

GS Draft 5/2/23

Location # _____
Escondido, California

GROUND LEASE

by and between

CITY OF ESCONDIDO,

Lessor,

and

COSTCO WHOLESALE CORPORATION,

Lessee

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EXHIBITS

- Exhibit A - Demised Premises Legal Description
- Exhibit B - Plot Plan of Shopping Center
- Exhibit C - Permitted Title Exceptions
- Exhibit D - Form of Lessee’s Estoppel Certificate
- Exhibit E – Form of Short Form Lease

GROUND LEASE

THIS GROUND LEASE ("Lease"), made and entered into as of this ____ day of _____, _____, by and between the CITY OF ESCONDIDO, (hereinafter called "Lessor"), and COSTCO WHOLESALE CORPORATION, a Washington corporation (hereinafter called "Lessee") (collectively, referred to herein as the "parties").

RECITALS:

A. Lessor is the owner of certain real property ("City Parcel") consisting of approximately 75 acres located in the County of San Diego, State of California. Lessor has heretofore entered into a Ground Lease of the City Parcel dated February 2, 1981 with EWH 1979 Development Company, L.P., a limited partnership, predecessor in interest to EWH Escondido Associates, L.P., a Delaware limited partnership ("EWH"), as amended by Amendment No. 1 to Ground Lease dated August 24, 1982. Prior to the execution of this Lease, Lessor will enter into a Termination Agreement with Transform Operating Stores LLC, current tenant of a portion of the City Parcel hereinafter identified as the "Costco Parcel."

B. Macy's Retail Holdings, LLC ("Macy's") is the owner of certain real property located adjacent to the City Parcel, as shown on Exhibit B.

C. EWH, Carter Hawley Hale Stores, Inc., Sears Roebuck and Co. ("Sears"), J.C. Penney Properties, Inc. ("Penney"), The May Department Stores Company ("May"), Nordstrom, Inc., and Adcor Realty Corporation entered into that certain Construction, Operation and Reciprocal Easement Agreement dated November 26, 1986, recorded on November 26, 1986, as Document No. 86-549267, in the Official Records of San Diego County, California (the "Official Records") (the "Original REA"), as amended by that certain First Amendment to Construction, Operation and Reciprocal Easement Agreement dated March 12, 2013, recorded on March 14, 2014, as Document No. 2014-0100990, in the Official Records, by and between EWH and North County Fair LP (collectively, "Developer"), Macy's (as successor-in-interest to May), Sears, Penney, Nordstrom and Target Corporation ("Target") (the "First Amendment to REA", and together with the Original REA, collectively, the "REA"). Developer, Macy's, Penney, Target, Lessor and Lessee intend to enter into a Second Amendment to Construction, Operation and Reciprocal Easement Agreement ("Second Amendment to REA"). The REA establishes certain reciprocal easements, covenants and conditions with respect to the construction, maintenance and operation of the Shopping Center, including, without limitation, the Tracts (as defined in the REA) and the Common Area (as defined in the REA). Once the Second Amendment to REA is fully executed and effective, the references herein to the REA shall include the Second Amendment to REA.

D. On the terms and conditions hereinafter set forth, Lessee desires to lease from Lessor a portion of the Shopping Center Site, which portion is legally described on Exhibit A attached hereto and designated as "Costco Parcel" on the Plot Plan attached hereto as Exhibit B, said Exhibits being incorporated herein by this reference and made a part hereof.

IT IS MUTUALLY COVENANTED AND AGREED BY AND BETWEEN LESSOR AND LESSEE AS FOLLOWS:

DEFINITIONS:

For purposes of this Lease, the following terms, as used in the singular or the plural, shall have the following meanings:

A. Unless otherwise specifically defined in this Lease, capitalized terms used in this Lease shall have the same meanings as given to said terms in the REA.

B. "Improvements" shall mean all buildings, structures and improvements constructed by Lessee and/or owned by Lessee upon the Demised Premises during the term of this Lease, and any restoration, addition or replacement thereof.

C. "Major Department Store" shall mean Lessee, Macy's, Penney and Target.

D. "Opening Date" shall mean with reference to Lessee, the date on which the Costco Store shall initially open for business to the public.

E. "Shopping Center" shall mean the Improvements constructed on the Demised Premises as well as the improvements constructed on the remainder of the Shopping Center Site, including but not limited to Developer Mall Stores, Developer Non-Mall Stores, the Enclosed Mall, the Major Department Store buildings, Automobile Parking Area, landscaped areas, and other improvements of a type customarily found in a first class enclosed-mall regional shopping center in Southern California and all of the land within the Shopping Center Site.

ARTICLE I

PREMISES

Lessor hereby demises and leases unto Lessee, and Lessee hereby leases from Lessor, for the consideration and upon and subject to the terms and conditions herein set forth, the real property legally described on Exhibit A and designated as "Costco Parcel" on Exhibit B together with all and singular the Improvements, appurtenances, rights, licenses, privileges and easements thereunto belonging or in anywise appertaining ("Demised Premises")

ARTICLE II

TERM

2.1 Term. The term of this Lease (hereinafter sometimes referred to as the "Lease Term" or the "Term of this Lease"), shall commence and be fully effective as of the date of this Lease and shall expire at midnight on the twentieth (20th) anniversary of the Effective Date or the date, if any, to which the Lease Term has been extended pursuant to Section 2.2 hereof, unless sooner terminated, as hereinafter provided. As used herein, the term "Lease Term" or "Term of this Lease" shall include any option periods, if exercised.

2.2 Options to Extend. Provided that Lessee, in the case of any particular option, has exercised all preceding options, Lessee shall have seven (7) successive options to extend the Term of this Lease, from the date upon which the Lease Term would otherwise expire, upon the same

terms and conditions as those herein specified, for seven (7) separate additional periods of five (5) years duration each; provided, that in no event shall the options to extend the term of this Lease extend beyond _____. If Lessee elects to exercise any of said options, it shall do so by giving Lessor written notice of each such election at least one hundred eighty (180) days before the beginning of each additional period for which the term hereof is to be extended by the exercise of each such option. If Lessee exercises its option by giving appropriate notice, the Term of this Lease shall be automatically extended for the additional period of years covered by the option so exercised without execution of an extension or renewal Lease or any other document. If requested by Lessee, Lessor shall execute such documents as Lessee shall from time to time reasonably request to evidence the dates of the extended term.

ARTICLE III

RENT

3.1 Fixed Rent. Lessee agrees to pay to Lessor as net minimum rent ("Fixed Rent"), the sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) throughout the Lease Term, including during any option periods, if exercised. Lessee's payment of Fixed Rent shall commence on the earlier to occur of the following (the "Rent Commencement Date"): (i) the Opening Date of the Costco Building (as hereinafter defined) and (ii) the Opening Covenant Date (as hereinafter defined). It is acknowledged that Lessee may open the Fuel Facility (as hereinafter defined) on the Demised Premises prior to opening the Costco Building for business, and that such opening of the Fuel Facility shall not trigger the Rent Commencement Date unless Lessee has also opened the Costco Building for business. Lessor and Lessee shall confirm the Rent Commencement Date in writing once such date has occurred.

3.2 Fixed Rent; Manner of Payment. The Fixed Rent shall be payable to Lessor in lawful money of the United States, at the following address: The City of Escondido, 201 N. Broadway, Escondido, California 92025, in twelve (12) equal monthly installments, in advance, on the first (1st) day of each calendar month, without setoff or deduction except as may be permitted by law and without any prior notice. Should the obligation to pay Fixed Rent commence on a day of the month other than the first day of such month, then the Fixed Rent for the first fractional month shall be prorated on a daily basis for the period from such date to the end of such calendar month at the rate of one-three hundred sixty-fifth (1/365) of the annual Fixed Rent for each day. Should the obligation to pay Fixed Rent expire on a day of the month other than the last day of such month, then the Fixed Rent for such fractional month shall be prorated on a daily basis for the period from the first day of such month until the expiration date at the rate of one-three hundred sixty-fifth (1/365) of the annual Fixed Rent for each day. Fixed Rent for the first (1st) fractional month shall be paid within ten (10) days after the Opening Date.

ARTICLE IV

USE OF DEMISED PREMISES

4.1 Use. Lessee may use the Demised Premises for any purpose not prohibited by the REA. Lessee's use of the Demised Premises shall be in accordance with all laws, statutes, codes, acts, ordinances, orders, rules and regulations of any governmental authority having jurisdiction,

applicable to the Demised Premises or Improvements located thereon; and in accordance with the terms of insurance policies covering or applicable to the Demised Premises or Improvements located thereon, or any part thereof, to the extent required to be maintained by Lessee hereunder.

4.2 Permitted Contests. Lessee, at its sole cost and expense, may contest, after prior written notice to Lessor, the amount or validity or application, in whole or in part, of any of the items enumerated in Section 4.1 hereof, provided that (a) Lessee shall first make all contested payments, under protest if it desires, unless such proceedings shall suspend the collection thereof, (b) neither the Demised Premises or Improvements located thereon would be in any danger of being sold, forfeited, lost or interfered with, and (c) Lessee shall furnish such security, if any, as may be required in any such proceedings. Lessor, at the sole expense of Lessee, will join in or lend its name to any such contest if (i) requested so to do by Lessee, and (ii) Lessor's failure to so join would bar or prevent Lessee's right to prosecute any such contest.

ARTICLE V

CONDITION OF TITLE

5.1 Covenant of Title. Lessor warrants, covenants and represents that it holds fee simple title to the Demised Premises, and that Lessor shall deliver the Demised Premises to Lessee free and clear of all recorded or unrecorded liens, encumbrances, covenants, conditions, restrictions, assessments, easements, leases, taxes and other exceptions to title, except for those items which are set forth in Exhibit C attached hereto and made a part hereof ("Permitted Exceptions"), which have been approved and accepted by the Lessee.

5.2 Mortgage Subordination. This Lease is not and shall not be subject or subordinate to any mortgage made by Lessor and that this Lease or a memorandum thereof shall be recorded ahead of any mortgage to be placed on Lessor's interest in the Demised Premises or any part thereof by Lessor.

5.3 Title Insurance. Upon execution of this Lease, Lessor shall arrange for the payment of and cause to be delivered to Lessee a leasehold title insurance policy, issued by Chicago Title Insurance Company, including all standard and general exceptions and exclusions raised in such form of leasehold title insurance policy and with all endorsements requested by Lessee, insuring Lessee in the amount of \$13,500,000.00 that the Demised Premises are free of liens, claims, charges, encumbrances, covenants, restrictions, easements, or adverse interest of any kind whatsoever, except as set forth in Exhibit C.

ARTICLE VI

IMPROVEMENTS

6.1 Lessor's Non-Responsibility for Improvements. Lessor shall not under any circumstances whatsoever be required to build any improvements on the Demised Premises, or to maintain or make any repairs, replacements, alterations or renewals of any nature or description to the Improvements; provided, however, that nothing contained in this Section 6.1 is intended to or shall (i) impose upon Lessor any obligations with respect to the construction or maintenance of

the Improvements not expressly set forth in this Lease, or (ii) prevent Lessee from enforcing any rights or pursuing any remedies it may have at law, in equity or under this Lease arising from the negligence or willful misconduct of Lessor with respect to the construction or maintenance of the Improvements.

6.2 Construction by Lessee.

(a) Lessee shall have the right to construct, or arrange for the construction of, the improvements upon the Demised Premises in accordance with the standards set forth in the REA ("Improvements"). Without limiting the foregoing, Lessee intends to develop construct and operate on the Demised Premises, in accordance with Lessee's requirements and the REA, Improvements consisting of a wholesale and retail general merchandise building (the "Costco Building"), which may also include, without limitation, a pharmacy, tire sales and installation center, liquor sales, photo processing, butcher, deli and bakery services, optometry services, and related office space; a vehicle fueling facility (the "Fuel Facility"); a car wash; and related parking, and other improvements (collectively, the "Project"). Lessee shall have no obligation to demolish the existing, or construct any new, improvements on the Demised Premises or to commence operations of or continuously operate a business on the Demised Premises. Notwithstanding the foregoing, in the event that Lessee does not construct the Costco Building and open for one (1) day (the "Opening Covenant") on or before the third (3rd) anniversary after the date of the Project Approvals Notice (subject to force majeure, as set forth in Section 28.4) (such date, the "Opening Covenant Date"), then Lessor shall have the right to terminate this Lease, as Lessor's sole and exclusive remedy if Lessee fails to satisfy the Opening Covenant, within sixty (60) days after the Opening Covenant Date by delivering written notice to Lessee (the "Termination Notice"), *time being of the essence*. If Lessor fails to timely deliver such Termination Notice, then Lessor waives the right to terminate. If Lessor delivers to Lessee the Termination Notice, then this Lease shall terminate on the date that is sixty (60) days following the date of the Termination Notice, Lessee shall have the right (but not obligation) to raze any or all improvements that Lessee may have constructed failing which Lessor shall accept the Demised Premises in its "as-where is" condition, and upon such termination, neither party shall have any further rights or obligations under this Lease except for those which are expressly stated to survive the termination of this Lease. Lessee may override the Termination Notice if Lessee (x) delivers to Lessor notice within such sixty (60) day period that Lessee intends to construct and open the Project (the "Project Development Notice"); (y) continues construction of the Project, or, if Lessee discontinued construction, Lessee re-commences construction of the Project within one hundred eighty (180) days after delivery of the Project Development Notice (subject to force majeure, as set forth in Section 28.4); and (z) thereafter, diligently proceeds to complete the construction of the Project and open for business (subject to force majeure, as set forth in Section 28.4). Title to any and all Improvements on the Demised Premises shall remain in Lessee until termination of this Lease, whether by expiration or by earlier termination of this Lease, at which time all of the Improvements then located on the Demised Premises (if any) shall be surrendered to Lessor with the Demised Premises.

