the HRA Act, in accordance with the EDA Act; and

WHEREAS, the Authority has established the Tax Increment Financing (Economic Development) District No. 17 ("TIF District") pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the "TIF Act"), made up of the area to be developed by the Developer; and

WHEREAS, Amazon.com.dedc, LLC, a Delaware corporation (the "Developer"), has proposed to cause the construction of an approximately 820,000 square foot building for use as a distribution and warehouse facility including approximately 750,000 square feet of warehouse processing space and approximately 70,000 square feet of associated office space (the "Minimum Improvements"), on real property located in the City (the "Development Property"), within the TIF District; and

WHEREAS, the Developer has proposed to lease the Minimum Improvements for use as a distribution and warehouse facility; and

WHEREAS, pursuant to Section 469.175, subd. 1a of the TIF Act, the Board of Commissioners of the County may require that certain costs of County road improvements be paid out of tax increment if certain conditions are met and the County has requested that the Authority pay certain costs of County road improvements related to the Minimum Improvements with tax increment from the TIF District; and

WHEREAS, the City finds it necessary to reconstruct and improve streets adjacent to the Minimum Improvements and has requested that the Authority pay certain costs of City road improvements related to the Minimum Improvements with tax increment from the TIF District

WHEREAS, the Developer has agreed to forego any tax increment generated by the Minimum Improvements; and

WHEREAS, the Authority, the City and the County propose to enter into this Agreement in order to allocate tax increment generated by the TIF District to the City's and County's costs related to the construction of public road improvements related to and necessitated by the development of the Minimum Improvements; and

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the Parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I DEFINITIONS

Section 1.1. Definitions.

"Agreement" means this Tax Increment Cooperative Agreement, as the same may be from time to time modified, amended, or supplemented.

"Authority" means the Economic Development Authority for the City of Shakopee, Minnesota.

"Available Tax Increment" means 99.1% of the Tax Increment attributable to the Development Property and paid to the Authority by the County in the six months preceding each Payment Date.

"City" means the City of Shakopee, Minnesota.

"City Road Project" means the City road improvements described in Section 3.1 hereof.

"County" means Scott County, Minnesota.

"County Road Project" means the County road improvements described in Section 3.2 hereof.

"Developer" means Amazon.com.dedc, LLC, a Delaware limited liability company, or its permitted successors and assigns.

"Event of Default" has the meaning provided to such term in Section 4.1 hereof.

"Development Property" means the real property described in EXHIBIT A of this Agreement.

"Minimum Improvements" means the construction of a building totaling approximately 820,000 square feet including approximately 750,000 square feet of warehouse processing space and approximately 70,000 square feet of associated office space on the Development Property which will be leased to the Developer for use a distribution and warehouse facility.

"Party" or "Parties" shall mean one or more of the Authority, the City and the County, as parties to this Agreement.

"Payment Date" means February 1 and August 1, commencing August 1 of the first year Tax Increment is received by the City, which is expected to be August 1, 2017.

"Tax Increment" means that portion of the real property taxes that is paid with respect to the Development Property and that is remitted to the Authority as tax increment pursuant to the Tax Increment Act.

“Tax Increment Act” or “TIF Act” means the Tax Increment Financing Act, Minnesota Statutes Sections 469.174 through 469.1794, as amended.

“Tax Increment District” or “TIF District” means Tax Increment Financing (Economic Development) District No. 17, an economic development tax increment financing district created by the City and the Authority.

“Tax Increment Plan” or “TIF Plan” means the Tax Increment Financing Plan for the TIF District approved by the City Council on May 19, 2015, and as it may be amended.

“State” means the State of Minnesota.

ARTICLE II REPRESENTATIONS

Section 2.1. Representations by the City. The City is a statutory city duly organized and existing under the laws of the State. The City has the power to enter into this Agreement and carry out its obligations hereunder.

Section 2.2. Representations by the County. The County is a public corporation and political subdivision of the State. The County has the power to enter into this Agreement and carry out its obligations hereunder.

Section 2.3. Representations by the Authority. The Authority makes the following representations and warranties as the basis for its covenants herein:

(a) The Authority is an economic development authority duly organized and existing under the laws of the State. The Authority has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The activities of the Authority are undertaken for the purpose of fostering the development of certain real property in the City for the purposes of increasing tax base, creating employment opportunities, and encouraging economic development within the City.

