
**ARLINGTON COUNTY
ECONOMIC DEVELOPMENT INCENTIVE
GRANT AGREEMENT
(BALLSTON INVESTOR GROUP I, LLC)**

This **ARLINGTON COUNTY ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT** (“**Agreement**”) is entered into as of this **13th** day of September, 2018, by and among the **COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body corporate and politic of the Commonwealth of Virginia (the “**County Board**”); the **INDUSTRIAL DEVELOPMENT AUTHORITY OF ARLINGTON COUNTY**, a political subdivision of the Commonwealth of Virginia (the “**IDA**”); and **BALLSTON INVESTOR GROUP I, LLC**, a Virginia limited liability company having its principal place of business at c/o Carr Properties, 1615 L Street, NW, Suite 650, Washington, DC 20036 (“**Property Owner**”), individually a “**Party**” and collectively the “**Parties**”.

RECITALS

WHEREAS, Property Owner is the owner of that certain real property in Arlington, Virginia at 875 North Randolph Street – Real Property Code Number 14-044-260 – (the “**ONR Property**”), as more particularly described in **Exhibit A**; and

WHEREAS, Property Owner has executed a lease for 313,595 square feet with the Government Services Administration (“**GSA**”) to retain federal government operations at the ONR Property through at least August 31, 2027; and

WHEREAS, in order to incentivize and induce Property Owner to lease 313,595 square feet of space at the ONR Property to GSA through at least August 31, 2027, subject to the terms and conditions of this Agreement, the County Board has agreed, subject to appropriation and pursuant to the Industrial Development and Revenue Bond Act of the Code of Virginia of 1950, as amended, to allocate and provide up to Seven Million Eight Hundred Thirty-Nine Thousand Eight Hundred Eighty and 00/100 Dollars (\$7,839,880.00) in economic development incentive general funds (“**EDI Grant**”), in annual installments, to the IDA for the benefit of Property Owner; and

WHEREAS, Property Owner has agreed to accept the EDI Grant from the IDA, in annual installments, as an incentive to lease 313,595 square feet at the ONR Property to GSA through at least August 31, 2027, subject to the terms and conditions of this Agreement; and

WHEREAS, the County Board, the IDA and Property Owner desire to set forth their understanding and agreement as to the conditions and payout of the EDI Grant proceeds and the obligations of each of the Parties.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements of the Parties, as are hereinafter set forth, and for other good and valuable

considerations, mutual benefits, promises and undertakings of the Parties to this Agreement, the receipt and adequacy of which are hereby acknowledged by each Party, the Parties covenant and agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are an integral part of this Agreement and set forth the intentions of the Parties and the premises on which the Parties have entered into this Agreement. Accordingly, the recitals are fully incorporated into this Agreement by this reference as if fully set forth herein.

2. **Definitions.** In addition to any other capitalized term for which a meaning is expressly defined in this Agreement, each of the following terms shall have the meaning assigned to it, such definitions to be applicable equally to the singular and the plural forms of such terms and to all genders:

(a) **“EDI Grant Confirmation Deadline”** means each September 15, 2018, September 15, 2019, September 15, 2020, September 15, 2021, September 15, 2022, September 15, 2023, September 15, 2024, September 15, 2025, September 15, 2026, and September 15, 2027 – the dates by which the Property Owner must provide to the County Manager or his designee a notarized affidavit, a *sample* of which is attached hereto as **Exhibit B**, declaring the amount of square footage leased to and occupied by GSA at the ONR Property and the shell rental rate as of the preceding EDI Grant Year End Performance Date.

(b) **“EDI Grant Distribution Date”** means each October 15, 2018, October 15, 2019, October 15, 2020, October 15, 2021, October 15, 2022, October 15, 2023, October 15, 2024, October 15, 2025, October 15, 2026, and October 15, 2027 – the dates on which the IDA shall disburse to the Property Owner all or the earned portion of the EDI Grant, in accordance with the terms of this Agreement.