(b) Nothing herein contained shall be construed to require that there be a certain type of Improvement or any Improvement on the Demised Premises at the expiration or earlier termination of this Lease.

(c) All construction undertaken or caused to be undertaken by Lessee pursuant to this Section 6.2 shall be in accordance with the construction requirements of the REA.

6.3 Project Approvals.

(a) Lessee shall apply for and obtain, at its sole cost and expense, all governmental, quasi-governmental, and utility provider(s) approvals, permits, licenses and the like necessary or desirable to permit Lessee to develop, construct and operate the Project on the Demised Premises. The approvals and permits shall include, without limitation, zoning approvals, site plan approvals, conditional use permits, liquor licenses, subdivision approvals, environmental approvals (including any required pursuant to any applicable environmental laws), signage approvals, utility relocation and/or connection approvals and permits, building permits and operating permits and licenses (collectively, the "Project Approvals").

(b) All work upon and improvements to the Demised Premises shall be constructed in compliance with all applicable governmental regulations, laws and restrictions. Lessee acknowledges that any government approved entitlements required under federal, state or local law made by the City of Escondido in its role as a governmental agency will be made in the public interest and according to applicable legal requirements. Nothing herein shall in any manner affect the City Planning Commission's or City Council's review and consideration of any applications for entitlements and the Planning Commission and City Council shall have sole and absolute discretion to approve, disapprove, modify or otherwise take any action regarding an application or request for entitlements. The City of Escondido makes no promise, warranty or representation as to the outcome of such review or the approval of any such application.

(c) All conditions contained in the Project Approvals and all requirements for on-site and off-site improvements or services, in-lieu fees or payments, dedication or reservation requirements, water rights acquisition costs, local improvement district costs, connection charges, assessments, mitigation fees, impact fees, permit fees and any other similar requirements, fees or charges imposed on the Project by any governmental entity or utility service provider in connection with the Project Approvals shall be subject to Lessee's approval in its sole and absolute discretion. The design, construction and implementation of the Improvements shall be the responsibility of Lessee.

(d) For purposes of this Lease, the Project Approvals shall not be deemed to have been "obtained" or "issued" until the period of time (if any) to contest or appeal any such issuance has passed without the filing of a contest or appeal or, if a contest or appeal has been filed, after the issuance of a final and non-appealable order, decision or judgment confirming the issuance of the relevant Project Approvals without modifications or conditions that are unacceptable to Lessee. Lessee shall deliver notice to Lessor (the "Project Approvals Notice") promptly after Lessee has obtained all of the Project Approvals.

(e) Lessor agrees, in its capacity as owner of the Demised Premises, to comply with all reasonable requests of Lessee with regard to the Project Approvals (including, without limitation, executing, or causing to be executed, all applications or submissions necessary to obtain the Project Approvals so long as the same are in accordance with the terms of this Lease and

required by applicable law). Nothing in this clause (e) is intended to require Lessor, in its capacity as a governmental entity, to take any action that is prohibited by applicable law.

ARTICLE VII

TAXES AND ASSESSMENTS

7.1 Payment of Taxes and Assessments By Lessee. Lessee shall pay, or cause to be paid, all real property taxes and assessments which are levied or assessed against the Demised Premises and the Improvements located thereon during the Term of this Lease. The amount of such real property taxes and assessments shall be prorated on a daily basis between Lessor and Lessee with respect to any fiscal tax year only a part of which falls within the Term of this Lease. Any real property taxes and assessments pertaining to a period of time prior to the Commencement Date and subsequent to the expiration or sooner termination of this Lease shall be the obligation of Lessor. For purposes of this Lease, "real property taxes" shall include any possessory interest or similar tax, and any taxes which are based on the receipt of rent by Lessor, and which are levied as an alternative to or as an addition to general real estate taxes and are payable because of Lessor's ownership of the Demised Premises. Lessee shall have no obligation to pay any tax upon or pertaining to the income of Lessor. Lessee shall have the right to exercise the benefit of any provisions of any statute or ordinance permitting such taxes and assessments to be paid in installments over a period of time, and Lessor agrees to execute any instruments which may be required by the taxing authority in connection with the election to take advantage of such installment payments. Lessee's obligation to pay real property taxes and assessments shall be limited to taxes and assessments uniformly imposed upon all taxable real property within the jurisdiction of the taxing authority and at rates which are uniformly applied.

Lessee shall have the right to contest any taxes or assessments or the increases in any taxes or assessments which Lessee is obligated to pay under this Lease; provided, however, Lessee shall (i) give Lessor notice of any such intention to contest, (ii) indemnify and save Lessor harmless from all liability on account of said contest, and (iii) in the event of a final determination adverse to Lessee, prior to enforcement, foreclosure or sale, and expiration of the redemption period, pay the amount involved together with all penalties, fines, interest, costs and expenses which may have accrued.

It is agreed that nothing herein contained shall be construed to require Lessee to pay any inheritance, franchise, corporation, income or excess profits taxes or surtaxes, imposed upon or against Lessor, its legal representatives, successors or assigns.

In the event Lessee shall fail to comply with its obligations as set forth in this Article VII, after thirty (30) days prior written notice from Lessor to Lessee and failure to cure by Lessee, Lessor may pay such taxes or assessments, and penalties and interest thereon, and Lessor shall be entitled to prompt reimbursement from the Lessee for the sums so expended, with interest thereon at the rate of two percent (2%) per annum, over the lending reference rate being charged from time to time by Bank of America, NT & SA, San Francisco main branch.

7.2 Non-Segregation of Demised Premises. Lessor undertakes and agrees to diligently attempt to obtain from the taxing authorities a separate tax bill for the Demised Premises or a

segregation of the real estate taxes attributable thereto and otherwise to cooperate with Lessee in the obtaining of such information from such taxing authorities as will facilitate an accurate determination of taxes attributable to the Demised Premises. Lessor further agrees not to make any application to the taxing authorities which, if granted, would change the manner in which the Demised Premises and the Improvements thereon are being or will be assessed or which would have the effect of increasing the assessed valuation of the Demised Premises and the Improvements thereon.

In the event the Demised Premises are not separately assessed but are part of a larger parcel which includes the Demised Premises for assessment purposes (hereinafter referred to as the "larger parcel"), the parties hereto shall use assessor's work sheets, if available to determine the real estate taxes applicable to the Demised Premises, if such assessor's work sheets are not available, then real estate taxes applicable to the Demised Premises shall be determined as follows:

(a) A fractional portion of the real estate taxes assessed, in any tax fiscal year during the term hereof, against the land comprising the larger parcel, the numerator of which shall be the number of square feet of land area underlying the Demised Premises and the denominator of which shall be the number of square feet of land area in the larger parcel, plus

(b) A fractional portion of the real estate taxes assessed, in any tax fiscal year during the term hereof, against all Improvements upon the larger parcel, the numerator of which shall be the Floor Area of buildings located on the Demised Premises and the denominator of which shall be the Floor Area of the building located on the larger parcel, provided that equitable adjustments shall be made for: (1) buildings which are only partially completed on the date that such real estate taxes become a lien, taking into effect cost figures and stages of construction throughout the Shopping Center; and (2) the estimated cost of the several buildings.

Notwithstanding the foregoing, in the event the Demised Premises are not separately assessed but are part of a larger parcel for such assessment purposes, and the valuation of the assessed parcel is based on the capitalization of income therefrom, the fractional portion of the impositions attributable to the Demised Premises shall not exceed an amount determined by applying the tax rate fixed by the taxing authority to a value computed by capitalizing the Fixed Rent payable by Lessee under this Lease at the capitalization rate used by the assessor in fixing the value of the larger parcel.

Lessor shall within thirty (30) days after receipt by Lessor of the assessed valuations of the land and Improvements included within such larger parcel, furnish Lessee a statement setting forth the amounts of such assessments and describing the land and Improvements with respect to which such assessments have been made. If Lessor shall fail to furnish Lessee the aforesaid statement of assessed valuations within said thirty (30) day period, the amount which Lessee shall be required to reimburse Lessor shall be limited to the amount of the taxes applicable to Demised Premises and the Improvements thereon for the preceding tax fiscal year.

Lessor will pay or cause to be paid all real estate taxes assessed with respect to such larger parcel and the Improvements thereon. Lessee shall in such case reimburse Lessor for the real estate taxes applicable to the Demised Premises prior to the date said larger parcel taxes are delinquent, but in no event sooner than thirty (30) days following Lessee's receipt of all applicable tax bills,

invoices and the statement from Lessor described below. Lessor shall deliver to Lessee semi-annually, at least forty-five (45) days prior to the date that each installment of taxes would be delinquent if not paid, a statement setting forth the amount of taxes applicable to the Demised Premises and the Improvements thereon for the tax fiscal year and showing in reasonable detail how Lessor has arrived at the amounts so set forth, a photostatic copy or copies of a receipted tax bill or bills showing payment of the real estate taxes for said tax fiscal year and Lessee shall pay to Lessor Lessee's share of the installment then due not later than the date such installment would become delinquent.

Lessee shall, upon notice to Lessor, have the right to contest on behalf of Lessor any and all such real estate taxes assessed with respect to such larger parcel and the Improvements thereon; provided, however, that Lessor and any other parties having an interest in such larger parcel may join in such contest at their own cost and expense, in which event Lessee shall cooperate with such other parties in such contest. In the event the Demised Premises are separately assessed, Lessee alone shall have the sole right to contest any increase in the assessed valuation of the Demised Premises or the Improvements thereon. If any such proceedings are undertaken solely by Lessee, such proceedings shall be at the cost and expense of Lessee and conducted by counsel selected by Lessee, and if Lessee deems it appropriate such measures shall be taken in the name of Lessee. Lessor shall lend its name to such proceedings, if requested by Lessee, without charge or cost to Lessee. If the result of any such contest shall be a reduction in the amount of the real estate taxes so contested, such refund or recovery from the taxing authorities with respect to such real estate taxes shall be divided between Lessee and Lessor, after Lessee reimburses itself from such recovery for Lessor's proportionate share of all costs and expenses incurred by Lessee in such proceedings, in such manner as will result in each of them having paid only such party's proportionate share of the contested taxes as so reduced.

If Lessor shall contest the amount of such real estate taxes without participation by Lessee in the cost and expenses of such proceedings, such refund or recovery arising therefrom shall be divided between Lessor and Lessee, after Lessor reimburses itself from such recovery for Lessee's proportionate share of all costs and expenses incurred by Lessor in such proceedings, in such manner as will result in each of them having paid only such party's proportionate share of the contested taxes as so reduced. Lessor shall give Lessee prior written notice of its intent to contest the assessment of such real estate taxes.

Lessor shall not, without the prior approval of Lessee, make, enter into, or agree to any settlement, compromise or other disposition of any contest, or discontinue or withdraw from any contest, or accept any refund, adjustment or credit with respect to any real estate taxes which Lessee shall have contested.

If a contest shall be entered into jointly between Lessor and Lessee, each party's proportionate share of the costs and expenses incurred in such proceedings shall be determined by multiplying such costs and expenses by a fraction having as its numerator such party's proportionate share of the contested taxes as reduced by reason of such proceedings and as its denominator the entire amount of such taxes as so reduced.

ARTICLE VIII

INSURANCE

8.1 Casualty Insurance. Subject to the provisions of Section 8.7, Lessee shall keep, or cause to be kept, the Improvements on the Demised Premises insured during the period Lessee is required to operate pursuant to the REA, against loss or damage by fire and such risks embraced by coverage of the type customarily included in extended coverage endorsements in the State of California. Lessee shall not be required to obtain earthquake insurance.

8.2 General Liability Insurance. During the Term of this Lease, Lessee, at its sole cost and expense, shall maintain public liability and property damage insurance of the type, coverage and amount set forth in the REA.

8.3 Policy Form. All policies of insurance provided for in this Lease shall (a) be in such forms and amounts as provided in the REA, and (b) shall be issued by insurers of recognized responsibility as provided in the REA. Upon delivery of the Demised Premises by Lessor to Lessee and thereafter not less than fifteen (15) days prior to the expiration date of each policy furnished pursuant to this Article VIII or Article XIX hereof, Lessee shall deliver to Lessor a certificate evidencing the existence of each policy of insurance required hereunder.