ARTICLE III ROAD PROJECTS AND REIMBURSEMENTS

Section 3.1. City Road Projects. The City agrees to complete the following public improvements necessitated by the Minimum Improvements (hereinafter referred to as the “City Road Project”):

- (a) Improvements to 4th Avenue from Shenandoah Drive to CSAH 83 (Canterbury Road)
 - Widening 4th Street to a three lane roadway from Shenandoah Drive to CSAH 83
 - Related improvements to storm sewer, water system, sanitary sewer system
 - Related sidewalk improvements

- (b) Improvements to Shenandoah Drive from 4th Avenue to CSAH 101
 - Reclamation of Shenandoah Drive from 4th Avenue to CSAH 101
 - Railroad crossing improvements
 - Related improvements to storm sewer, water system, sanitary sewer system

- Related sidewalk improvements

(c) All engineering costs and costs of right-of-way for the above-mentioned projects.

Section 3.2. County Road Projects. The County agrees to complete the following public improvements necessitated by the Minimum Improvements (hereinafter referred to collectively as the "County Road Project"):

- (a) Improvements to CSAH 101/Shenandoah Drive
 - Extension of westbound 101 left turn land at Shenandoah.
- (b) Improvements to CSAH 83/4th Avenue
 - Construct a northbound left, southbound right, and eastbound right-turn lane.
 - Monitor the need for future traffic signal control. Install conduit and handholes.
 - Relocate the Inland Container driveway to 4th Avenue.
 - Relocate all Anchor Glass driveways to Industrial Boulevard.
 - Close north private driveway just south of 4th Avenue on the east side of CSAH 83.
- (d) All engineering costs and costs of right-of-way for the above-mentioned projects.

Section 3.3. Payment of City Road Project Costs.

(a) In order to make the City Road Improvements necessitated by the construction of the Minimum Improvements economically feasible, the Authority shall reimburse the City for the actual costs of the City Road Project.

(b) On each Payment Date, the Authority will pay the City a pro rata portion of the Available Tax Increment based on the costs of the City Road Project compared to the costs of the County Road Project. The pro rata portion of Available Tax Increment to be paid to the City each Payment Date is 40.7% (equal to \$2,319,076 divided by \$5,698,326).

(c) Notwithstanding the foregoing, if the Available Tax Increment exceeds the dollar amount expected and the City is legally able to modify the TIF Plan to increase the expenditure of Available Tax Increment, the excess Available Tax Increment may be used to provide the following road improvements if warranted and justified by future road studies:

- Improvements to County State Aid Highway 83/Twelfth Avenue in Shakopee, including construction of dual westbound left turn lanes and modification of existing traffic signal to accommodate dual westbound left turn lanes.
- Traffic signal at State Highway 101 and Shenandoah Drive.
- Traffic signal at County State Aid Highway 83 and Fourth Avenue in Shakopee.

(d) Prior to the Authority reimbursing the City for costs of the City Road Project, the City shall provide the Authority with written evidence in a form satisfactory to the Authority that the City has paid the costs of the City Road Project. If the City Road Project is not complete prior to the first Payment Date, the City may submit evidence of costs paid for a portion of the City Road Project.

Section 3.4. Payment of County Road Project Costs.

(a) In order to make the County Road Improvements necessitated by the construction of the Minimum Improvements economically feasible, the Authority shall reimburse the County for the actual costs of the County Road Project.

(b) On each Payment Date, the Authority will pay the County a pro rata portion of the Available Tax Increment based on the costs of the County Road Project compared to the costs of the City Road Project. The pro rata portion of Available Tax Increment to be paid to the County each Payment Date is 59.3% (equal to \$3,379,250 divided by \$5,698,326).

(c) Prior to the Authority reimbursing the County for costs of the County Road Project, the County shall provide the Authority with written evidence in a form satisfactory to the Authority that the County has paid the costs of the County Road Project. If the County Road Project is not complete prior to the first Payment Date, the County may submit evidence of costs paid for a portion of the County Road Project.

Section 3.5. Estimated Costs of Road Projects.

(a) The City understands and acknowledges that the TIF Plan budgeted approximately \$2,319,076 to pay the costs of the City Road Project and no additional Available Tax Increment will be available to pay such costs.

(b) The County understands and acknowledges that the TIF Plan budgeted approximately \$3,379,250 to pay the costs of the County Road Project and no additional Available Tax Increment will be available to pay such costs.

(c) Notwithstanding the foregoing, if the tax increment derived from the TIF Project exceeds what is estimated in the TIF Plan and if the costs of either or both of the City Road Project and the County Road Project are significantly over the amounts estimated for such projects, the Board of the Authority and the City Council of the City will consider modifying the TIF Plan to increase the budget for both projects, if such modification is allowed under the TIF Act.

Section 3.6. Annual Accounting. Within 30 days of each fiscal year end (December 31), the Authority shall provide to the City and the County an accounting of how the Tax Increment received from the County in the previous year was expended. On or prior to May 1 of each year, the City and the County shall provide to the Authority an accounting of how Available Tax Increment it received in the previous year was expended and what Available Tax Increment remains unexpended.

