

RESOLUTION NO. 26502

A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE AMAZON.COM.DEDC LLC PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AGREEMENTS FOR PAYMENTS IN LIEU OF AD VALOREM TAXES.

WHEREAS, pursuant to Tennessee Code Annotated, Section 7-53-305(b) the City of Chattanooga (the "City") is permitted to delegate to The Industrial Development Board of the City of Chattanooga (the "Board") the authority to negotiate and accept payments in lieu of ad valorem taxes from lessees of the Board upon a finding by the City that such payments are deemed to be in furtherance of the Board's public purposes; and,

WHEREAS, Amazon.com.dedc LLC (the "Company") and US Real Estate Limited Partnership (the "Developer" and together with the Company, the "Companies") are contemplating the acquisition of certain property in Chattanooga, Hamilton County, Tennessee, the construction of real property improvements thereon, and the acquisition and installation of certain machinery, equipment and other personal property for use as a warehouse and distribution facility in the City (the "Project") and for related purposes, and, because of the substantial economic benefits to the City and Hamilton County resulting from the project, have asked the Board and the City Council to approve payments in lieu of ad valorem taxes; and

WHEREAS, the Council has determined that payments in lieu of ad valorem taxes from such a project would be in furtherance of the Board's public purposes as set forth within Chapter 53 of Title 7 of the Tennessee Code Annotated;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA,
That the Council hereby finds that the Project is in the best interest of the City, and that

payments in lieu of ad valorem taxes derived therefrom would be in furtherance of the Board's public purposes.

BE IT FURTHER RESOLVED, That, having made such a finding in this instance, the Council hereby delegates to the Board the authority to negotiate and accept payments in lieu of ad valorem taxes from the Companies, it being further noted that this delegation is for this purpose and this project only.

BE IT FURTHER RESOLVED, That the Mayor is hereby authorized to enter into separate Agreements for Payments In Lieu of Ad Valorem Taxes with each of the Companies in substantially the forms attached hereto, with such changes thereto as he shall approve.

ADOPTED: November 30, 2010

/add

**AGREEMENT FOR PAYMENTS IN LIEU
OF AD VALOREM TAXES**

THIS AGREEMENT (the "Agreement") is made and entered into as of this the ___ day of _____, 2010, by and among **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA** (the "Board"); **AMAZON.COM.DEDC LLC**, a limited liability company organized and existing under the laws of Delaware ("Company"); the **CITY OF CHATTANOOGA** (the "City"); and **HAMILTON COUNTY** (the "County") and is joined in, for purposes of evidencing their acceptance of the agency relationship established herein, by **WILLIAM F. HULLANDER** and his successors, acting in the capacity of **HAMILTON COUNTY TRUSTEE** ("Trustee"), and by **WILLIAM C. BENNETT** and his successors, acting in the capacity of **HAMILTON COUNTY ASSESSOR OF PROPERTY** ("Assessor").

WITNESSETH:

WHEREAS, the Company and US Real Estate Limited Partnership, a Texas limited partnership (the "Developer") are contemplating the construction and equipping of a complex including a facility for warehousing, distribution, and related purposes in Chattanooga, Hamilton County, Tennessee (the "Project"), resulting in a personal property investment by the Company of approximately \$51,000,000, a real property investment by the Developer of approximately \$40,000,000 and an increase of 1,249 jobs by the Company over a three (3) year period ending on December 31, 2013, which jobs shall have an average annual wage (excluding benefits) equal to at least \$30,500.00 (collectively the "Investment, Jobs and Wage Projection"), and has requested the Board's assistance in the financing of the Project; and

WHEREAS, substantial economic benefits to the City and County economies will be derived from the Project; and

WHEREAS, the Board has taken title to certain personal property constituting a part of the Project, as described in Exhibit "A" attached hereto (the "Personal Property"), which Personal Property is to be owned by the Board and leased to the Company; and