8.4 Notice of Cancellation. Each such policy or certificate therefor issued by the insurer shall to the extent reasonably obtainable contain an agreement by the insurer that such policy shall not be cancelled without at least thirty (30) days prior notice to Lessee, Lessor and to Lessee's Mortgagee and/or Leasehold Mortgagee, if any.

8.5 Blanket Insurance and Self-Insurance. Any insurance provided for in this Article VIII, or in Article XIX hereof, may be effected by a policy or policies of blanket or loss limit-type insurance covering other risks and liabilities of Lessee, provided, however, that the amount of the total insurance allocated to the Improvements shall be such as to furnish protection which is equivalent to the protection furnished by the separate policies in the amounts herein required, and provided further that in all other respects, any such policy or policies shall comply with the other provisions of this Lease. In any such case it shall not be necessary to deliver the original of any such blanket policy to Lessor, but Lessee shall deliver to Lessor, upon request, a certificate evidencing the existence of such insurance. Notwithstanding anything to the contrary contained in this Article VIII or in Article XIX hereof, the insurance requirements of Lessee under this Article VIII and under Article XIX may be satisfied in whole or in part under any plan of self-insurance from time to time maintained by Lessee, or its subsidiary, successor, affiliate or controlling corporation maintaining such self-insurance plan for Lessee's benefit on condition that Lessee or its subsidiary, successor, affiliate or controlling corporation has and maintains a net worth of \$200,000,000 or more and net current assets of \$100,000,000 or more, and that Lessee or its said subsidiary, successor, affiliate or controlling corporation, maintaining such self-insurance plan, shall furnish to Lessor upon request evidence of said net worth and net current assets. If Lessee, or such Person maintaining the self-insurance plan for Lessee, has a net worth and net current assets less than the foregoing amounts, it shall not be permitted to self-insure. The annual report of Lessee (or of such Person maintaining the self-insurance plan on behalf of Lessee) which is a publicly held corporation that is audited by an independent certified public accountant shall be

sufficient evidence of its net worth and its net current assets. The provisions of Sections 8.3 and 8.4 shall not apply to the extent that Lessee is self-insured in accordance with this Section 8.5.

8.6 Inability to Obtain Insurance. In the event that Lessee, after reasonable and diligent efforts, is unable to obtain any of the insurance provided for in this Lease, and if Lessee shall in such case obtain the maximum insurance reasonably obtainable and promptly give notice to Lessor of the extent of Lessee's inability to obtain any insurance required to be maintained hereunder, then the failure of Lessee to procure and maintain such insurance as is not reasonably obtainable shall not be hereunder.

8.7 Application of REA. So long as the REA is in full force stated and effect, the insurance requirements therein as to the Improvements on the Costco Parcel shall be applicable and the provisions of this Article VIII shall be of no force and effect. In the event of the termination of the REA and the election by Lessee not to terminate this Lease, then all of the provisions of the REA referred to in this Article VIII shall be incorporated herein by reference and shall continue to be performed by Lessee during the balance of the Lease Term, it being understood that all insurance proceeds Lessee shall receive pursuant to this Article VIII shall belong to Lessee.

ARTICLE IX

UTILITIES

Lessee shall pay, or cause to be paid, during the Term of this Lease, all charges for water, gas, electrical power, telephone, sewage, trash collection and all other utilities and services supplied to or for the Improvements at the instance of Lessee (hereinafter referred to as "Utilities"), and agrees to hold Lessor harmless with respect to any charges for said Utilities.

Lessee shall also procure, or cause to be procured, without cost to Lessor, any and all necessary permits, licenses or other authorizations required for the lawful and proper installation and maintenance within the Improvements of wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any Utilities to and upon the Improvements. Lessor, upon request of Lessee, will join with Lessee in any application required for obtaining or continuing any Utilities.

ARTICLE X

MECHANICS' LIENS

During the Term of this Lease, Lessee, at its sole cost and expense, shall be responsible for the discharge of, prior to foreclosure thereupon, all liens, encumbrances and charges (other than liens, encumbrances and charges created by Lessor and the liens and encumbrances which Lessee is permitted to impose upon the Demised Premises pursuant to Article XI of this Lease) upon the Demised Premises, subject to a contest of any such liens as hereinafter set forth. Lessee shall, however, have the right to contest the validity or amount of any lien or claimed lien, provided that upon final determination of the lien or claim for lien, Lessee shall immediately pay any judgment rendered with all proper costs and charges and shall have the lien released or judgment satisfied at Lessee's expense, and if Lessee shall fail to do so, Lessor may at its option, following twenty (20)

days prior written notice to Lessee, pay any such final judgment and any such amount shall become immediately due and payable to Lessor by Lessee with interest thereon at the rate of two percent (2%) per annum, over the lending reference rate from time to time being charged by Bank of America.

Lessor or its representatives shall have the right to post upon the Demised Premises notices of non-responsibility in compliance with applicable law. Lessee shall, before the commencement of any work estimated to cost in excess of One Hundred Thousand Dollars (\$100,000.00), which might result in any such lien, give to Lessor written notice of its intention to do so in sufficient time to enable the posting of such notices of non-responsibility; provided, however, the requirement of the giving of such notices of intention to perform such work shall not be required if Lessee, or the sublessee which is to perform such work or cause such work to be performed (or its guarantor), has a net worth in excess of One Hundred Million Dollars (\$100,000,000.00).

ARTICLE XI

LESSEE'S FINANCING

11.1 Fee Subordinated to Mortgage. Lessor agrees for itself and its successors and assigns to join in the execution, as trustor, in any mortgage or deed of trust which Lessee may, at any time and from time to time during the Term of this Lease, cause to be recorded against the Demised Premises and the Improvements located thereon. Such mortgage, and the mortgagee thereunder, are hereinafter referred to as "Lessee's Mortgage" and "Lessee's Mortgagee", respectively. Lessor shall subordinate its fee interest in the Demised Premises to the lien of the Lessee's Mortgage if the following conditions are satisfied:

(i) The Lessee's Mortgagee shall be an institutional lender (but the assignee/sublessor in an assignment and leaseback transaction need not be an institutional lender);

(ii) The Lessee's Mortgage shall secure a loan, the proceeds of which shall be used to pay for the cost of construction of the Improvements located on the Demised Premises and the financing thereof and Lessee's share of the cost of common improvement work for the Shopping Center Site (including, without limitation, the actual cost of all materials and labor used directly in the construction of the Improvements located on the Demised Premises, and all Improvements required or permitted to be made thereon or related thereto; architectural, engineering legal and similar fees directly related or properly allocated solely to this transaction; building permits, premiums for fire, public liability and builders risk insurance during construction; title charges; commitment fees, standby fees and other fees and expenses incurred in connection with the making of Lessee's Mortgage; interest costs; mortgage taxes, land taxes, transfer taxes, survey costs and recording charges), or to reimburse Lessee for the cost thereof, and shall be used for no other purpose;

(iii) The Lessee's Mortgage shall be for a term which shall not extend beyond the expiration date of the Term of this Lease;

(iv) The Lessee's Mortgage shall specifically provide that Lessor shall not be liable for the payment of the sums secured by such mortgage, nor for any expenses in connection therewith, and neither such Lessee's Mortgage nor any instrument collateral thereto shall contain any covenant or obligation on Lessor's part to pay such debt or any part thereof, or to take any affirmative action of any kind whatsoever and shall expressly provide that the mortgagor and the mortgagee thereunder will seek no monetary judgment against Lessor in connection with Lessee's Mortgage.

Lessor shall not be required to sign or execute the note to be secured by the Lessee's Mortgage, but shall execute the Lessee's Mortgage itself, and all other documents reasonably and customarily required by the Lessee's Mortgage or by the title company insuring the Lessee's Mortgage or by any combination of them in order to subject Lessor's interest in the Demised Premises to the lien of the Lessee's Mortgage, provided the Lessee's Mortgage is in accordance with the terms and conditions enumerated above.

The Lessee's Mortgage shall contain provisions that all notices of default under the Lessee's Mortgage must be sent to Lessor and Lessee and that Lessor shall have the right to cure any default if Lessee fails to do so and Lessee shall diligently attempt to obtain a provision in any Lessee's Mortgage that Lessor shall have ten (10) days more time, in the case of any monetary default, and thirty (30) days more time, in the case of a non-monetary default, than is given to Lessee to remedy such default.

11.2 Leasehold Mortgage. Lessee and every successor and assignee of Lessee permitted hereunder (including, but not limited to, any sublessee of Lessee or of its permitted assignees) is hereby given the right (exercisable at any time and from time to time) by Lessor, in addition to any other rights herein granted, without Lessor's prior written consent, to mortgage its interest in this Lease or any part or parts thereof, and/or its interest in any sublease(s), under one or more leasehold mortgage(s) ("Leasehold Mortgage") and to assign such interest in this Lease, or any part or parts thereof, and/or in any sublease(s), as collateral security for such Leasehold Mortgage(s) (or to assign its interest in same in connection with an assignment and leaseback transaction), upon the condition that all rights acquired under such Leasehold Mortgage(s) shall be subject to each and all of the covenants, conditions and restrictions set forth in this Lease, and to all rights and interests of Lessor herein. None of such covenants, conditions or restrictions is or shall be waived by Lessor by reason of the right given so to mortgage such interest in this Lease, except as expressly provided herein.

The holder of any first mortgage or deed of trust upon the leasehold estate created by this Lease and Lessee's Improvements shall be the Leasehold Mortgagee referred to herein and shall be entitled to the rights and benefits as provided herein ("Leasehold Mortgagee").

(a) Provided that the Leasehold Mortgagee shall have notified Lessor in writing of its status as a Leasehold Mortgagee and its name and address, Lessor thereafter shall give to such Leasehold Mortgagee a copy of each notice of default at the same time as and whenever such notice shall be given by Lessor to Lessee, such copy to be addressed to the Leasehold Mortgagee at the address last furnished to Lessor as hereinabove provided. Lessor shall not serve a notice of cancellation or termination upon Lessee unless a copy of any prior notice of default shall have

been given to the Leasehold Mortgagee as hereinabove provided and the time as hereinafter specified for the curing of such default shall have expired without the same having been cured. Lessor agrees to notify the Leasehold Mortgagee in writing of the failure of Lessee to cure a default within any applicable grace period and of the curing of any default by Lessee. The performance by the Leasehold Mortgagee of any condition or agreement on the part of Lessee to be performed hereunder will be deemed to have been performed with the same force and effect as though performed by Lessee.

(b) Lessor will accept performance by the Leasehold Mortgagee within the following periods of any obligation on Lessor's part to be performed hereunder, with the same force and effect as though timely performed by Lessee:

(i) as to any rent and other sums payable hereunder, within ten (10) days after written notice from Lessor that Lessee has not cured such default within the period provided in Article XIII; and

(ii) As to all other defaults, within thirty (30) days more time than is given Lessee to remedy or cause to be remedied the defaults complained of, or, if within such period such default cannot be cured, to commence to so cure within such period and diligently and continuously proceed therewith to completion.

(iii) As to any default which Leasehold Mortgagee is without the legal power to cure by payment or performance, Leasehold Mortgagee shall have thirty (30) days after receipt of written notice from Lessor of such default within which to give Lessor written notice that the Leasehold Mortgagee or a wholly owned subsidiary or affiliate of Leasehold Mortgagee elects to become the tenant under this Lease in the place and stead of the then Lessee upon all the terms, covenants and conditions provided in this Lease.

(c) Lessor shall not exercise its right to terminate this Lease as provided in Article XIII during the time that the Leasehold Mortgagee shall require to complete its remedies under its mortgage or deed of trust upon the leasehold estate of Lessee hereunder, provided, however, and upon condition:

(i) That the Leasehold Mortgagee proceeds, promptly and with due diligence, with the remedies under its mortgage or deed of trust on the leasehold estate and thereafter prosecutes and completes the same with all due diligence; and

(ii) That the Leasehold Mortgagee shall pay to Lessor the rent and all other charges required to be paid by Lessee hereunder which have accrued and those which shall become due and payable during said period of time.

Upon the completion of any foreclosure proceedings or acquisition of Lessee's interest in this Lease by the Leasehold Mortgagee, any default not reasonably curable by the Leasehold Mortgagee shall be deemed waived by Lessor as to the Leasehold Mortgagee and any purchaser at a foreclosure sale or their respective successors and assigns.

