

AGENDA ITEM FOR ADMINISTRATIVE MEETING () Discussion only
(X) Action

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: Enterprise Zone Agreement

<p>Background:</p> <p>Previously the City of Umatilla and the County signed an agreement regarding the distribution of payments made under a long term rural enterprise zone tax abatement agreement for two projects. An amendment to the agreement is requested to accommodate the Umatilla School District bond issuance. Under the original agreement, the developer agreed to have the property value added to the calculation for the annual bond repayments. Since the District is not a party to the original agreement, assurance is requested to have the bond repayments received by the county paid to the school district. The amendment to the City agreement, as well as a separate agreement with the School District, are before the Board for approval to accommodate the request.</p>	<p>Requested Action:</p> <p>Approve First Amendment to the LTREZ Distribution Agreement, and Agreement to Transfer and Enforce Payment, and sign documents</p>
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ATTACHMENTS: Proposed Amendments; Proposed Agreement

*****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: May 4, 2023

Action taken:

Follow-up:

FIRST AMENDMENT TO THE LTREZ DISTRIBUTION AGREEMENT

Long-Term Rural Enterprise Zone Tax Abatement
Distribution of the Additional Obligations Payment
PDX 194

This First Amendment to the LTREZ Distribution Agreement for PDX 194 (the “Amendment”) is made and entered into as of May 3, 2023 (the “Effective Date”) by and among Umatilla County, a political subdivision of the State of Oregon (the “County”) and the City of Umatilla (the “City”)

WHEREAS, Umatilla County and the City of Umatilla are parties to that certain LTREZ Distribution Agreement effective October 5, 2023 for PDX 194 which provides for the terms and conditions of distributions for payments associated with the Long-Term Rural Enterprise Zone Tax Abatement Agreement for PDX 194 effective October 18, 2022 with Amazon Data Services Inc. to the City and County (the “LTREZ Agreement”).

WHEREAS, The parties wish to amend the LTREZ Distribution Agreement for PDX 194 to establish the terms and conditions associated with the Bond Contribution (the “BC”) made under V.B.10 of the LTREZ Agreement for PDX 194 in connection with the Umatilla School District’s general obligation bonds approved by voters at the November 8, 2022 election.

NOW, THEREFORE, in consideration of the mutual covenants of the the City and County (the “Parties”), each to the other giving, the Parties do hereby agree as follows:

1. Current Section 6 of the LTREZ Distribution Agreement for PDX 194 is renumbered as Section 7 with no other changes.
2. A new Section 6 is added as follows:

The Bond Contribution (the “BC”) made under V.B.10 of the LTREZ Agreement in connection with the Umatilla School District’s general obligation bonds approved by voters at the November 8, 2022 election will be paid to the County for distribution to the Umatilla School District in the manner stipulated for the other fees in V.B.6 of the LTREZ Agreement. The BC will be calculated by the Umatilla County Assessor as described under V.B.10.a of the LTREZ Agreement.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, hereto have executed this agreement as of the Effective Date.

UMATILLA COUNTY

CITY OF UMATILLA

Daniel N. Dorran, Chair

Dave Stockdale, City Manager

John M. Shafer, Commissioner

Attest:

Celinda A. Timmons, Commissioner

Nanci Sandoval, Umatilla City Recorder

FIRST AMENDMENT TO THE LTREZ DISTRIBUTION AGREEMENT

Long-Term Rural Enterprise Zone Tax Abatement
Distribution of the Additional Obligations Payment
PDX 260

This First Amendment to the LTREZ Distribution Agreement for PDX 260 (the “Amendment”) is made and entered into as of May 3, 2023 (the “Effective Date”) by and among Umatilla County, a political subdivision of the State of Oregon (the “County”) and the City of Umatilla (the “City”).

WHEREAS, Umatilla County and the City of Umatilla are parties to that certain LTREZ Distribution Agreement effective October 5, 2023 for PDX 260 which provides for the terms and conditions of distributions for payments associated with the Long-Term Rural Enterprise Zone Tax Abatement Agreement for PDX 260 effective October 18, 2022 with Amazon Data Services Inc. to the City and County (the “LTREZ Agreement”).

WHEREAS, The parties wish to amend the LTREZ Distribution Agreement for PDX 260 to establish the terms and conditions associated with the Bond Contribution (the “BC”) made under V.B.10 of the LTREZ Agreement for PDX 260 in connection with the Umatilla School District’s general obligation bonds approved by voters at the November 8, 2022 election.