WHEREAS, because the Personal Property is to be owned by the Board, which is a public corporation organized under the provisions of Tennessee Code Annotated, §7-53-101, et seq., all such property will be exempt from ad valorem property taxes ("property taxes") normally paid to the City and to the County, so long as the Personal Property is owned by the Board, pursuant to the provisions of Tennessee Code Annotated, § 7-53 -305; and

WHEREAS, for the public benefit of the citizens of the City and the County, the Board has requested that the Company make certain payments to the Board in lieu of the payment of property taxes that would otherwise be payable on the Personal Property; and

WHEREAS, the Company has agreed to make such payments to the Board in lieu of the property taxes otherwise payable on the Personal Property (the "In Lieu Payments"), as more particularly set forth hereinafter; and

WHEREAS, the Board has been authorized to receive the In Lieu Payments in lieu of property taxes by resolutions adopted by the City and the County, acting through their duly elected Council and Commission, respectively, which resolutions delegate to the Board the authority to accept the In Lieu Payments upon compliance with certain terms and conditions, including, without limitation, the requirement that the Board collect and expend such payments in furtherance of the public purposes for which the Board was created; and

WHEREAS, the Company and the Board have agreed that all In Lieu Payments made to the Board by the Company shall be paid to the Trustee, who shall disburse such amounts

to the general funds of the City and the County in accordance with the requirements specified herein; and

WHEREAS, the Board wishes to designate the Assessor as its agent to appraise the Personal Property and assess a percentage of its value in the manner specified herein; and

WHEREAS, the Board wishes to designate the Trustee as its agent to receive the In Lieu Payments in accordance with the terms of this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. Designation of Assessor; Appraisal and Assessment of Personal Property.

The Board hereby designates the Assessor as its agent to appraise and assess the Personal Property. The Assessor shall appraise and assess the Personal Property in accordance with the Constitution and laws of the State of Tennessee as though the Personal Property were subject to taxes. The Assessor shall give the Trustee, the City Treasurer, the Board and the Company written notice of any changes in appraisals of the Personal Property in the same manner that notices are given to owners of taxable property. The Assessor shall make available to the Board and the Company all records relating to the appraisal and assessment of the Personal Property.

2. Designation of Trustee; Computation and Billing of Payments In Lieu of

Taxes. The Board hereby designates the Trustee as its agent to compute the amounts of the In Lieu Payments, to receive such payments from the Company and to disburse such payments to the City and the County. On or about October 1 of each year during the term of this Agreement, the Trustee shall compute the taxes which would be payable on the Personal Property if it were subject to property taxes, in accordance with the Constitution and laws of the State of Tennessee and in accordance with the appraisal and assessment of the Assessor. Each year hereunder, the

Trustee shall send the Board and the Company bills for appropriate amounts of In Lieu Payments (the "Tax Bill").

3. Payments in Lieu of Taxes. After receipt of the Tax Bill, the Company shall pay to the Trustee the amounts indicated on the Tax Bill in accordance with the amount set forth below in Paragraph 4. The In Lieu Payments shall be made in lieu of the property taxes which would otherwise be payable on the Personal Property if it were subject to property taxes.

4. Amount of Payments by the Company. For the eleven (11) year period covering and inclusive of years 2012-2022 (the "Tax Abatement Period"), the Company shall make In Lieu Payments with respect to the Personal Property in an amount, as determined by the Assessor and the Trustee, equal to the County educational property taxes that would have been paid on the Personal Property if the Personal Property were subject to such taxes. The parties acknowledge and agree that the educational portion of such taxes currently equates to twenty-seven and one tenth percent (27.1%) of the amount of the total City and County taxes that would have been payable on the Personal Property if it were subject to property taxes. For any periods before or after such eleven (11) year period (2012-2022) that the Personal Property is owned by the Board, the Company shall make In Lieu Payments in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the Personal Property if it were subject to property taxes. Notwithstanding the above, any amounts assessed as ad valorem taxes against the Personal Property shall be credited against any In Lieu Payments due under this Agreement.