(d) Lessor shall also be obligated to give any notice of cancellation and termination to the Leasehold Mortgagee, simultaneously with such notice given to Lessee; provided, however, that nothing contained in this Section 11.2(d) shall grant to Lessor any right to terminate this Lease not expressly set forth in Section 13.3 hereof. No such notice to Lessee shall be effective with respect to termination of this Lease unless the Leasehold Mortgagee shall also have been so notified as aforesaid. The Leasehold Mortgagee shall then have the right to notify Lessor in writing, within thirty (30) days after receipt by the Leasehold Mortgagee of such notice of cancellation and termination, that (1) Leasehold Mortgagee, or any designee or nominee which Leasehold Mortgagee may designate or name in such notice (hereinafter called the "approved nominee"), elects to lease the Demised Premises from the date of termination of this Lease for the remainder of the Term of this Lease, at the rent and other charges herein reserved and otherwise upon the same terms, covenants and conditions as are herein set forth, with the same relative priority in time and in right as this Lease (to the extent possible) and having the benefit of and vesting in the Leasehold Mortgagee, or the approved nominee, all of the rights, title, interest, powers and privileges of Lessee hereunder, and (2) Leasehold Mortgagee further obligates itself to (and in fact does) within ten (10) days after delivery to Lessor of such election:

(i) Cure the default upon which such termination was based, or in respect to any default not capable of curing within such ten (10) days, or which cannot be cured without entry into possession, proceed and effect cure with due diligence following delivery of possession;

(ii) Pay to Lessor all rent and other charges due under this Lease up to and including the date of commencement of the term of such new lease less any net rental income received by Lessor for such period; and

(iii) Pay to Lessor all expenses and reasonable attorneys' fees incurred by Lessor in connection with any such default with the preparation, execution and delivery of such new lease.

(e) After such cancellation and termination of this Lease and upon compliance by Leasehold Mortgagee, or the approved nominee, within such time, Lessor shall thereupon execute and deliver such new lease to Leasehold Mortgagee or the approved nominee, having the same relative priority in time and right as this Lease (to the extent possible) and having the benefit of all of the right, title, interest, powers and privileges of Lessee hereunder in and to the Demised Premises, including specific assignment of Lessor's interest in and to any then existing sublease where the subtenant may have attorned to Lessor or which, at the time of cancellation or termination of this Lease, was prior in right to the Leasehold Mortgage or which by separate agreement or by its terms had been granted non-disturbance privileges. Lessor hereby agrees that with respect to any such sublease so assigned, it will not modify or amend any of the terms or provisions thereof, during the period between the expiration or termination of this Lease and the execution and delivery of the new lease. Lessor agrees that it will not terminate any sublease while foreclosure of the leasehold estate of Lessee is pending or while the Leasehold Mortgagee has the right to receive a replacement lease.

(f) Upon the execution and delivery of the new lease, title to all improvements within the Demised Premises, as well as all equipment, fixtures and machinery thereunder, shall

automatically vest in the Leasehold Mortgagee or the approved nominee until the expiration of the term of the new lease, unless the new lease shall thereafter sooner be terminated.

(g) In the event that Leasehold Mortgagee exercises its right under Section 11.2(d) to enter into a new lease (or to designate its nominee to enter into a new lease), Leasehold Mortgagee or the approved nominee shall have the right to assign such lease without the consent of Lessor.

(h) Anything herein contained to the contrary notwithstanding, Lessor and Lessee mutually agree that so long as there exists an unpaid Leasehold Mortgage on the leasehold estate of Lessee, this Lease or any renewal thereof shall not be modified, amended or altered and Lessor shall not accept a surrender of the Demised Premises or a cancellation of this Lease (provided the Leasehold Mortgagee remedies any default and keeps this Lease current, all as hereinbefore provided) prior to the expiration or sooner termination thereof as hereinbefore provided, without the prior written consent of the Leasehold Mortgagee.

(i) So long as any debt secured by a Leasehold Mortgagee upon the leasehold created by this Lease shall remain unpaid, unless the Leasehold Mortgagee shall otherwise consent in writing, the fee title to the Land and the leasehold estate in the Demised Premises shall not merge but shall always be kept separate estates, notwithstanding the union of such estates either in Lessor or in Lessee or in a third party by purchase or otherwise.

(j) Lessor agrees for the benefit of any Leasehold Mortgagee that at any time, and from time to time, upon not less than twenty (20) days' prior notice from Lessee or from a Leasehold Mortgagee, to deliver a certificate in recordable form to Lessee and to the Leasehold Mortgagee stating that this Lease is unmodified (or, if there have been modifications, setting them forth) and in full force and effect, the dates to which rental and other charges have been paid, and that either Lessee is not in default in the performance of any of the terms and provisions of this Lease (or, if there are defaults, specifying the nature thereof with sufficient particularity that Lessee and the Leasehold Mortgagee will know the nature of the acts which must be performed and the amounts of the payments which must be made to cure any such default), it being agreed that any such statement delivered pursuant to this Section 11.2 may be relied upon by any prospective assignee of Lessee's interest in this Lease or by any Leasehold Mortgagee or prospective Leasehold Mortgagee.

(k) Lessee agrees that it shall obtain from any Leasehold Mortgagee an agreement to the effect (i) that such Leasehold Mortgagee shall notify Lessor of any default by Lessee under the Leasehold Mortgage in favor of such Leasehold Mortgagee at the time that the Leasehold Mortgagee serves upon Lessee any notice of such default required by law, (ii) that Lessor shall have the right, but not the obligation, to cure any default under such Leasehold Mortgagee on Lessee's behalf within the time permitted by law for Lessee to cure such default, and (iii) that if Lessor recovers possession of the Demised Premises by reason of a default by Lessee under this Lease as provided in Article XIII, such Leasehold Mortgagee shall not take any action to foreclose upon its Leasehold Mortgage so long as Lessor shall cure any default thereunder within the time permitted by law for Lessee to cure such default and shall thereafter timely satisfy the obligations of Lessee under such Leasehold Mortgage as they accrue.

11.3 Mortgage. As used in this Lease, all references to a "mortgage" shall be deemed to include a deed of trust and an assignment of this Lease in an assignment and leaseback transaction, and all references to the "holder(s)" of a mortgage or to a "mortgagee" shall be deemed to include the beneficiary and/or trustee under a deed of trust and the assignee/sublessor in an assignment and leaseback transaction.

11.4 Loss Payable Endorsement. Lessor agrees that the name of any mortgagee may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Lessee hereunder, and that, subject to the terms of the REA, all insurance and/or condemnation proceeds to which Lessee may be entitled hereunder for purposes of restoration of the Improvements on the Demised Premises may be made available jointly to the Lessee and such mortgagee.

ARTICLE XII

EASEMENTS

Lessor covenants and agrees as to its fee interest in the Demised Premises that it will execute any instruments which may be reasonably requested by Lessee in connection with the granting of easements for installation, maintenance and repair and replacement of Utilities, or which may be provided for pursuant to the REA.

Neither Lessor or Lessee shall grant or otherwise convey any type of easement or easements affecting the Demised Premises or the Shopping Center Site for the benefit of any property not within the Shopping Center Site.

ARTICLE XIII

DEFAULT

13.1 Performance by Lessor on Lessee's Default. In the event that Lessee shall fail or neglect to do or perform any act or thing herein provided for it to be done or performed, and Lessee shall not have commenced to perform within forty-five (45) days after receipt by Lessee of written notice from Lessor specifying the nature of the act or thing to be done or performed, and thereafter complete performance with due diligence, then Lessor may, but shall not be required to, do or perform or cause to be done or performed such act or thing (entering upon the Demised Premises for such purposes, if Lessor shall so elect), and Lessee shall repay as additional rent to Lessor upon demand, the entire cost and expense thereof. Any act or thing done by Lessor, pursuant to the provisions of this paragraph shall not be, or be construed as, a waiver of any covenant, term or condition herein contained, or of the performance thereof.

13.2 Event of Default. Any of the following shall constitute an event of default (hereinafter called "Event of Default") on the part of Lessee:

- (i) The failure to pay the rent set forth herein, subject to the following condition: In the event Lessee fails to pay the rent herein reserved, or any part thereof, within the time periods provided herein, Lessor shall provide Lessee written notice of such default. In the event Lessee has not cured such default within

fifteen (15) days following the receipt by Lessee of such notice, Lessor shall deliver to Lessee a second notice of such default. In the event Lessee has not cured such default within fifteen (15) days following receipt of such second notice from Lessor, such failure shall constitute an Event of Default hereunder;

(ii) The failure, for a period of more than forty-five (45) days after Lessee's receipt of notice from Lessor, to do, observe, keep and perform any of the terms, covenants, conditions, agreements and provisions of this Lease which Lessee is required to observe, keep or perform, subject to the provisions of Section 28.4;

(iii) The abandonment of the Demised Premises by Lessee.

(iv) The adjudication of Lessee as bankrupt, the filing of any involuntary petition in bankruptcy against Lessee which is not withdrawn or otherwise disposed of in favor of Lessee within one hundred twenty (120) days, the filing of a voluntary petition in bankruptcy, or for reorganization or arrangement, by Lessee, or if Lessee shall make a general assignment for the benefit of creditors or voluntarily take the benefit of or claim to be insolvent under any of the provisions of the Bankruptcy Act, or the appointment of a permanent receiver or trustee for Lessee or Lessee's property, or if a temporary receiver or trustee of Lessee or Lessee's property shall be appointed and such permanent or temporary receiver or trustee shall not be discharged within one hundred twenty (120) days from the date of appointment.

For the purposes of Subparagraph (ii) of this Section 13.2, if the default complained of be a default other than one which may be cured by the payment of money, no Event of Default on the part of Lessee in the performance of work or acts to be done or conditions to be met shall be deemed to exist if steps to cure the same shall have been commenced by Lessee within forty-five (45) days after receipt by Lessee of written notice from Lessor, which notice shall set forth the nature of such default, and shall be prosecuted to completion, with due diligence and continuity.

Notwithstanding the foregoing, Lessee shall be excused from failure to perform any term, covenant, condition or agreement under this Lease during the time and to the extent such performance or delay is excused pursuant to Section 13.6 hereof or the terms of the REA.

13.3 Remedies of Lessor. It is expressly agreed that in no event shall Lessor have the right to terminate this Lease as long as Costco Wholesale Corporation is Lessee under this Lease and continues to maintain a corporate net worth of no less than One Hundred Million Dollars (\$100,000,000) while Lessee hereunder (the "Net Worth Condition") unless, following an Event of Default hereunder, Lessor obtains a final damage judgment or final court order against Lessee in connection with such Event of Default (the "Default Condition"). Notwithstanding the foregoing, Lessor shall not have the right to terminate as a result of a Default Condition if Lessee satisfies the final damage judgement within thirty (30) days or cures any final court order within sixty (60) days (or such longer period of time as is reasonably required, provided, that Lessee is diligently pursuing such cure), in either case, after receipt of a notice thereof from Lessor. Upon the earlier to occur of (a) the failure of the Net Worth Condition, or (b) the occurrence of the Default Condition, the restriction on termination set forth in this Section 13.3 shall be of no further force or effect, and Lessor shall have the right, following the earlier to occur of (A) any future

Event of Default under Section 13.2(i), or (B) any subsequent Default Condition, which subsequent Default Condition results from an Event of Default under Section 13.2(ii), (iii) or (iv), and subject to the rights of a mortgagee pursuant to Article XI, to terminate this Lease in the manner provided by law as of a date specified in the notice to Lessee, which date shall not be less than sixty (60) days after the date of serving such notice, except in the case of a breach for non-payment of rent under the provisions of Section 13.2(i), in which of event such date of termination shall be not less than thirty (30) days after the expiration of any notice given under said Subparagraph (i) (unless, in either event such default is cured or such final damage judgment is satisfied by Lessee, as the case may be, prior to such date). In the event such termination shall occur, Lessor shall have the right to eject all parties in possession thereof therefrom and repossess and enjoy the Demised Premises together with all additions, alterations, and improvements thereto, and Lessor shall thereupon be entitled to recover from Lessee the worth at the time of such termination, of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the balance of the term over the greater of (i) the then reasonable or obtainable rental value of the Demised Premises for the same period, or (ii) the amount of rent actually received by Lessor for the same period from the lease of the Demised Premises to a third person.

The remedies of Lessor as hereinabove provided are in addition to, and not exclusive of any other remedy of Lessor herein given or which may be permitted by law. Any re-entry, as provided for herein, shall be allowed by Lessee without hindrance, and Lessor shall not, except for Lessor's negligence or willful misconduct, be liable in damages or guilty of trespass because of any such re-entry.

13.4 Waiver. If either party fails or neglects, for any reason, to take advantage of any of the terms hereof providing for the termination of this Lease or the declaration of any default by the other party, or if either party having the right to declare this Lease terminated or the estate hereby demised terminated or forfeited or to exercise any other default remedy, shall fail so to exercise same, any such failure or neglect shall not be or be deemed to be construed to be a waiver of any cause for the termination or forfeiture of the estate hereby demised or other default subsequently arising, or as a waiver of any of the covenants, terms or conditions of this Lease or of the performance thereof. None of the covenants, terms or conditions of this Lease can be waived except by the written consent of Lessor or Lessee, as applicable.