NOW, THEREFORE, in consideration of the mutual covenants of the the City and County (the “Parties”), each to the other giving, the Parties do hereby agree as follows:

1. Current Section 6 of the LTREZ Distribution Agreement for PDX 260 is renumbered as Section 7 with no other changes.
2. A new Section 6 is added as follows:

The Bond Contribution (the “BC”) made under V.B.10 of the LTREZ Agreement in connection with the Umatilla School District’s general obligation bonds approved by voters at the November 8, 2022 election will be paid to the County for distribution to the Umatilla School District in the manner stipulated for the other fees in V.B.6 of the LTREZ Agreement. The BC will be calculated by the Umatilla County Assessor as described under V.B.10.a of the LTREZ Agreement.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, hereto have executed this agreement as of the Effective Date.

UMATILLA COUNTY

CITY OF UMATILLA

Daniel N. Dorran, Chair

Dave Stockdale, City Manager

John M. Shafer, Commissioner

Attest:

Celinda A. Timmons, Commissioner

Nanci Sandoval, Umatilla City Recorder

AGREEMENT TO TRANSFER AND ENFORCE PAYMENT

This Agreement to Transfer and Enforce Payment (the “Payment Agreement”) is entered into as of May 3, 2023 between Umatilla County, Oregon (the “County”) and the Umatilla School District No. 6R, Umatilla County, Oregon (the “District”).

RECITALS

The County and the City of Umatilla, Oregon (the “City”) entered into two agreements with Amazon Data Services, Inc. (the “Company”), both entitled Agreement for Long-Term Rural Enterprise Zone Tax Abatement and dated October 5, 2022 (the “Tax Abatement Agreements”) regarding the abatement of certain ad valorem property taxes on a Facility, as defined in the applicable Tax Abatement Agreements, located within the Greater Umatilla Enterprise Zone and within the boundaries of the District. Capitalized terms used in this Payment Agreement and not defined herein shall have the meanings as provided in the Tax Abatement Agreements.

In consideration of the abatement of certain ad valorem property taxes, the Company has agreed to make certain payments for the benefit of the District, including the Bond Contributions for Qualifying Bonds pursuant to Section V.B.10. of the Tax Abatement Agreements and Student Success Fee (“SSF”) pursuant to Section V.B.4. of the Tax Abatement Agreements. Such payments are to be made directly to the County on behalf of the District pursuant to the Tax Abatement Agreements and two LTREZ Distribution Agreements between the County and the City effective October 5, 2023, as amended by the First Amendment to the LTREZ Distribution Agreement effective as of May 3, 2023, and as may be amended in the future (collectively, the “LTREZ Distribution Agreements”).

On November 8, 2022, the County certified that the issuance of District general obligation bonds in the principal amount not to exceed \$42,500,000 was approved by a majority of the qualified voters of the District voting at that election (the “District GO Bonds”). The District GO Bonds are Qualifying Bonds under the Tax Abatement Agreements.

Because the District is not a party to the Tax Abatement Agreements, (a) the District may not have the right to directly enforce the Company’s payments of the Bond Contributions and SSF and may therefore be required to rely on the County’s willingness and ability to enforce such payments, and (b) the County has no direct, contractual obligation to transfer such payments to the District under the Tax Abatement Agreements.

NOW, THEREFOR, in recognition of the foregoing recitals, the District and the County agree as follows:

AGREEMENT

- I. **Transfer of Payments.** The County hereby agrees that upon receipt of the Bond Contributions and SSF payments by the Company pursuant to the Tax Abatement Agreements and the LTREZ Distribution Agreements, the County shall transfer such payments to the District in accordance with, and as a part of, its allocation of property taxes to the District under Oregon law.

II. Enforcement of Payments. In addition to, and concurrently with, pursuing its foreclosure process for failure to pay ad valorem property taxes under Oregon law, the County hereby agrees that if the Company fails to pay Bond Contributions related to the District GO Bonds or the SSF under either of the Tax Abatement Agreements, the County will expeditiously exercise any remedy available at law or in equity against the Company. The County will consult with the District prior to pursuing any such remedies.

III. Notification Prior to Amendment or Termination. At least 90 days prior to amending either of the Tax Abatement Agreements or exercising its right to terminate either of the Tax Abatement Agreements, the County hereby agrees to notify the District of such amendment or termination.

IV. Counterparts and Governing Law. This Payment Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute one and the same agreement. This Payment Agreement will be governed by the laws of the State of Oregon.

IN WITNESS WHEREOF, the County and the District, by their respective duly authorized representatives, have executed this Agreement to Transfer and Enforce Payment on the date shown below.

Dated this 3rd day of May, 2023.

UMATILLA COUNTY

UMATILLA SCHOOL DISTRICT NO. 6R

Daniel N. Dorran, Chair

John M. Shafer, Commissioner

Celinda A. Timmons, Commissioner