5. Penalties and Late Charges. The Company shall make the In Lieu Payments for each year during the term before March 1 of the following year. All In Lieu Payments shall be subject to penalties, late charges, fees and interest charges as follows:

(a) If the Company fails to make, or cause to be made, any In Lieu Payment when due, and such failure to pay shall continue and not be fully paid within thirty (30) days after written notice of such non-payment has been provided, then a late charge shall be charged and shall also be immediately due and payable. The late charge shall be in the amount of one and one-half percent (1-1/2%) of the owed amount. Additional late charges of one and one-half percent (1-1/2%) of the amount shall accumulate and become immediately due and payable upon the expiration of each subsequent thirty (30) day period when there remains any outstanding unpaid amount.

(b) If the Company should fail to pay all amounts and late charges due as provided hereinabove, then the Board, the City or the County may bring suit in the Chancery Court of Hamilton County to seek to recover the In Lieu Payments due, late charges, expenses and costs of collection in addition to reasonable attorneys' fees.

(c) If the Project fails to achieve the Investment, Jobs and Wage Projection by December 31, 2013, then the City and the County reserve the right but are not obligated to adjust the term of the Tax Abatement Period. If the City and the County exercise the right to make an adjustment to the term of the Tax Abatement Period, the Assessor and Trustee shall make a reasonable determination of the term of the Tax Abatement Period by applying the policies, practices and procedures in effect as of November 1, 2010 to the actual jobs, wages and investment associated with the Project as of December 31, 2013. Except as specifically provided in paragraph (d), immediately below, which shall be the exclusive remedy for a closure of the Project or a relocation of the Project from the County, the remedy under this paragraph (c) shall be the sole remedy for any shortfall in the Investment, Jobs and Wage Projection.

(d) In the event the Company closes the Project or moves the Project from the County during the term of this Agreement, the City and the County reserve the right to terminate the Tax Abatement Period. The City and the County reserve the further rights (i) to require the partial repayment of the additional amounts that would have been payable on the Personal Property during the prior portion of the Tax Abatement Period if it were subject to property taxes and (ii) to require that the Company partially repay the additional amounts that would have been payable during the prior portion of the Tax Abatement Period on the portion of the Project that is subject to that certain Payment in Lieu of Tax Agreement between the Board, the Developer, the City and County of even date herewith if the real property covered under that agreement were subject to property taxes. The remedies under this paragraph (d) shall be the sole remedy for any closure of the Project or relocation of the Project outside of the County.

6. Disbursements by Trustee. With respect to any period occurring before January 1, 2012 or after December 31, 2022 all sums received by the Trustee pursuant to Paragraph 3 shall be disbursed to the general funds of the City and the County in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All sums received shall be divided into two (2) accounts, one for the use and benefit of the City and the other for the use and benefit of the County. The account for the use and benefit of the City shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the City, and the account for the use and benefit of the County shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the County. With respect to each of the years 2012 through 2022, all sums received by the Trustee pursuant to Paragraph 3 shall be disbursed

to the general funds of the County for the County School System and thereafter deposited into an account for the educational use and benefit of the County schools. All disbursements to the general funds of the City and County shall be made by the Trustee subject to the requirement that all funds disbursed may be used by the City and the County only in furtherance of the public purposes of the Board, as described in Tennessee Code Annotated, § 7-53-102.

7. Contest by the Company. The Company shall have the right to contest the appraisal or assessment of the Personal Property by the Assessor and the computation by the Trustee of the amount of the In Lieu Payment. If the Company contests any such appraisal or assessment, then they shall present evidence to the Assessor in favor of their position. If the In Lieu Payments being contested shall be or become due and payable, the Company shall make such payments under protest. The Company and the Assessor or the Trustee, as the case may be, shall negotiate in good faith for a period not to exceed sixty (60) days to resolve any disputes as to appraisal, assessment or computation of the In Lieu Payment. If the Company and the Assessor or the Trustee are unable to resolve a dispute, then the Company may file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement, including those covering appraisal, assessment and computation, be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

8. Lien on Personal Property. Any amounts which remain payable under this Agreement shall become a lien on the Personal Property, and such lien shall be enforceable against the Personal Property in the event that any payment owing hereunder is not timely made in accordance with this Agreement.