(c) **“EDI Grant Year End Performance Date”** means each August 31, 2018, August 31, 2019, August 31, 2020, August 31, 2021, August 31, 2022, August 31, 2023, August 31, 2024, August 31, 2025, August 31, 2026, and August 31, 2027.

3. **Covenants and Obligations.**

(a) Property Owner covenants and agrees to lease 313,595 square feet of office space at the ONR Property to GSA until at least August 31, 2027 (“**Facility Lease Target**”).

(b) Property Owner covenants and agrees to use its reasonable efforts to assist the Arlington County staff and the IDA from time-to-time in promoting Arlington County’s attributes as a place to do business (e.g. testimonials, quotes, meeting locally with prospects looking at Arlington, participate locally on panels highlighting Arlington).

4. **IDA Covenants and Obligations.** Upon receipt of the requisite moneys from the County Board to fund the EDI Grant payments to Property Owner, the IDA shall, subject to the

Disbursement Prerequisites in Section 5 and the EDI Grant calculations in Section 6, disburse the EDI Grant payments to Property Owner pursuant to Section 7.

5. **Disbursement Prerequisites.** The obligation of the IDA to disburse an EDI Grant payment to Property Owner on the applicable EDI Grant Distribution Date, as set forth in Section 7(a), is subject to and conditioned on the fulfillment of the following preconditions (“**Disbursement Prerequisites**”):

(a) **Receipt of Notarized Affidavit.** On or before each EDI Grant Confirmation Deadline, Property Owner must have provided the County Manager or his designee with a notarized affidavit, substantially in the form attached as **Exhibit B**, declaring the amount of square footage leased to and occupied by GSA at the ONR Property and the shell rental rate as of the preceding EDI Grant Year End Performance Date.

(b) **Release of Tax Information.** Property Owner must sign the Authorization to Release Confidential Tax Information (attached as **Exhibit C**) to authorize the Arlington County Office of Commissioner of Revenue to release Property Owner’s business license tax (BPOL) and business tangible personal property tax information to Arlington County Economic Development and the Arlington County Department of Management and Finance beginning with tax year 2018 and continuing for ten years or the length of GSA’s lease at the ONR Property, whichever is greater. The County will treat the tax information as confidential and will not release it to the public, except as part of composite real estate and/or employee-related revenue data.

(c) **Payment of Taxes.** Subject to the Property Owner’s right to contest its property, business, professional and occupational license taxes, on or before each EDI Grant Year End Performance Date, Property Owner must be current on all applicable property, business, professional and occupational license taxes assessed to Property Owner by Arlington County.

6. **Calculation of EDI Grants.**

(a) Each annual EDI Grant payment will be calculated as of the corresponding EDI Grant Reporting Deadline according to the following formula, based on the “**Per Square Foot Grant Rate**” of \$2.50.

Per Square Foot Grant Rate x total rentable square feet leased to GSA.

(b) No annual EDI Grant payment may exceed \$783,988.00, the Per Square Foot Grant Rate x the Facility Lease Target (“**Maximum Annual EDI Grant**”).

(c) These calculations depend on a shell rental rate of no more than \$27.18 per rentable square foot (“**Shell Rental Rate Target**”). Any increase in the shell rental rate above the Shell Rental Rate Target will result in a proportional decrease in the Per Square Foot Grant Rate; and the annual EDI Grant amount for that year will be calculated according to the following formula:

Per Square Foot Grant Rate – (actual shell rental rate¹ – Shell Rental Rate Target) x total rentable square feet leased to GSA.

7. Disbursement of EDI Grants.

(a) Upon Property Owner's satisfaction of the Disbursement Prerequisites in Section 5, on each EDI Grant Distribution Date, the IDA will disburse to Property Owner an EDI Grant payment as calculated pursuant to Section 6 and subject to the Grant Distribution Conditions set forth in Section 7(b).