Section 3.7. Indemnification. The Authority, the City, and the County agree to indemnify and hold harmless the other Parties from any claims, losses, costs, expenses or damages, including reasonable attorney's fees, resulting from the acts or omissions of the respective officers, agents, or employees of the indemnifying Party, to the extent such acts or omissions relate to activities conducted by the indemnifying Party under this Agreement. Each Party's liability is governed by the provisions established in the Minnesota Statutes, Chapter 466. No Party intends to waive any defenses or immunities available under Minnesota Statutes, Chapter 466.

**ARTICLE IV
EVENTS OF DEFAULT**

Section 4.1. Events of Default Defined. The failure by the Authority, the City or the County to observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement shall be an Event of Default under this Agreement.

Section 4.2. Remedies on Default. Whenever any Event of Default referred to in Section 4.1 of this Agreement occurs, the Authority, the City, or the County may:

(a) Suspend its performance under the Agreement until it receives reasonably satisfactory assurances that the defaulting Party will cure its default and continue its performance under the Agreement.

(b) Upon a default by the City, the Authority may suspend the payment of Available Tax Increment to the City.

(c) Upon a default by the County, the Authority may suspend the payment of Available Tax Increment to the County.

(d) Take whatever action, including legal, equitable, or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

Section 4.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 4.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by any Party and thereafter waived by one or more of the other Parties, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 4.5. Attorneys' Fees. Whenever any Event of Default occurs and if a Party shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of another Party under this Agreement, each Party will pay its own attorneys' fees.

**ARTICLE V
MISCELLANEOUS**

Section 5.1. Conflict of Interests; Representatives Not Individually Liable. The Authority, the City, and the County, to the best of their respective knowledge, represent and agree that no member, official, or employee of the Authority, the City or the County shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement that affects his personal interests or the interests of any corporation, partnership, or association in which he, directly or indirectly, is interested. No member, official, or employee of the Authority, the City or the County shall be personally liable to any other Party to this Agreement in the event of any default or

breach by the Authority, the City or the County or for any amount that may become due to other Parties to this Agreement or on any obligations under the terms of the Agreement.

Section 5.2. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 5.3. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by either Party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the following addresses (or to such other addresses as either Party may notify the other):

To Authority:	Shakopee EDA 129 Holmes Street South Shakopee, MN 55379 Attn: Executive Director
To City:	City of Shakopee 129 Holmes Street South Shakopee, MN 55379 Attn: City Administrator
To County:	Scott County Scott County Government Center 200 Fourth Avenue West Shakopee, MN 55379 Attn: County Auditor

Section 5.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 5.5. Amendment. This Agreement may be amended only by written agreement approved by the City, the Authority, and the County.

Section 5.6. Term of Agreement. With respect to the County, this Agreement shall terminate on the earlier of (i) the date that TIF payments to the County totaling \$3,379,250 have been made or (ii) the expiration of the TIF District. With respect to the City, this Agreement shall terminate on the earlier of (i) the date that TIF payments to the City totaling \$2,319,076 have been made or (ii) the expiration of the TIF District.

Section 5.7. Governing Law. This Agreement shall be interpreted in accordance with the laws of Minnesota.

Section 5.8. Entire Agreement. Except as otherwise provided herein, this Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and there are no other representations, warranties, or agreements except as herein provided.

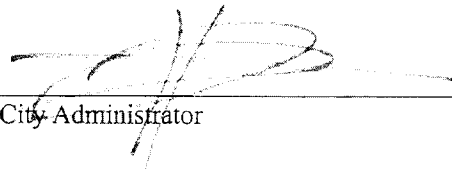
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IN WITNESS WHEREOF, the City, the Authority and the County have caused this Tax Increment Cooperative Agreement to be duly executed by their duly authorized representatives as of the date first above written.

CITY OF SHAKOPEE



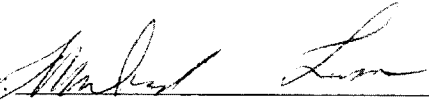
By _____
Its Mayor

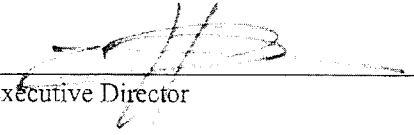


By _____
Its City Administrator

(Signature Page of City to Tax Increment Cooperative Agreement)

ECONOMIC DEVELOPMENT AUTHORITY FOR
THE CITY OF SHAKOPEE, MINNESOTA

By: 
Its: President

By: 
Its: Executive Director

(Signature Page of Authority to Tax Increment Cooperative Agreement)

SCOTT COUNTY, MINNESOTA

By Barbara Marshall
Its Board Chair

By [Signature]
Its County Administrator

(Signature Page of County to Tax Increment Cooperative Agreement

EXHIBIT A

LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

Lot 1, Block 1, Shenandoah East First Addition, Scott County, Minnesota