9. Term. This Agreement shall become effective on the date that the Board attains title to the Personal Property and shall continue for so long as the Board holds title to any

of the Personal Property or the Company has made all payments required hereunder, whichever shall later occur.

10. Leasehold Taxation. The Board, the City, the County, the Trustee and the Assessor covenant and agree that the Company's personal property leasehold interest in the Personal Property shall not be subject to assessment for ad valorem tax purposes, as the Company's leasehold interest is subject to this agreement for payments in lieu of taxes. If the leasehold interest of the Company should be subject to ad valorem taxation, then any amounts assessed as taxes thereon shall be credited against any In Lieu Payments due hereunder.

11. [Reserved.]

12. Notices, etc. All notices and other communications provided for hereunder shall be written (including facsimile transmission and telex), and mailed or sent via facsimile transmission or delivered addressed as follows:

Board or to the City: Michael A. McMahan
City Attorney
City of Chattanooga
100 E. 11th Street, Suite 200
Chattanooga, Tennessee 37402

The County: Rheubin M. Taylor
County Attorney
Hamilton County Government
Room 204, County Courthouse
Chattanooga, Tennessee 37402

Company: Amazon.com.dedc LLC
c/o Amazon.com, Inc.
410 Terry Ave. N
Seattle, WA 98109-5210
Attention: Real Estate Manager

With a Copy to: Amazon.com.dedc LLC
c/o Amazon.com, Inc.
410 Terry Ave. N
Seattle, WA 98109-5210
Attention: General Counsel

With a Copy to: Miller & Martin PLLC
832 Georgia Avenue, Suite 1000
Chattanooga, Tennessee 37402
Attention: Mark W. Smith

The Trustee: Hamilton County Trustee
Hamilton County Courthouse
Chattanooga, Tennessee 37402

The Assessor: Hamilton County Assessor of Property
Hamilton County Courthouse
Chattanooga, Tennessee 37402

Any such person may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent. All such notices and communications shall, when mailed by registered and certified mail, return receipt requested, Express Mail, or facsimile, be effective when deposited in the mails or if sent upon facsimile transmission, confirmed electronically, respectively, addressed as aforesaid.

13. No Waiver; Remedies. No failure on the part of any party hereto, and no delay in exercising any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

14. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court or jurisdiction, the invalidity of any such clause or provision shall not affect any of the remaining provisions of this Agreement.

15. No Liability of Board's Officers. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any incorporator, member, director or officer, as such, of the Board, whether past, present or future, either directly or through the Board. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

16. Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the parties and signatories hereto and to their respective successors and assigns.

17. Governing Law. The Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

18. Amendments. This Agreement may be amended only in writing, signed by each of the parties hereto, except that the Trustee and the Assessor shall not be required to join in amendments unless such amendments affect their respective duties hereunder.

19. Annual Report. On or before March 1 of each year this Agreement is in effect, the Company shall provide a report to the Mayor of the City and the Mayor of the County summarizing its investment in the Personal Property and summarizing its employee head count and average annual wages for such employees for purposes of analyzing the Company's and the Developer's progress in achieving their respective portions of the Investment, Jobs and Wage Projection.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and date first above written.

ATTEST:

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA

By: _____
Secretary

By: _____
Chairman

AMAZON.COM.DEDC LLC, a Delaware limited liability company

By: **USAA REAL ESTATE COMPANY**, a Delaware Corporation, its General Partner

By: _____

Name: _____

Title: _____

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

WILLIAM F. HULLANDER

By: _____
Hamilton County Trustee

WILLIAM C. BENNETT

By: _____
Hamilton County Assessor of Property

EXHIBIT "A"
TO PILOT AGREEMENT FOR
COMPANY

PERSONAL PROPERTY

All newly acquired or transferred personal property, including items of machinery, equipment and related personal property that is located on or about the real property described below on or before December 31, 2013 in connection with the Project, together with additions thereto, replacements thereof and substitutions therefore.