13.5 Remedies of Lessee. If Lessor shall fail to perform any of the terms, provisions, covenants or conditions to be performed or complied with by Lessor pursuant to this Lease, or if Lessor should fail to make any payment which Lessor agrees to make, and any such failure shall remain uncured for a period of thirty (30) days after Lessee shall have served upon Lessor notice of such failure, then Lessee may at Lessee's option, at any time prior to commencement of Lessor's acting to cure such failure and thereafter if Lessor fails to diligently perform the curing of such failure, perform any such term, provision, covenant or condition or to make any such payment, as Lessor's agent, and in Lessee's sole discretion as to the necessity therefor, and Lessee shall not be liable or responsible for any loss or damage resulting to Lessor or anyone holding under Lessor on account thereof. The full amount of the cost and expense entailed, or payment so made shall immediately be owing and payable by Lessor to Lessee, and Lessee shall have the right to deduct the amount thereof, together with interest at the maximum legal rate thereon from the date of payment, without liability or forfeiture, from rents then due or thereafter coming due hereunder, and irrespective of who may own or have any interest in the Demised Premises at the time such

deductions are made. The option given in this Section 13.5 is for the sole protection of Lessee, and its existence shall not release Lessor from the obligation to perform the term, provisions, covenants and conditions herein provided to be performed by Lessor or deprive Lessee of any rights or remedies at law or in equity which Lessee may have by reason of any such default by Lessor.

13.6 Delays in Performance. The time within which either party hereto shall be required to perform any act under this Lease, other than the payment of money, shall be extended by a period of time equal to the number of days during which performance of such act is delayed due to an event of Force Majeure as defined in Section 28.4. Unless the party entitled to such extension shall give notice to the other party hereto of its claim to such extension and the nature thereof with five (5) days after the event of Force Majeure giving rise to such claim shall have occurred, there shall be excluded in computing the number of days by which the time for performance of the act in question shall be extended, the number of days in excess of five (5) which shall have elapsed between the occurrence of such event of Force Majeure and the actual giving of such notice.

ARTICLE XIV

ATTORNEYS' FEES

If any action or suit is instituted by either party against the other to enforce the provisions of this Lease, the prevailing party in said action or suit shall be entitled to receive from the other party, court costs incurred in such action and reasonable attorneys' fees in an amount determined by the court.

ARTICLE XV

NOTICES

Any and all notices by the Lessor to the Lessee, or by the Lessee to the Lessor, shall be in writing and sent by registered or certified mail, return receipt requested, postage prepaid, addressed to the respective addresses below stated:

in the case of Lessor to:

CITY OF ESCONDIDO
201 N. Broadway
Escondido, California 92025
Attention: City Attorney

with a copy to:

CITY OF ESCONDIDO
201 N. Broadway
Escondido, California 92025
Attention: City Manager

in the case of Lessee to:

Costco Wholesale Corporation
999 Lake Drive
Issaquah, Washington 98027
Attention: Property Management (Legal Dept.)

Re: Location #____ (Escondido, California)

with a copy to:

Costco Wholesale Corporation
999 Lake Drive
Issaquah, Washington 98027
Attention: Corporate Counsel
Re: Location #____ (Escondido, California)

and with a copy to:

If prior to August 1, 2023:

Goulston & Storrs
885 Third Avenue
New York, New York 10022
Attention: David J. Rabinowitz, Esq.

If after August 1, 2023:

Goulston & Storrs
730 Third Avenue
New York, New York 10017
Attention: David J. Rabinowitz, Esq.

The foregoing parties may at any time change the address by notice to the other parties in writing. Rent shall be payable by check sent by ordinary mail by Lessee to Lessor at the address set forth in Section 3.2 above, or any change thereof pursuant to this paragraph.

Notwithstanding any of the foregoing, the date of receipt shall be the third (3rd) day after transmission and shall constitute the initial day of notice in computing the elapsed time as specified in any notice requirement in this Lease if said notice is given in accordance with the above requirements. If notice is given in any other fashion, such notice shall be deemed effective only upon receipt by each of the above named recipients as to such party. In the event fee title to the Property and all rights of Lessor under this Lease are transferred or conveyed to a third party, then if Lessee is not advised of such transfer, Lessee may continue to send all Notices to Lessor at the address set forth above (or, if applicable, such other address for Lessor set forth in a Notice given by Lessor to Lessee pursuant to this Article XV) or at the address for the owner of the Property on file with the governmental entity in charge of assessing real property taxes.

ARTICLE XVI

ESTOPPEL CERTIFICATE

Lessor and Lessee agree at any time and from time to time and within thirty (30) days after written request from the other party, to execute, acknowledge and deliver to the other party a statement in writing, stating that this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect, as modified, and stating the

modifications), and the dates to which the Fixed Rent and other charges have been paid in advance, if any, and whether or not there is any existing default or Event of Default in any of the requesting party's obligations under the terms of this Lease, or notice of default served by the party requested to deliver such estoppel certificate. If any such statement shall allege non-performance by the other party, the nature and extent of such non-performance shall, insofar as actually known by the party providing such estoppel certificate, be summarized therein. Any such estoppel certificate to be delivered by Lessee shall be in the form attached hereto as Exhibit D, and shall contain the following provision:

"This statement shall act as a waiver of any claim to the extent such claim is based on facts contrary to those asserted in this statement and to the extent said claim is asserted against a bona fide encumbrancer or purchaser for value, without knowledge of facts to the contrary to those contained in this statement. This statement shall in no event subject the undersigned to any liability whatsoever, notwithstanding the negligent or otherwise inadvertent failure of the undersigned to disclose correct and/or relevant information."

ARTICLE XVII

QUIET POSSESSION

Lessor covenants that it has full power and authority to enter into this lease transaction, and to grant the leasehold estate for the period provided in this Lease, and that Lessee and its successors and assigns shall and may at all times peaceably and quietly have, hold, occupy and enjoy the Demised Premises during the Term of this Lease, free from any hindrance or encumbrance by Lessor, or any person or persons claiming through or under the Lessor; provided, however, that nothing contained in this Article XVII shall impair in any manner the ability of Lessor to avail itself of the remedies of Lessor following a breach of the terms of this Lease by Lessee, as set forth in Article XIII.

ARTICLE XVIII

TITLE TO IMPROVEMENTS

It is agreed between Lessor and Lessee that during the term of this Lease, all Improvements to be erected, attached, or used in connection with the Demised Premises shall remain the property of Lessee, but upon termination of this Lease, either by expiration of its term or otherwise, the Improvements then located on the Demised Premises shall become the property of Lessor. On the date of such termination, Lessee shall surrender to Lessor the Demised Premises and the Improvements, if any, located thereon in their then existing condition and repair free and clear of all financing encumbrances created by Lessee. During the term of this Lease, Lessee alone shall be entitled to depreciation and all tax credits relating to the Improvements located on the Demised Premises.

On the date of such termination, any furniture, furnishings, trade fixtures, fixtures or business equipment on the Demised Premises may be removed by Lessee where furnished by or at the expense of Lessee.

ARTICLE XIX

ALTERATIONS AND ADDITIONS

Subject to the REA, Lessee shall have the right at its expense from time to time to make alterations or additions to the Improvements to be situated on the Demised Premises. Lessee shall give Lessor prior written notice of any such alterations or additions under circumstances which would require notice under Article X hereof. Upon termination of the Lessee's leasehold estate, such alterations or additions, if any, then remaining on the Demised Premises, shall be considered as Improvements and shall not be removed by the Lessee but shall become a part of the Demised Premises. Any such work shall be performed and done strictly in accordance with the laws and ordinances relating thereto and in compliance with the REA.

ARTICLE XX

ASSIGNMENT AND SUBLETTING

Lessee may sublet all or any part of the Demised Premises (including, without limitation, subleases and sub-subleases of portions of the Demised Premises as is customary in Lessee's business such as, by way of example only, subleases and/or sub-subleases of a portion(s) of the Demised Premises to independent optometrists) or assign all its rights and interests under this Lease, provided, that each such sublease or assignment shall be subject to the provisions of this Lease and the REA. If Lessee assigns or subleases all of its rights and interests under this Lease, the assignee or sublessee under such assignment or sublease shall expressly assume all of the obligations of Lessee hereunder in a written instrument delivered to Lessor within ten (10) days after the execution and delivery of any such assignment or sublease.

No assignment or sublease shall release or reduce any of the obligations of Lessee hereunder, and all such obligations shall continue in full effect as obligations of a principal and not as obligations of a guarantor or surety, to the same extent as though no assignment or subletting had been made, except that Lessee shall be relieved of and released from all of its obligations under this Lease if it assigns this Lease to an entity which has a net worth of \$50,000,000 or more and which delivers to Lessor written confirmation expressly assuming the obligations of Lessee hereunder for the benefit of Lessor, such release to be effective as of the date of such assignment and assumption.

ARTICLE XXI

CONDEMNATION

21.1 Definitions. Whenever used in this Article, the following words shall have the following respective meanings:

- (i) "Condemnation" or "condemnation proceedings" shall mean any action or proceeding brought by authority of competent jurisdiction for the purpose of any Taking of the Demised Premises or any part thereof as a result of the exercise of the power of eminent domain, including a voluntary sale to such authority either

under threat of or in lieu of condemnation or while such action or proceeding is pending.

(ii) "Taking" shall mean the delivery of possession of the Demised Premises or any part thereof to the authority of competent jurisdiction pursuant to condemnation.

(iii) "Vesting Date" shall mean the date of the Taking.

21.2 Total Taking. In case of a Taking of all of the Demised Premises, this Lease shall terminate as of the Vesting Date and the rent under this Lease shall abate as of, and be apportioned to the date of termination.

21.3 Partial Taking. In case of a Taking of less than all of the Demised Premises (other than for a temporary use) Lessee shall determine, in its discretion, prior to or within one hundred eighty (180) days after the Vesting Date, whether the remaining portion of the Demised Premises (after Restoration as referred to in Section 21.5) can economically and feasibly be used by Lessee.

If it is determined by Lessee that the remaining portion of the Demised Premises cannot be economically and feasibly used by Lessee, Lessee, at its election, may terminate this Lease on at least ten (10) days but not more than one hundred eighty (180) days notice to Lessor to such effect provided that such election to terminate is exercised prior to the earlier to occur of (i) thirty (30) days after such determination, or (ii) two hundred ten (210) days following such Taking. Upon any such termination, Lessee shall have no obligation to repair or restore any improvement located on the Demised Premises, and the rent shall be apportioned to the date of termination.

If Lessee does not elect to terminate this Lease within the period aforementioned, it shall continue in full force and effect as to the remaining portion of the Demised Premises subject to a reduction in the rent as provided in Section 21.6.

21.4 Allocation of Award; Total Taking. If this Lease shall terminate, pursuant to the provisions of Sections 21.2 or 21.3, the total award in the condemnation proceedings shall be apportioned and paid, to the extent available, in the following order of priority:

(i) The Lessee's Mortgagee and/or Leasehold Mortgagee, if any, shall first be entitled to have its mortgage loan satisfied, including such unpaid principal and accrued interest which is not past due and any pre-payment premium or penalty.

(ii) Lessor, Lessee and the Lessee's Mortgagee and/or Leasehold Mortgagee shall next be entitled to their expenses and charges, including, without limitation, reasonable attorneys' fees incurred in connection with the Taking.

(iii) Lessor shall be entitled to an amount equal to the value, on the Vesting Date, of the land taken as if vacant and unimproved and without this Lease, after the payment to Lessee from the proceeds of such award of the value of Lessee's leasehold interest in the land constituting the Demised Premises, determined with reference to the unexpired portion of the Term of this Lease, including all option periods, whether or not exercised. If the condemnation award

separately specifies the amount allocable to Lessor and Lessee, as above described, then such amount shall govern and be deemed the value thereof; otherwise, Lessor and Lessee shall agree upon such value and if they cannot agree, it shall be determined by arbitration under the provisions of Article XXIII.

(iv) The balance of the award shall be paid over to Lessee less, however, the value of Lessor's reversionary interest in the Improvements located on the Demised Premises, which shall be paid over to Lessor, such reversionary interest being determined with reference to the remaining Term of this Lease.

21.5 Allocation of Award; Partial Taking. If this Lease shall not terminate as provided in Section 21.3, it is agreed that Lessee's obligation to restore hereunder shall be determined only to the extent of Lessee's obligation to restore pursuant to the REA.

The total award in the condemnation proceedings, in the event of such partial taking, shall be apportioned and paid, to the extent available, in the following order of priority:

(i) Lessee shall first be entitled to an amount equal to the cost of Restoration.

(ii) Lessor, Lessee and any Lessee's Mortgagee and/or Leasehold Mortgagee shall next be entitled to their expenses and charges, including, without limitation, reasonable attorneys' fees incurred in connection with the Taking.

(iii) Lessor shall be entitled to an amount equal to the value, on the Vesting Date, of the land taken as if vacant and unimproved and without this Lease, after the payment to Lessee from the proceeds of such award of the value of Lessee's leasehold interest in the land which is taken, determined with reference to the unexpired portion of the Term of this Lease, including all option periods, whether or not exercised. If the condemnation award separately specifies the amount allocable to Lessor and Lessee, as above described, then such amount shall govern and be deemed the value thereof.

(iv) Lessee, subject to the rights of any Lessee's Mortgagee and/or Leasehold Mortgagee, shall be entitled to the balance of the award, less, however, the value of Lessor's reversionary interest in the Improvements located on that portion of the Demised Premises as taken and not restored, which shall be paid over to Lessor, such reversionary interest being determined with reference to the remaining Term of this Lease.