(b) Grant Distribution Conditions.

(i) If, as of the applicable EDI Grant Year End Performance Date, GSA is leasing at the ONR Property at least fifty percent (50%) of the Facility Lease Target, then, on the corresponding EDI Grant Distribution Date, the IDA shall disburse to Property Owner the calculated annual EDI Grant amount.

(ii) If, as of the applicable EDI Grant Year End Performance Date, GSA is not leasing at the ONR Property at least fifty percent (50%) of the Facility Lease Target, then on the corresponding EDI Grant Distribution Date, the IDA shall not disburse any amount to Property Owner, and this Agreement will terminate.

8. Miscellaneous Provisions.

(a) Notices, Demands, and Communications between the Parties. Formal notices, demands and communications among the Parties shall be given by (i) personal service; (ii) reputable document delivery service, such as Federal Express, with a receipt showing date and time of delivery; or (iii) certified or first-class United States mail, postage prepaid, with a receipt showing date and time of delivery:

To the County: Arlington County
Office of the County Manager
2100 Clarendon Boulevard, Suite 302
Arlington, Virginia 22201
Attn: Mark Schwartz, County Manager
Fax: (703) 228-3218
Email: MSchwartz@ArlingtonVA.US

With Copies to: Arlington County
Office of the County Attorney
2100 Clarendon Blvd, Suite 403
Arlington, Virginia 22201
Attn: Robert E. Dawson, Assistant County Attorney

¹ For purposes of clarification, increases in operating costs shall not be included in the shell rental rate and shall not affect the calculation of the EDI Grants in any way.

Fax: (703) 228-7106
Email: RDawson@ArlingtonVA.US

Arlington County
Arlington Economic Development
1100 North Glebe Road, Suite 1500
Arlington, Virginia 22201
Attn: Victor L. Hoskins, Director
Fax: (703) 228-0805
Email: VHoskins@ArlingtonVA.US

To Property Owner: Ballston Investor Group I, LLC
c/o Carr Properties
1615 L Street, NW, Suite 650
Washington, DC 20036
Attn: Glen Holsinger, Senior Director, Asset Management
Email: gholsinger@carrprop.com

With a Copy to: Stroock
1875 K Street, NW, Suite 800
Washington, DC 20006
Attn: Jeff Keitelman, Esq.
Email: jkeitelman@stroock.com

To the IDA: Industrial Development Authority of Arlington County
2100 Clarendon Blvd, Suite 501
Arlington, Virginia 22201
Attn: Jason Friess, Secretary/Treasurer
Fax: (703) 224-3401
Email: JFriess@arlingtonva.us

Written notices, demands and communications shall be sent in the same manner to other addresses that any Party designates in writing.

(b) Entire Agreement: Amendments. This Agreement constitutes the entire agreement among the Parties as to the EDI Grant and may not be amended or modified, except in writing signed by each of the Parties.

(c) Transfer of Ownership. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Property Owner must notify the County Manager or his designee promptly upon any changes to the fee ownership of the ONR Property. All rights and obligations under this Agreement transfer to the new owner, except that any transfer of ownership to the federal government or to any entity that is wholly or partially exempt from paying property taxes in Arlington County will terminate this Agreement.

(d) Governing Law; Venue. This Agreement is made and is intended to be performed in Arlington County, Virginia, and shall be construed and enforced by the laws of the Commonwealth of Virginia. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the County of Arlington or in the United States District Court for the Eastern District of Virginia, and such litigation shall not be brought in any other court.

(e) No Third-Party Beneficiaries. No provision of this Agreement shall be construed to confer any rights upon any person or entity who is not a Party, whether as a third-party beneficiary or otherwise.

(f) Relationship of Parties. The provisions of this Agreement are intended solely for the purpose of defining the relative rights of the Parties and do not create any partnership, joint venture or other joint enterprise among the Parties.