The referenced real property is described as follows:

[INSERT REAL PROPERTY DESCRIPTION]

**AGREEMENT FOR PAYMENTS IN LIEU
OF AD VALOREM TAXES**

THIS AGREEMENT (the "Agreement") is made and entered into as of this the ____ day of _____, 2010, by and among **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA** (the "Board"); **US REAL ESTATE LIMITED PARTNERSHIP**, a Texas limited partnership (the "Company"); the **CITY OF CHATTANOOGA** (the "City"); and **HAMILTON COUNTY** (the "County") and is joined in, for purposes of evidencing their acceptance of the agency relationship established herein, by **WILLIAM F. HULLANDER** and his successors, acting in the capacity of **HAMILTON COUNTY TRUSTEE** (the "Trustee"), and by **WILLIAM C. BENNETT** and his successors, acting in the capacity of **HAMILTON COUNTY ASSESSOR OF PROPERTY** (the "Assessor").

WITNESSETH:

WHEREAS, the Company and the Tenant are contemplating the construction and equipping of a facility for warehousing, distribution, and related purposes in Chattanooga, Hamilton County, Tennessee (the "Project"), resulting in a personal property investment by the Tenant of approximately \$51,000,000, a real property investment by the Company of approximately \$40,000,000 and the creation of approximately 1,249 jobs by the Tenant over a three (3) year period ending on December 31, 2013, which jobs shall have an average annual wage (excluding benefits) equal to at least \$30,500.00 (collectively the "Investment, Jobs and Wage Projection"), and has requested the Board's assistance in the financing of the Project; and

WHEREAS, substantial economic benefits to the City and County economies will be derived from the Project; and

WHEREAS, the Board has previously taken title to certain real property constituting a part of the Project, as described in Exhibit "A" attached hereto (the "Real Property"), which Real Property will continue to be owned by the Board and will be leased to and thereafter improved by the Company, and, in turn, pursuant to that certain Industrial Sublease between the Company and Tenant (the "Sublease") subleased by the Company to the Tenant; and

WHEREAS, because the Real Property is to be owned by the Board, which is a public corporation organized under the provisions of Tennessee Code Annotated, §7-53-101, et seq., all such property will be exempt from ad valorem property taxes ("property taxes") normally paid to the City and to the County, so long as the Real Property is owned by the Board, pursuant to the provisions of Tennessee Code Annotated, § 7-53-305; and

WHEREAS, for the public benefit of the citizens of the City and the County, the Board has requested that the Company make certain payments to the Board in lieu of the payment of property taxes that would otherwise be payable on the Real Property; and

WHEREAS, the Company has agreed to make such payments to the Board in lieu of the property taxes otherwise payable on the Real Property (the "In Lieu Payments"), as more particularly set forth hereinafter; and

WHEREAS, the Board has been authorized to receive the In Lieu Payments in lieu of property taxes by resolutions adopted by the City and the County, acting through their duly elected Council and Commission, respectively, which resolutions delegate to the Board the authority to accept the In Lieu Payments upon compliance with certain terms and conditions, including, without limitation, the requirement that the Board collect and expend such payments in furtherance of the public purposes for which the Board was created; and

WHEREAS, the Company and the Board have agreed that all In Lieu Payments made to the Board by the Company, or by the Tenant pursuant to the Sublease, shall be paid to the Trustee, who shall disburse such amounts to the general funds of the City and the County in accordance with the requirements specified herein; and

WHEREAS, the Board wishes to designate the Assessor as its agent to appraise the Real Property and assess a percentage of its value in the manner specified herein; and

WHEREAS, the Board wishes to designate the Trustee as its agent to receive the In Lieu Payments in accordance with the terms of this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. Designation of Assessor; Appraisal and Assessment of Real Property. The Board hereby designates the Assessor as its agent to appraise and assess the Real Property. The Assessor shall appraise and assess the Real Property in accordance with the Constitution and laws of the State of Tennessee as though the Real Property were subject to taxes. The Assessor shall give the Trustee, the City Treasurer, the Board, the Company and the Tenant written notice of any changes in appraisals of the Real Property in the same manner that notices are given to owners of taxable property. The Assessor shall make available to the Board, the Company and the Tenant all records relating to the appraisal and assessment of the Real Property.