21.6 Rent Reduction. Upon any Taking which does not result in a termination of this Lease, the Fixed Rent payable by Lessee under this Lease immediately prior to the Taking shall be reduced in the proportion that the amount of land taken bears to the Demised Premises.

21.7 Temporary Taking. In the event of a Taking of all or any portion of the Demised Premises for temporary use (which shall mean a period of ninety [90] days or less), the foregoing provisions of this Article, except Section 21.6, shall be inapplicable thereto, this Lease shall continue in full force and effect and Lessee shall be entitled to make claim for, recover and retain

any award recoverable in respect of such temporary use whether in the form of rental or otherwise. If the award is made in a lump sum covering a period beyond the expiration of the Lease Term, Lessor also shall be entitled to make claim for and participate in the award proportionately.

If any portion of the award for such temporary use is intended to cover the cost of restoring the Improvements located on the Demised Premises to the condition they were in prior to such temporary use or to make repairs occasioned by or resulting from such temporary use, such portion shall be used by Lessee to cover the cost of such restoration and repair, and any balance remaining shall belong to and be paid to Lessee. Lessee shall have no obligation to restore or repair except as provided in the REA, and Lessee's right to receive a portion of the award, as above provided, shall not be affected thereby.

In the event of a Taking of all or any portion of the Demised Premises for temporary use which is for a period longer than ninety (90) days, Lessee shall have the right to terminate this Lease, which option must be exercised by Lessee giving written notice thereof to Lessor within said ninety (90) day period. If said right to terminate is so exercised by Lessee, any award recoverable in respect of such temporary use as to the Demised Premises shall be allocated between Lessor and Lessee as if it was a Taking under Section 21.4. In the event said right to terminate is not exercised by Lessee within the aforesaid time period, then the provisions of this Section 21.7 shall apply.

21.8 Settlement. Without the consent of Lessee and Lessee's Mortgagee and/or Leasehold Mortgagee, Lessor shall not make any settlement with the condemning authority or convey any portion of the Demised Premises to such authority in lieu of condemnation or consent to any Taking.

21.9 Application of REA. In the event the Demised Premises, or any part thereof, shall be taken in condemnation proceedings or by exercise of any right of eminent domain or by agreement between Lessor, Lessee and those authorized to exercise such right, and if at such time the REA has not terminated or expired as to the Demised Premises, then, as between the REA parties, the provisions of the REA shall control the collection, application and distribution of awards resulting from a Taking of all or a portion of the Shopping Center, and as between Lessor and Lessee, the Lease shall control the collection, application and/or distribution of that portion of the award which Lessor or Lessee is entitled to receive as a result of a Taking. Any provision herein to the contrary notwithstanding, if at the time of any such Taking the REA is no longer in force or effect, or if as a result of such Taking the REA is terminated, or the REA is terminated as to the Demised Premises, Lessee may, at its election, terminate this Lease by giving Lessor at least thirty (30) days prior written notice of its intention to do so. In such event, the foregoing provisions of Section 21.4 shall control said collection, application and/or distribution of awards resulting from such Taking.

ARTICLE XXII

DESTRUCTION AND RESTORATION

22.1 Obligations of Lessee. In the event of damage to or destruction of the Improvements located on the Demised Premises, Lessee shall be obligated to repair and restore the same only to the extent required to do so as a Party to the REA.

22.2 Destruction Not A Release. Except as expressly provided in Section 22.3 hereof, no destruction of, or damage to the Improvements located on the Demised Premises or any part thereof by fire or any other cause shall permit Lessee to surrender this Lease or shall relieve Lessee from its obligation to pay the full rent under this Lease or from any of its other obligations under this Lease, and Lessee waives any rights now or hereafter conferred upon it by statute or otherwise to quit or surrender this Lease or the Demised Premises or any suspension, diminution, abatement or reduction of rent on account of any such destruction or damage.

22.3 Termination of Lease. In the event the Improvements located on the Demised Premises shall be substantially damaged or destroyed (as defined in this Section 22.3) by fire or any other cause whatsoever, or such damage or destruction shall materially impair the usefulness of the Demised Premises, in the opinion of Lessee, and if pursuant to the REA Lessee is not required to restore Improvements located on the Demised Premises, Lessee shall have the right to terminate this Lease at any time within one (1) year from the date of such damage or destruction, such termination to be effective upon at least thirty (30) days prior notice to Lessor. If Lessee elects to terminate the Lease, Lessee shall, at Lessor's request, raze the Improvements or portion thereof so damaged. If Lessee does not so terminate, or if such damage or destruction is not substantial, Lessee will construct such Improvements as Lessee shall deem appropriate so long as the usage for which such construction is undertaken is not prohibited by the REA. If Lessee elects not to terminate the Lease and not to so repair or reconstruct alternative Improvements, Lessee shall, at Lessor's request, raze the damaged Improvements and remove all debris from the Demised Premises in accordance with Section 12.7 of the REA. Lessee may exercise its option to terminate this Lease under this Section 22.3 by serving such notice upon Lessor, without any liability on the part of Lessee to Lessor except for the payment of the Fixed Rent and all additional sums required to be paid by Lessee under the terms of this Lease up to the date of such termination and performance by Lessee of the razing and removal of debris obligations of Lessee above set forth in this Section 22.3. Any insurance proceeds Lessee shall receive as a result of such damage or destruction shall belong to Lessee.

For the purposes of this Section 22.3 the Improvements which constitutes a single architectural unit shall be deemed substantially damaged or destroyed if the estimated cost of restoring the Improvements as nearly as possible to their value, condition and character immediately prior to such damage or destruction is twenty-five percent (25%) or more of the estimated total replacement cost of the Improvements.

22.4 Application of REA. So long as the REA is in full force and effect as to the Demised Premises, the reconstruction obligations hereunder shall be performed in compliance with and pursuant to the reconstruction provisions of the REA. Upon termination of the REA and the election by Lessee not to terminate this Lease, said REA provisions governing the manner in which

repair or reconstruction is performed shall, for the remaining term of this Lease, continue as if incorporated herein and made a part hereof.

ARTICLE XXIII

INTENTIONALLY OMITTED

ARTICLE XXIV

RIGHT OF FIRST REFUSAL

24.1 Receipt of Offer. In the event Lessor shall at any time during the Term of this Lease receive from any Person an offer to purchase all or any portion of Lessor's fee interest in the Demised Premises which offer Lessor desires to accept, Lessor shall give to Lessee written notice of the price and a copy of the document containing the terms and conditions of such offer, and of Lessor's willingness to sell for such price and on such terms and conditions, and Lessee shall have the option and privilege of purchasing such property for said price and upon the terms of such offer. Lessee shall notify Lessor in writing, within thirty (30) days of receipt of notice from Lessor, whether or not it desires to accept the terms of such offer of sale. Should Lessee accept said offer, Lessor shall convey such property to Lessee in accordance with the offer terms. Failure to send such notification within said thirty (30) day period shall constitute an election by the Lessee to reject the offer.

24.2 Right to Sell to Offeror. In the event Lessee shall reject said offer to purchase upon such terms and conditions, or shall fail to send Lessor written notice within said period of thirty (30) days of its election to purchase said interest upon the price and terms specified in said offer, Lessor may thereafter sell its fee interest or portion thereof to the Person making the offer, only at the price and on the terms stated in the offer. Any variation in said price, and/or terms and conditions shall require a new notice from Lessor to Lessee setting forth all of the changes to said price, terms and/or conditions and Lessee shall have an additional thirty (30) day period to accept said offer on such new or different price, terms and conditions. In the event Lessor does not enter into a binding agreement for the sale of such interest to such Person at the price and on the terms stated in the offer within thirty (30) days after the earlier to occur of (i) rejection of same by Lessee, or (ii) in the event Lessee fails so to notify Lessor of its election to purchase said interest, the expiration of the applicable thirty (30) day period set forth above, or if the sale is not consummated, Lessor shall not sell its interest without a new notice to Lessee in accordance with this Article XXIV, and Lessor shall give Lessee notice in writing of any subsequent proposal to sell Lessor's interest or offer acceptable to Lessor, and Lessee shall have the right of first refusal to purchase such interest upon the price and terms of such subsequent proposal or offer, in the same manner as hereinabove provided for the original offer.

24.3 Surplus Land Act. For the avoidance of doubt, this Article XXIV shall be subject to the California Surplus Land Act (Government Code sections 54220-54234), as the same may be amended from time to time.

ARTICLE XXV

REA

This Lease and Lessor's interest in the Demised Premises shall be subject to the REA, and in the event of any conflict between the provisions of this Lease and the provisions of the REA while both documents are in full force and effect, the provisions of the REA shall control, except as between Lessor and Lessee, in which event the provisions of this Lease shall control. In addition to the rights of Lessee set forth in Sections 21.9 and 22.3, Lessee shall have the right to terminate this Lease upon ninety (90) days written notice to Lessor given within one hundred eighty (180) days after the REA shall expire or terminate as to the Costco Tract (as such term is defined in the REA), provided that if Lessee, after the termination of the REA, thereafter shall exercise an option to extend the Term of this Lease, then the right to terminate this Lease contained in this Article XXV shall be of no further force and effect.

ARTICLE XXVI

INTENTIONALLY OMITTED

ARTICLE XXVII

INDEMNIFICATION BY LESSEE

Lessee agrees to indemnify, defend and save harmless Lessor against and from any and all claims by or on behalf of any Person arising from conduct or management of or from any work or thing done in the Demised Premises and will further indemnify, defend and save Lessor harmless against and from any and all claims by or on behalf of any Person arising during the Term of this Lease from any condition of any Improvements located thereon, or arising from any breach or default on the part of Lessee in the performance of any covenant or agreement on the part of Lessee to be performed pursuant to the terms of this Lease, or arising from any act of negligence of Lessee, or any of its agents, contractors, servants, employees, sublessees or licensees, or arising from any accident, injury or damage whatsoever caused to any person, firm or corporation occurring during the Term of this Lease, on the Demised Premises, and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in or about any such claim, action or proceeding brought thereon, except to the extent any of the same shall result from the negligence or intentional wrongdoing of servants or employees.

ARTICLE XXVIII

MISCELLANEOUS

28.1 Successors and Assigns. Each of the terms, covenants and conditions of this Lease shall extend to and be binding on and inure to the benefit of not only Lessor and Lessee, but each of their respective successors, legal representatives and assigns. Whenever in this Lease reference is made to either Lessor or Lessee, the reference shall be deemed to include, wherever applicable, the successors, legal representatives and assigns, of such parties with the same force and effect as if in every case expressed.

28.2 Language. The words "Lessor" and "Lessee" wherever used herein shall be applicable to one or more persons as the case may be, and the singular shall include the plural, and the neuter shall include the masculine and feminine, and if there be more than one, the obligations hereof shall be joint and several. The word "person" wherever used shall include individuals, firms, partnerships, associations and corporations. The language in all parts of this Lease shall be in all cases construed as a whole and according to its fair meaning and not strictly for or against Lessor or Lessee.

28.3 Short Form Lease. The parties agree to execute and record a short form lease substantially in the form attached to this Lease as Exhibit E at any time on or after the Effective Date.

28.4 Force Majeure. Each party shall be excused from performing any obligation or undertaking provided in this Lease, except any obligation to pay any sums of money under applicable provisions hereof unless such payment is for an obligation or undertaking excused, delayed or extended by the provisions of this Section 28.4, in the event but only so long as the performance of any such obligation or undertaking is prevented or delayed, retarded or hindered by act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, action of labor unions, condemnation, requisition, laws, orders of governmental or civil or military or naval authorities, any declared, actual, or threatened public emergency, including, without limitation, any public health emergency, epidemic, pandemic, infectious disease outbreaks or health and safety circumstances that require individual isolation, quarantine or quarantine-like restrictions, or other methods of social distancing, or any other cause, whether similar or dissimilar to the foregoing, not within the respective control of such party (other than the lack or inability to procure monies to fulfill its commitments and obligations or undertakings provided in this Lease).

Notwithstanding any specific references in certain other provisions of this Lease to this Section 28.4, the absence of such specific reference in any other provisions of this Lease shall not be deemed to diminish the general applicability of this Section 28.4.

28.5 Correction of Legal Description of Demised Premises. It is recognized that by reason of construction errors, the Improvements located on the Demised Premises may not be precisely constructed within the Demised Premises as described in Exhibit A hereof. In the event the Improvements of Lessee have not been precisely constructed within the Demised Premises, Lessor and Lessee will join in the execution of an agreement, in recordable form, amending Exhibit A to this Lease, so as to revise the description of the Demised Premises to include any portion of the Improvements encroaching upon other land owned by Lessee, provided that if there is an encroachment onto a tract of land owned by Lessor and leased to a third party, Lessor shall arrange with such third party to join in said agreement amending Exhibit A. Nothing herein contained shall be deemed to relieve or excuse Lessee from exercising all due diligence to construct its Improvements within its Tract as described on Exhibit A hereof and as shown on Exhibit B hereof.

28.6 California Law to Govern. This Lease shall be construed and enforced in accordance with the laws of the State of California.