(g) Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the other provisions will remain in force, to the extent that they are not rendered impractical to perform, taking into consideration the purposes of this Agreement.

(h) Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and not for or against any Party by reason of the authorship or any other rule of construction that might otherwise apply. The Section headings are for purposes of convenience only and shall not be construed to limit or extend the meaning of this Agreement.

(i) Determinations: Disbursements.

(i) Any determination by the County Manager of fulfillment or non-fulfillment of the terms of this Agreement by AIR shall be binding on the IDA. The IDA may request such determinations by the County Manager as necessary.

(ii) The IDA shall have no responsibility to disburse any funds to Property Owner beyond the amount that the IDA has received from or on behalf of the County Board for the purpose.

(j) Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of the County Board or of the IDA will be personally liable to Property Owner in the event of any default or breach by the County Board or by the IDA or for any amount that may become due to Property Owner or its successors or assigns under the terms of this Agreement.

(k) Business Day Convention. If the date of any required action falls upon a weekend day or a holiday when the New York Stock Exchange is not open for business, the required action may be deferred to the next business day.

(l) Force Majeure. No Party will be held responsible for failing to fulfill an obligation under this Agreement if such failure is a result of a fire, riot, rebellion, natural disaster, war, act of terrorism, act of God or other cause that is beyond the control of the Party and that makes performance impossible or illegal.


(m) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall be one and the same instrument. A facsimile, .pdf copy or other electronic signature (e.g., docuSign) of this Agreement, when signed in compliance with this Section, is an enforceable, original agreement for all purposes.

(n) Dispute Resolution. In the event of any dispute, controversy or claim of any kind arising under this Agreement, upon the written request of either Party, each of the Parties will designate a senior executive to meet with the other Party's designee in good faith and as necessary to attempt to resolve the dispute without formal proceedings. No Party may initiate formal proceedings for the resolution of a dispute until the earlier of (a) a good faith mutual conclusion by the executives that amicable resolution through continued negotiation of the matter does not appear likely or (b) the 90th day after the initial request to negotiate the dispute. After either condition has occurred, a Party may file an action in the jurisdiction and venue stipulated in Section 8(d) of this Agreement and may pursue any other remedy available at law or in equity. Nothing in this Section 8(n) will, however, prevent or delay a Party from instituting formal proceedings to (i) avoid the expiration of any applicable limitations period or (ii) seek injunctive relief.

[Signatures and acknowledgments appear on the following pages]

IN WITNESS WHEREOF, the County Board, the IDA and Property Owner have each executed or caused to be executed, in duplicate, this Economic Development Incentive Grant Agreement, as of the day and year first written above.

Approved as to form:



Stephen A. Maclsaac, County Attorney

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body corporate and politic of the Commonwealth of Virginia

By: 

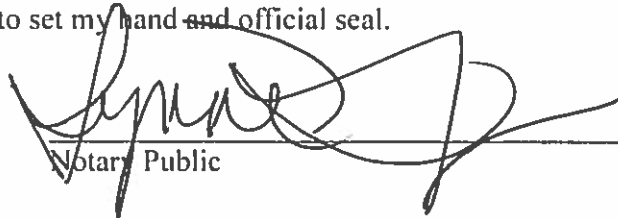
Mark Schwartz, County Manager

ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA
COUNTY OF ARLINGTON

On this the 13 day of Sept, 2018 before me personally appeared Mark Schwartz, who acknowledged himself to be the County Manager of Arlington County, Virginia, and, being authorized so to do, executed the foregoing instrument by signing the name of the County Board of Arlington County, Virginia, a body corporate and politic of the Commonwealth of Virginia, by himself as County Manager of Arlington County, Virginia.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My Commission Expires: 1/13/19



**INDUSTRIAL DEVELOPMENT AUTHORITY OF
ARLINGTON COUNTY, VIRGINIA**, a political
subdivision of the Commonwealth of Virginia