2. Designation of Trustee; Computation and Billing of Payments In Lieu of Taxes. The Board hereby designates the Trustee as its agent to compute the amounts of the In Lieu Payments, to receive such payments from the Company (or the Tenant pursuant to the Sublease) and to disburse such payments to the City and the County. On or about October 1 of each year during the term of this Agreement, the Trustee shall compute the taxes which would be

payable on the Real Property if it were subject to property taxes, in accordance with the Constitution and laws of the State of Tennessee and in accordance with the appraisal and assessment of the Assessor. Each year hereunder, the Trustee shall send the Board, the Company and the Tenant bills for appropriate amounts of In Lieu Payments (the "Tax Bill").

3. Payments in Lieu of Taxes. After receipt of the Tax Bill, the Company shall pay, or pursuant to the Sublease cause Tenant to pay, to the Trustee the amounts indicated on the Tax Bill in accordance with the amount set forth below in Paragraph 4. The In Lieu Payments shall be made in lieu of the property taxes which would otherwise be payable on the Real Property if it were subject to property taxes.

4. Amount of Payments by the Company. For the eleven (11) year period covering and inclusive of years 2012-2022 (the "Tax Abatement Period"), the Company shall make, or pursuant to the Sublease cause Tenant to make, In Lieu Payments with respect to the Real Property in an amount, as determined by the Assessor and the Trustee, equal to the County educational property taxes that would have been paid on the Real Property if the Real Property were subject to such taxes. The parties acknowledge and agree that the educational portion of such taxes currently equates to twenty-seven and one tenth percent (27.1%) of the amount of the total City and County taxes that would have been payable on the Real Property if it were subject to property taxes. For any periods before or after such eleven (11) year period (2012-2022) that the Real Property is owned by the Board and leased to the Company, the Company shall make In Lieu Payments in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the Real Property if it were subject to property taxes. Notwithstanding the above, any amounts assessed

as property taxes against the Real Property shall be credited against any In Lieu Payments due under this Agreement.

5. Penalties and Late Charges. The Company shall make, or pursuant to the Sublease cause Tenant to make, the In Lieu Payments for each year during the term before March 1 of the following year. All In Lieu Payments shall be subject to penalties, late charges, fees and interest charges as follows:

(a) If the Company fails to make, or fails to cause the Tenant to make, any In Lieu Payment when due, and such failure to pay shall continue and not be fully paid within thirty (30) days after written notice of such non-payment has been provided to the Company and the Tenant, then a late charge shall be charged and shall also be immediately due and payable. The late charge shall be in the amount of one and one-half percent (1-1/2%) of the owed amount. Additional late charges of one and one-half percent (1-1/2%) of the amount shall accumulate and become immediately due and payable upon the expiration of each subsequent thirty (30) day period when there remains any outstanding unpaid amount.

(b) If the Company should fail to pay, or pursuant to the Sublease cause the Tenant to pay all amounts and late charges due as provided hereinabove, then the Board, the City or the County may bring suit against the Company in the Chancery Court of Hamilton County to seek to recover the In Lieu Payments due, late charges, expenses and costs of collection in addition to reasonable attorneys' fees.

(c) If the Project fails to achieve the Investment, Jobs and Wage Projection by December 31, 2013, then the City and the County reserve the right but are not obligated to adjust the term of the Tax Abatement Period. If the City and the County exercise the right to make an adjustment to the term of the Tax Abatement Period, the Assessor and

Trustee shall make a reasonable determination of the term of the Tax Abatement Period by applying the policies, practices and procedures in effect as of November 1, 2010 to the actual jobs, wages and investment associated with the Project as of December 31, 2013. Except as specifically provided in paragraph (d), immediately below, which shall be the exclusive remedy for a closure of the Project or a relocation of the Project from the County, the remedy under this paragraph (c) shall be the sole remedy for any shortfall in the Investment, Jobs and Wage Projection.