28.7 Counterparts. This instrument may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

28.8 Invalidity. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

28.9 No Agency. It is understood and agreed that nothing contained in this Lease nor in any act of the parties hereto shall be deemed to create any relationship between the parties hereto other than the relationship of Lessor and Lessee.

28.10 Effect of Lessor's Conveyance. If during the term of this Lease, Lessor shall sell its interest in the Demised Premises, then from and after the effective date of such sale, Lessor shall be released and discharged from any and all obligations and responsibilities under this Lease except those already accrued, provided that Lessor's successor shall have delivered to Lessee a written instrument expressly assuming the obligations of Lessor hereunder for the benefit of Lessee.

28.11 Waste. Lessee shall not commit, or cause to be committed, any waste or nuisance upon the Demised Premises.

ARTICLE XXIX

LOOP ROAD PARCEL

Lessor shall convey to Developer under the Developer Lease (as defined in the REA) a perpetual non-exclusive easement for a vehicular roadway over, on and across a portion of the Developer Tract shown on Exhibit B as "Loop Road Parcel".

It is hereby agreed between Lessor and Lessee that so long as this Lease is in full force and effect, Lessee, its customers, employees, business visitors and invitees shall have access to and from the Demised Premises and the Loop Road Parcel including access points shown on Exhibit B as well as the use of the Loop Road Parcel for motor vehicle traffic from Via Rancho Parkway south of the Shopping Center Site to the new access road to Interstate 15 north of the Shopping Center Site.

Lessee's access and use rights described in this Article XXIX shall become perpetual and non-exclusive upon Lessee's exercise of the first right of refusal pursuant to and in accordance with Article XXIV and the grant of such perpetual and non-exclusive access and use rights shall be incorporated in the grant deed given by Lessor to Lessee under Article XXIV.

ARTICLE XXX

PROFIT SHARE ON SALE OF LEASEHOLD INTEREST

If Lessee shall sell or assign the entirety of its interest in this Lease to a third party, and provided that the assignment is not a Permitted Transfer (as hereinafter defined), then upon the closing of such assignment, Lessee shall pay to Lessor one and a quarter percent (1.25%) of the assignment price for the assignment of such leasehold interest (the "Profit Share"). Notwithstanding the foregoing, in no event shall Lessee be required to pay to Lessor a Profit Share in connection with (a) an assignment less than the entirety of Lessee's leasehold interest, (b) an assignment to an affiliate or related party of Lessee, (c) an assignment in connection with the sale of all or substantially all of Lessee's assets or equity, or (d) an assignment in connection with a portfolio sale, merger, consolidation, acquisition or other similar transaction, including, without limitation, a "going private" transaction (each, a "Permitted Transfer").

ARTICLE XXXI

LEAK DETECTION AND SURRENDER OBLIGATIONS FOR THE FUEL FACILITY

Upon the surrender of the Demised Premises to Lessor and provided Lessee has constructed a Fuel Facility, Lessee shall remove all fuel tanks, product piping, fuel dispensers and other equipment, and shall backfill any areas from which the fuel tanks were removed, and may (but shall not be obligated to) remove the canopy, columns, kiosk or curbing in the Fuel Facility. Such work shall be performed by a licensed contractor experienced in engagements of this type and in accordance with all government and permitting agency laws, regulations, orders and requirements. If at any time during the Lease Term, or successive optional extensions of the Lease Term, there is evidence that the Fuel Facility tanks and related appurtenances are experiencing any leakage, then Lessee shall notify Lessor as provided herein and engage in any required testing and/or remediation necessary to comply with applicable laws and to obtain the "closure approvals" referenced below. Any such remediation work shall be performed in accordance with sound engineering practices and the requirements of applicable laws. Lessee shall diligently pursue and obtain any applicable "closure" approvals required by the applicable government agencies in connection with such tank removal and the completion of any applicable remediation work. The obligations under this Article XXXI shall survive the expiration or sooner termination of this Lease.

[Remainder of Page Intentionally Blank; Signatures Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day,
month and year first above written.

CITY OF ESCONDIDO

By:_____

By:_____

“LESSOR”

COSTCO WHOLESALE CORPORATION

By:_____

By:_____

“LESSEE”

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1 OF ESCONDIDO MAP NO. 85-08, in the City of Escondido, County of San Diego, State of California, according to Parcel Map No. 14270, filed in the Office of the County Recorder of San Diego County, May 1, 1986.

EXHIBIT B
PLOT PLAN OF SHOPPING CENTER

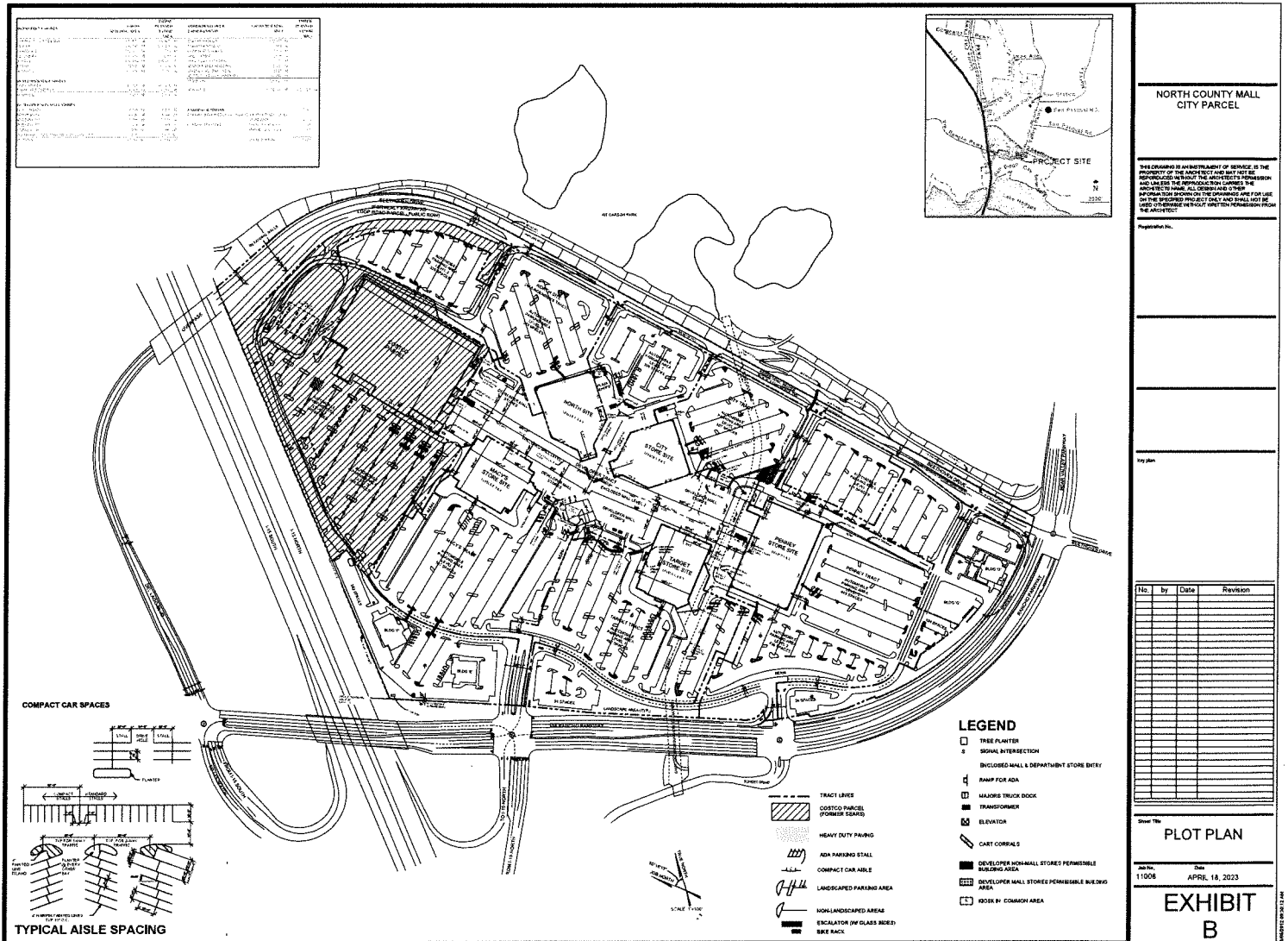


EXHIBIT C

PERMITTED TITLE EXCEPTIONS



Chicago Title Insurance Company

POLICY NO.: Pro Forma-CA-FBSC-IMP-72306-1-22-00092251

**PRO FORMA
OWNER'S POLICY OF TITLE INSURANCE**

Issued by

Chicago Title Insurance Company

Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Florida corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
 - (a) A defect in the Title caused by
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.

- (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
 4. No right of access to and from the Land.
 5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (a) the occupancy, use, or enjoyment of the Land;
 - (b) the character, dimensions, or location of any improvement erected on the Land;
 - (c) the subdivision of land; or
 - (d) environmental protection
 if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
 6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
 7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
 8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
 9. Title being vested other than as stated Schedule A or being defective
 - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
 - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
 - (i) to be timely, or
 - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
 10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Policy. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes

(A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;

(B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(C) successors to an Insured by its conversion to another kind of Entity;

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

(ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.

(e) "Insured Claimant": An Insured claiming loss or damage.

(f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the

records of the clerk of the United States District Court for the district where the Land is located.

(j) "Title": The estate or interest described in Schedule A.

(k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant

under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses,

prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's

consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

17. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Chicago Title Insurance Company, Attn: Claims Department, Post Office Box 45023, Jacksonville, Florida 32232-5023.

Chicago Title Insurance Company

SCHEDULE A

This is a Pro Forma Policy. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

Name and Address of Title Insurance Company: **Chicago Title Company, 725 South Figueroa Street 200, Los Angeles, CA 90017**

Policy No.: **Pro Forma-CA-FBSC-IMP-72306-1-22-00092251** Order No.: **00092251-994-LT2-1TW**

Amount of Insurance: **PRO FORMA**

Premium: **PRO FORMA**

Date of Policy: **PRO FORMA**
4/18/2023)

(Pro Forma Date:

1. Name of Insured:

Costco Wholesale Corporation, a Washington corporation

2. The estate or interest in the Land that is insured by this policy is:

(i) A leasehold as to Parcel A as created by that certain lease dated _____, 2023, executed by The City of Escondido, as lessor, and Costco Wholesale Corporation, a Washington corporation, as lessee, as referenced in the document entitled "Memorandum of Lease", which was recorded _____, 2023 as Instrument No. 2023-_____ of Official Records, subject to all the provisions contained in said document, and in said lease.

(ii) Easements as to Parcels B and C.

3. Title is vested in:

Costco Wholesale Corporation, a Washington corporation

4. The Land referred to in this policy is described as follows:

See Exhibit A attached hereto and made a part hereof.

THIS POLICY VALID ONLY IF SCHEDULE B IS ATTACHED

EXHIBIT A**LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ESCONDIDO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 1 OF ESCONDIDO MAP NO. 85-08, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO PARCEL MAP NO. 14270, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MAY 1, 1986.

TOGETHER WITH:**PARCEL B:**

NON-EXCLUSIVE EASEMENTS, INCLUDING BUT NOT LIMITED TO, EASEMENTS FOR PEDESTRIAN USES, AUTOMOBILE USE, INGRESS AND EGRESS AND PARKING AND CONSTRUCTION, INSTALLATION, OPERATION AND MAINTENANCE OF UTILITY LINES, STRUCTURAL SUPPORT, CONSTRUCTION AND ENCROACHMENT, FIRE AND SERVICE CORRIDORS AND OTHER INCIDENTAL USES, ALL AS SET FORTH AND ESTABLISHED IN THAT CERTAIN CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT (HEREINAFTER REA, DATED NOVEMBER 26, 1986, EXECUTED BY EWH ESCONDIDO ASSOCIATES, L.P., A DELAWARE LIMITED PARTNERSHIP, CARTER HAWLEY HALE STORES, INC., A DELAWARE CORPORATION, SEARS ROEBUCK AND CO., A NEW YORK CORPORATION, J.C. PENNEY PROPERTIES, INC., A DELAWARE CORPORATION, NORDSTROM, INC., A WASHINGTON CORPORATION AND ADCOR REALTY CORPORATION, A NEW YORK CORPORATION AND THE MAY DEPARTMENT STORES COMPANY, A NEW YORK CORPORATION, RECORDED NOVEMBER 26, 1986, INSTRUMENT NO. 86-549267, OFFICIAL RECORDS, AS MODIFIED BY FIRST AMENDMENT TO CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT RECORDED MARCH 14, 2014 AS INSTRUMENT NO. 2014-0100990, OFFICIAL RECORDS, AND AS FURTHER MODIFIED BY SECOND AMENDMENT TO CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT RECORDED _____, 2023 AS INSTRUMENT NO. 2023-_____ OF OFFICIAL RECORDS.