By: *E. Wildhack*
Elizabeth Wildhack, Chair

ACKNOWLEDGMENT

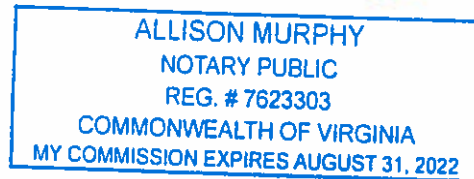
COMMONWEALTH OF VIRGINIA
COUNTY OF ARLINGTON

On this the 31st day of August, 2018 before me personally appeared Elizabeth Wildhack, who acknowledged herself to be the Chair of the Industrial Development Authority of Arlington County, Virginia, and, being authorized so to do, executed the foregoing instrument by signing the name of the Industrial Development Authority of Arlington County, Virginia, a political subdivision of the Commonwealth of Virginia, by herself as Chair of the Industrial Development Authority of Arlington County, Virginia.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Allison Murphy
Notary Public

My Commission Expires: 8/31/22



BALLSTON INVESTOR GROUP I, LLC, a Virginia limited liability company

By: **BIG I Managing Member LLC**, a Delaware limited liability company, its managing member

By: **Carr Properties OC LLC**, a Delaware limited liability company, its sole managing member

By: *Daniel P. Dooley*
Daniel P. Dooley, Chief Operating Officer

ACKNOWLEDGMENT

STATE OF VA
COUNTY OF Arlington

On this the 31 day of August, 2018, before me personally appeared Daniel P. Dooley, who acknowledged himself to be the Chief Operating Officer of Carr Properties OC LLC, a Delaware limited liability company and sole managing member of BIG I Managing Member LLC, a Delaware limited liability company and managing member of Ballston Investor Group I, LLC and, being authorized so to do, executed the foregoing instrument by signing the name of Ballston Investor Group I, LLC a Virginia limited liability company by himself as Chief Operating Officer of Carr Properties OC LLC, a Delaware limited liability company and sole managing member of BIG I Managing Member LLC, a Delaware limited liability company and managing member of Ballston Investor Group I, LLC.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Vanessa G. Schwartz
Notary Public

VANESSA GABRIELLE SCHWARTZ
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 14, 2023

My Commission Expires: 2-14-2023

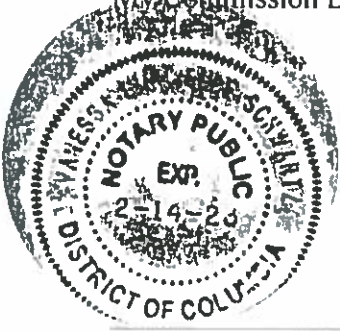


Exhibit A
Legal Description of ONR Property

Legal Description

All that certain piece or parcel of land, together with the improvements thereon and appurtenances thereunto belonging, lying, situate and being in the County of Arlington, Commonwealth of Virginia, and being more particularly described as follows:

Parcel "1", Liberty Center, as duly dedicated and platted by Deed of Resubdivision and Easements dated November 20, 2002, recorded in Deed Book 3410 at Page 2140, among the Land Records of Arlington County, Virginia; AS CORRECTED BY Deed of Correction dated March 6, 2006, recorded in Deed Book 3958 at page 1145, and the Plat of Correction recorded therewith.

LESS AND EXCEPT that portion of the property containing 4,427 square feet of land dedicated for public street and utilities purposes and conveyed to the County Board of Arlington County, Virginia, by Deed of Dedication and Easement recorded in Deed Book 4525 at page 1150, among the aforesaid land records.