(d) In the event the Project closes or moves from the County during the term of this Agreement, the City and the County reserve the right to immediately terminate the Tax Abatement Period. The Company shall have no liability under any circumstances, including without limitation the closure or moving of the Project from the County during the term hereof, for the repayment of amounts that would have been payable on the Real Property if it were subject to property taxes. The County and the City shall look solely to the Tenant for any repayment obligations.

6. Disbursements by Trustee. With respect to any period occurring before January 1, 2012 or after December 31, 2022 all sums received by the Trustee pursuant to Paragraph 3 shall be disbursed to the general funds of the City and the County in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All sums received shall be divided into two (2) accounts, one for the use and benefit of the City and the other for the use and benefit of the County. The account for the use and benefit of the City shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the City, and the account for the use and benefit of the County shall

be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the County. With respect to each of the years 2012 through 2022, all sums received by the Trustee pursuant to Paragraph 3 shall be disbursed to the general funds of the County for the County School System and thereafter deposited into an account for the educational use and benefit of the County schools. All disbursements to the general funds of the City and County shall be made by the Trustee subject to the requirement that all funds disbursed may be used by the City and the County only in furtherance of the public purposes of the Board, as described in Tennessee Code Annotated, § 7-53-102.

7. Contest by the Company or the Tenant. The Company and/or the Tenant shall have the right to contest the appraisal or assessment of the Real Property by the Assessor and the computation by the Trustee of the amount of the In Lieu Payment. If the Company and/or the Tenant contests any such appraisal or assessment, then they shall present evidence to the Assessor in favor of their position. If the In Lieu Payments being contested shall be or become due and payable, the Company shall make or cause to be made such payments under protest. The Company, the Tenant and the Assessor or the Trustee, as the case may be, shall negotiate in good faith for a period not to exceed sixty (60) days to resolve any disputes as to appraisal, assessment or computation of the In Lieu Payment. If the Company, the Tenant and the Assessor or the Trustee are unable to resolve a dispute, then the Company and/or the Tenant may file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement, including those covering appraisal, assessment and computation, be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

8. Lien on Real Property. Any amounts which remain payable under this Agreement shall become a lien on the Real Property, and such lien shall be enforceable against

the Real Property in the event that any payment owing hereunder is not timely made in accordance with this Agreement.

9. Term. This Agreement shall become effective on the date that the Board leases the Real Property to the Company and shall continue for so long as the Board holds title to any of the Real Property and leases such property to the Company or the Company has made all payments required hereunder, whichever shall later occur.

10. Leasehold Taxation. The Board, the City, the County, the Trustee and the Assessor covenant and agree that the Company's real property leasehold interest in the Real Property shall have no assessed value for property tax purposes, as all amounts paid by or on behalf of the Company, by or on behalf of the Tenant and by or on behalf of the State or any political subdivision of the State, including without limitation, costs for maintenance, insurance, utilities, infrastructure, site preparation, acquisition, construction, equipment and furnishing costs for or in connection with the Project shall be considered as rent payable under the Lease Agreement of even date herewith for purposes of determining the Company's leasehold interest. As a result, the actual or imputed rent for the Real Property shall equal or exceed the fair market rent for the leased premises for purposes of Tenn. Code Ann. § 67-5-605. If the leasehold interest of the Company should be subject to ad valorem taxation, then any amounts assessed as taxes thereon shall be credited against any In Lieu Payments due hereunder. The Company agrees to cooperate fully with the Assessor in supplying information for completion of leasehold taxation questionnaires with respect to the Real Property.

11. Stormwater Fees. The Company shall be responsible for all stormwater fees assessed by the City of Chattanooga against the Real Property.

12. Notices, etc. All notices and other communications provided for hereunder shall be written (including facsimile transmission and telex), and mailed or sent via facsimile transmission or delivered addressed as follows:

Board or to the City:	Michael A. McMahan City Attorney City of Chattanooga Suite 200, 100 E. 11 th Street Chattanooga, Tennessee 37402
The County:	Rheubin M. Taylor County Attorney Hamilton County Government Room 204, County Courthouse Chattanooga, Tennessee 37402
Company:	US Real Estate Limited Partnership c/o USAA Real Estate Company 9830 Colonnade Blvd., Suite 600 San Antonio, Texas 78230-2239 Attn: David J. Buck, Managing Director
With a Copy to:	US Real Estate Limited Partnership c/o USAA Real Estate Company 9830 Colonnade Blvd., Suite 600 San Antonio, Texas 78230-2239 Attn: Chief Legal Officer
With a Copy to:	Husch Blackwell LLP 2030 Hamilton Place Boulevard Suite 150, CBL Center Chattanooga, Tennessee 37421 Attention: Ralph M. Killebrew, Jr.
Tenant:	Amazon.com.dedc LLC c/o Amazon.com, Inc. 410 Terry Ave. N Seattle, WA 98109-5210 Attention: Real Estate Manager

With a Copy to: Amazon.com.dedc LLC
c/o Amazon.com, Inc.
410 Terry Ave. N
Seattle, WA 98109-5210
Attention: General Counsel

With a Copy to: Miller & Martin PLLC
832 Georgia Avenue
Suite 1000
Chattanooga, Tennessee 37402
Attn: Mark W. Smith

The Trustee: Hamilton County Trustee
Hamilton County Courthouse
Chattanooga, Tennessee 37402

The Assessor Hamilton County Assessor of Property
Hamilton County Courthouse
Chattanooga, Tennessee 37402

Any such person may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent. All such notices and communications shall, when mailed by registered and certified mail, return receipt requested, Express Mail, or facsimile, be effective when deposited in the mails or if sent upon facsimile transmission, confirmed electronically, respectively, addressed as aforesaid.

13. No Waiver; Remedies. No failure on the part of any party hereto, and no delay in exercising any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

14. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court or jurisdiction, the invalidity of any such clause or provision shall not affect any of the remaining provisions of this Agreement.

15. No Liability of Board's Officers. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any incorporator, member, director or officer, as such, of the Board, whether past, present or future, either directly or through the Board. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

16. Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the parties and signatories hereto and to their respective successors and assigns.

17. Governing Law. The Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

18. Amendments. This Agreement may be amended only in writing, signed by each of the parties hereto, except that the Trustee and the Assessor shall not be required to join in amendments unless such amendments affect their respective duties hereunder.

19. Annual Report. On or before March 1 of each year this Agreement is in effect, the Company shall provide a report to the Mayor of the City and the Mayor of the County summarizing its investment in the Real Property for purposes of analyzing the Company's and the Tenant's progress in achieving their respective portions of the Investment, Jobs and Wage Projection.

20. Limited Joinder of Tenant; Assignment of Tenant Rights. Tenant joins in this Agreement for the limited purpose of establishing the In Lieu Payments for the Real Property and establishing such rights and obligations as may expressly apply to Tenant under the

following Sections: 1, 2, 5(a), 7 and 12-19. Tenant shall only be a party to this Agreement so long as the Sublease is in full force and effect. Tenant may assign all or any portion of its rights under this Agreement and the Sublease without the prior written consent of the Board provided that the assignee shall assume the obligations of the Tenant to the extent of the interest assigned or subleased.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and date first above written.

ATTEST:

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF CHATTANOOGA**

By: _____
Secretary

By: _____
Chairman

US REAL ESTATE LIMITED PARTNERSHIP,
a Texas limited partnership

By: USAA REAL ESTATE COMPANY, a
Delaware Corporation, its General Partner

By: _____
David J. Buck
Managing Director

AMAZON.COM.DEDC LLC a Delaware limited liability company, which hereby joins in the execution of this Agreement for the limited purpose of confirming the rights and obligations of Tenant expressly conferred upon it herein

By: _____
Name: _____
Title: _____

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

WILLIAM F. HULLANDER

By: _____
Hamilton County Trustee

WILLIAM C. BENNETT

By: _____
Hamilton County Assessor of Property

EXHIBIT "A"
TO PILOT AGREEMENT FOR
COMPANY

REAL PROPERTY