Arlington County RPC Number: 14-044-018

Property Address: 875 N. Randolph Street, Arlington, VA 22203-1927

(End of Exhibit "A")

Exhibit B
Sample of the Required Affidavit

AFFIDAVIT OF BALLSTON INVESTOR GROUP I, LLC

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

Subscribed and sworn before me this ____ day of _____, 20__

[Full Name], [Title] of BALLSTON INVESTOR GROUP I, LLC, a Virginia limited liability company authorized to transact business in the Commonwealth of Virginia ("Property Owner"), after first being duly sworn, appeared before the undersigned authority and affirmed the following facts under oath:

[Full Name] is [a/an/the] [Title] of Property Owner and as [Title] has been duly authorized to execute and deliver this Affidavit for an on behalf of Property Owner. All terms in this Affidavit are defined in the Grant Agreement.

PROJECT SUMMARY:

Project	Ballston Investor Group I, LLC
Maximum Total EDI Grant	\$7,838,880.00
Facility Lease Target	313,595 rentable square feet of office space
Shell Rentable Rate Target	\$27.18 per rentable square foot
Per Square Foot Grant Rate	\$2.50
Maximum Annual EDI Grant	\$783,998.00

PROJECT PERFORMANCE:

As of August 31, 20__, Property Owner [has/has not] fulfilled the criteria set forth in Section 5 of the Grant Agreement and is currently leasing _____ square feet to GSA at a shell rental rate of \$_____.

BALLSTON INVESTOR GROUP I, LLC:

By: **BIG I Managing Member LLC**, a Delaware limited liability company, its managing member

By: **Carr Properties OC LLC**, a Delaware limited liability company, its sole managing member

By: _____
[Full Name], [Title]

I, _____, a notary public, do hereby certify that _____, the affiant whose name is subscribed to the foregoing affidavit duly swore and made oath that the facts contained therein are true and correct to the best of his/her information, knowledge and belief, before me in the said City/County of _____, Commonwealth of Virginia, this _____ day of _____, 20__.

My commission expires:

Notary Public
Notary Registration No. _____

[Reproducible Notarial Seal]

(End of Exhibit "B")

Exhibit C
Sample of the Required
AUTHORIZATION TO RELEASE CONFIDENTIAL TAX INFORMATION



INGRID H. MORROY
COMMISSIONER

ARLINGTON COUNTY, VIRGINIA
OFFICE OF COMMISSIONER OF REVENUE
BUSINESS TAX DIVISION
2100 CLARENDON BOULEVARD, SUITE 208
ARLINGTON, VA 22201



OTILIO SABILLÓN
DEPUTY COMMISSIONER

AUTHORIZATION TO RELEASE CONFIDENTIAL TAX INFORMATION

Name of taxpayer entity (please give the corporate or personal name which is used for the tax accounts): _____ Trade name (if any) _____

Last four digits of taxpayer ID number (TIN, EIN or SS # to help locate the records) _____

The above named taxpayer gives the office of the Arlington County Commissioner of Revenue permission to share the following confidential tax information with:

[Enter the names of persons or entities allowed to receive the information]

This permission is effective for the following types of taxes:

All information about taxes assessed by the Arlington County Commissioner of Revenue,

OR

Only the following specific tax information (initial each that apply):

BPOL Tax information, including gross receipts and BPOL taxes assessed

Meals Taxes collected and remitted

Transient Occupancy Taxes collected and remitted

Information about personal property tax assessed. (Note, the total amount of personal property tax assessed to any taxpayer is already public information.)

This permission is for tax years:

All tax years OR

The following specific tax years: _____

This permission:

Includes future tax years until revoked, or

Does not include future tax years.

Read before signing. The person signing this form affirms that she/he is authorized to waive tax confidentiality for the named taxpayer and is acting with the explicit authorization of the taxpayer. Fraudulent use of this form could subject the signer to civil and criminal liability.

[Please attach a page of company letterhead or a business card to this form.]

Signature of authorized representative

Print Name of Authorized Representative

Title (i.e. "CFO", "President", "Owner", etc.)

Date:

Telephone: _____ Email: _____

e-mail: business@arlingtonva.us phone: 703-228-3060 fax: 703-228-7048
Visit us on the Web at www.arlingtonva.us/cor

(End of Exhibit "C")