TOGETHER WITH:**PARCEL C:**

A NON-EXCLUSIVE EASEMENT FOR VEHICULAR AND PEDESTRIAN ACCESS FOR CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF IMPROVEMENTS, ALL AS MORE PARTICULARLY SET FORTH IN AND SUBJECT TO THE TERMS AND PROVISIONS OF THAT CERTAIN EASEMENT, LICENSE, CONSTRUCTION, AND MAINTENANCE AGREEMENT EXECUTED BY AND BETWEEN EWH ESCONDIDO ASSOCIATES, L.P. AND THE CITY OF ESCONDIDO DATED AS OF MAY 30, 1985 RECORDED JUNE 13, 1985 AS FILE NO. 85-210724 OF OFFICIAL RECORDS AS AMENDED BY FIRST AMENDMENT TO EASEMENTS, LICENSE, CONSTRUCTION AND MAINTENANCE AGREEMENT RECORDED AUGUST 23, 1985 AS FILE NO. 85-307344 OF OFFICIAL RECORDS.

APN(s): 271-030-14-00



SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

- A. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2023-2024.
- B. Intentionally omitted.
- C. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 (commencing with Section 75) or Part 2, Chapter 3, Articles 3 and 4, respectively, of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A or as a result of changes in ownership or new construction occurring prior to Date of Policy.

No such taxes are due and payable at Date of Policy.

- 1. Water rights, claims or title to water, whether or not disclosed by the public records.
- 2. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: San Diego Gas and Electric Company
Purpose: public utilities, ingress, egress
Recorded: January 18, 1945 in [Book 1801, page 310, of Official Records](#)

- 3. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: San Diego Gas and Electric Company
Purpose: public utilities, ingress, egress
Recorded: June 24, 1952 in [Book 4536, page 364, of Official Records](#)

- 4. The ownership of all water pipes and appurtenances now used for the distribution of water, which pipes and appurtenances now used for the distribution of water, which pipes and appurtenances are located on the property of the grantors land described therein, including specifically 1 water well, together with the pumps, pipelines, electric lines, equipment and facilities used in the operation of said well upon the said property herein described, together with a non-exclusive easement and right-of-way to be used in common with the grantors, their successors and assigns, for the purpose of installing, maintaining, operating and repairing water pipes with meters and other measuring devices, for the purpose of measuring or controlling the flow of water, provided that all such pipes shall be installed and maintained at least eighteen (18) inches below the natural surface of the land through which they shall extend and shall not be installed under any building or similar structure, tree or other improvement located upon said land at the time of such installation, as granted to Green Mutual Water Company of San Diego County, a corporation, in deed recorded December 12, 1952 in [Book 4685, page 46 of Official Records](#).

Reference is hereby made to said document for full particulars.

SCHEDULE B

(Continued)

5. An easement for the installation, repairing, replacing, maintenance, and operation of water pipelines, wells, pumps, motors, and appurtenances, together with the right of ingress thereto and egress therefrom and incidental purposes in favor of Green Mutual Water Company of San Diego County, a corporation, recorded December 7, 1953 in [Book 5069, page 269 of official records.](#)

Reference is made to said document for full particulars.

6. Easements, water pipelines, walls, right of ways dams, pumps and appurtenances as reserved by Green Mutual Water Company of San Diego County, et. al., in deeds to the City of San Diego, recorded December 30, 1953 in [Book 5098, page 380](#) and [Book 5098, page 401, both of Official Records.](#)

Reference is made to said document for full particulars.

7. An Agreement, and the terms and conditions as contained therein

Dated: June 21, 1967

By and Between: The City of San Diego, a municipal corporation and the City of Escondido, a municipal corporation

Recorded: July 17, 1967 as [Instrument No. 103860, of Official Records](#)

Regarding: Construction of a sewage treatment and disposal facility

Reference is hereby made to said document for full particulars.

8. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: City of Escondido, a municipal corporation

Purpose: sewer line

Recorded: February 21, 1968 as [Instrument No. 30466, of Official Records](#)

Affects: Parcel B

9. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: The City of Escondido, a municipal corporation

Purpose: right of way

Recorded: February 21, 1968 as [Instrument No. 30467, of Official Records](#)

Said instrument, among other things, provides as follows:

The City of Escondido shall have the right to extend the fill slopes in the area between the road right of way easement, and the easement for construction, operation and maintenance of the sewer and the city agrees that Wessels may construct any structure over the easement for construction of the sewer referred to above provided that the structural design of any structure to be so constructed must be approved by the City Engineer of the City of Escondido.

Affects: Parcel B

SCHEDULE B

(Continued)

10. The fact that the ownership of said land does not include rights of access to or from the street, highway, or freeway abutting said land, such rights having been severed from said land by the document.

Recorded: May 27, 1968 as [Instrument No. 87832, of Official Records](#)
 Affects: A portion of said land as more particularly described in said document.

11. Intentionally omitted.

12. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: City of Escondido, a municipal corporation
 Purpose: storm drainage works and appurtenances
 Recorded: October 9, 1984 as [Instrument No. 84-382653, of Official Records](#)

The above easement was also recorded, Official Records:
 October 9, 1984 Series/[Instrument No.: 84-382654](#)

The above easement was also recorded, Official Records:
 October 9, 1984 Series/[Instrument No.: 84-382655](#)

The above easement was also recorded, Official Records:
 October 9, 1984 Series/[Instrument No. 84-382656](#)

Affects: Parcel B

13. Resolution No. 85-28 of the city council of the City of Escondido, California, establishing water repayment fees to the city for the South Escondido Boulevard Water repayment area was recorded February 13, 1985, as [File No. 85-049204](#).

14. An Easement, License, Construction and Maintenance Agreement dated May 30, 1985, upon the terms, covenants, and conditions contained therein.

Executed By
 And Between: EWH Escondido Associates, L. P., a Delaware limited partnership and the City of Escondido, a municipal corporation
 Recorded: June 13, 1985 as [Instrument No. 85-210724, of Official Records](#)

Reference is hereby made to said document for full particulars.

A First Amendment to Easement, License, Construction and Maintenance Agreement, recorded August 23, 1985 as [File No. 85-307344 of Official Records](#).

15. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: San Diego Gas and Electric Company, a corporation
 Purpose: a. Underground facilities and appurtenances for the transmission and distribution of electricity.
 b. Pipelines and appurtenances for any and all purposes.
 c. Communication facilities, and appurtenances.

SCHEDULE B

(Continued)

Recorded: June 18, 1985 as [Instrument No. 85-0216666, of Official Records](#)

16. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: San Diego Gas and Electric Company, a corporation

Purpose: a. Underground facilities and appurtenances for the transmission and distribution of electricity.

b. Pipelines and appurtenances for any and all purposes.

c. Communication facilities, and appurtenances.

Recorded: June 18, 1985 as [Instrument No. 85-216667, of Official Records](#)

17. An easement for public utilities, sewer, and storm drains and incidental purposes as delineated and designated on [Parcel Map No. 14270](#), subject to any terms and conditions contained therein.

Affects: Parcel B

18. The North County Fair Construction, Operation and Reciprocal Easement Agreement, and the easements, terms, covenants, provisions and conditions as contained therein

Dated: November 26, 1986

By and Between: EWH Escondido Associates, L.P., a Delaware limited partnership, Carter Hawley Hale Stores, Inc., a Delaware corporation, Sears, Roebuck and Co., a New York Corporation, J.C. Penney Properties, Inc., a Delaware corporation, the May Department Stores Company, a New York corporation, Nordstrom, Inc., a Washington corporation, and ADCOR realty corporation, a New York corporation

Recorded: November 26, 1986 as [Instrument No. 86-549267, of Official Records](#)

Regarding:

Reference is hereby made to said document for full particulars.

An assignment of REA from EWH Escondido Associates, L.P., a Delaware Limited partnership to EWH 1979 Development Company, L.P., a California Limited partnership as to a 55% interest recorded November 3, 1998 as [File No. 1998-0718079 of Official Records](#).

An assignment of REA from EWH 1979 Development Company, L.P., a California Limited Partnership to North County Fair LLC, a Delaware limited liability Company, as to a 55% interest recorded November 3, 1998 as [File No. 1998-0718080 of Official Records](#).

A First Amendment to Construction, Operation and Reciprocal Easement Agreement

Recording Date: March 14, 2014

Recording No.: [2014-0100990, Official Records](#)

A Second Amendment to Construction, Operation and Reciprocal Easement Agreement

Recording Date: _____, 2023

Recording No.: 2023-_____ of Official Records

SCHEDULE B
(Continued)

19. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
- Granted to: San Diego Gas and Electric Company, a corporation
Purpose: public utilities, ingress, egress
Recording Date: July 11, 2002
Recording No: [2002-0582900 of Official Records](#)
20. An easement for the purpose shown below and rights incidental thereto as set forth in a document.
- Granted To: San Diego Gas and Electric Company
Purpose: public utilities, ingress, egress
Recorded: April 7, 2003 as [Instrument No. 2003-0385039, of Official Records](#)
Affects: Parcel B
21. An easement for the purpose shown below and rights incidental thereto as set forth in a document.
- Granted To: Pacific Bell Telephone Company, a California corporation
Purpose: Underground communications facilities
Recorded: June 19, 2003 as [Instrument No. 2003-0724091, of Official Records](#)
Affects: Parcel B
22. An easement for the purpose shown below and rights incidental thereto as set forth in a document.
- In Favor of: San Diego Gas & Electric Company, a corporation
Purpose: public utilities
Recorded: March 16, 2010 as [Instrument No. 2010-0129374 of Official Records](#)
Affects: Parcel B
23. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
- Granted to: San Diego Gas & Electric Company, a corporation
Purpose: Underground facilities and appurtenances for the transmission and distribution of electricity
Recording Date: August 31, 2012
Recording No: [2012-0525645, Official Records](#)
Affects: Parcel C
24. An instrument entitled "Storm Water Control Facility Maintenance Agreement"
- Executed by: North County Fair LP, a Delaware limited partnership, and EWH Escondido Associates, L.P., a Delaware limited partnership
In favor of: City of Escondido
Recording Date: October 16, 2012
Recording No: [2012-0633341, Official Records](#)
Affects: Parcel B

Reference is hereby made to said document for full particulars.

SCHEDULE B
(Continued)

25. Intentionally deleted.
26. Intentionally deleted.
27. Intentionally omitted.
28. The effect of any failure to comply with the terms, covenants, conditions and provisions of the lease described or referred to in Schedule A.
29. Intentionally omitted.
30. Intentionally omitted.
31. Intentionally omitted.
32. Intentionally omitted.
33. Intentionally omitted.
34. Intentionally omitted.
35. Intentionally omitted.
36. Any rights, claims or interests that may exist or arise by reason of the following facts disclosed by an ALTA/NSPS Land Title Survey completed March 18, 2022, originally issued April 4, 2022, last revised January 4, 2023, prepared by or under the responsible charge of J. Marty Smith LS 8070, of/for Fuscoe Engineering, Job No. 0756-101-01:
 - A. Parking improvements situated on Parcel A extend onto the southerly adjoining property.
 - B. The two-story building situated on Parcel A extends 0.2 feet onto the southeasterly adjoining property.
 - C. A traffic signal pull box is situated on the northeast portion of Parcel A.
 - D. A cable tv pull-box, transformers, vaults, manholes, electrical and communication cabinets, cleanouts, risers, water valves, fire hydrant, backflow preventer and drainage improvements are situated on Parcel A at various locations.
 - E. The perimeter boundaries of Parcel C are not locatable.
 - F. The utility improvements lie outside the boundary of the easement recorded July 11, 2002 as Instrument No. 2002-0582900 of Official Records.
37. Intentionally omitted.

End of Schedule B

This is a pro forma policy furnished to or on behalf of the party to be insured. It neither reflects the present status of title, nor is it intended to be a commitment to insured. The inclusion of endorsements as a part of the pro forma policy in no way evidences the willingness of the company to provide any affirmative coverage shown therein. There are requirements which must be met before a final policy can be issued in the same form as the pro forma policy. A commitment to insure setting forth these requirements should be obtained from the Company.

72306 ALTA Owner's Policy of Title Insurance (6/17/06)

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SCHEDULE B

(Continued)

Additional Matters may be added or other amendments may be made to this pro forma policy by reason of any defects, liens or encumbrances that appear for the first time in the Public Records or come to the attention of the Company and are created or attached between the issuance of this pro forma policy and the issuance of a policy of title insurance. The Company shall have no liability because of such addition or amendment.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

1. The Company insures against loss or damage sustained by the Insured in the event that, at Date of Policy,
 - a. according to applicable zoning ordinances and amendments, the Land is not classified Zone PD-C (Planned Development-Commercial) within the Westfield North County Commercial Planned Development and the Kit Carson Park Overlay
 - b. the following use or uses are not allowed under that classification: Retail sales.
 - c. There shall be no liability under this paragraph 1.b. if the use or uses are not allowed as the result of any lack of compliance with any conditions, restrictions, or requirements contained in the zoning ordinances and amendments, including but not limited to the failure to secure necessary consents or authorizations as a prerequisite to the use or uses. This paragraph 1.c. does not modify or limit the coverage provided in Covered Risk 5.
2. The Company further insures against loss or damage sustained by the Insured by reason of a final decree of a court of competent jurisdiction either prohibiting the use of the Land, with any existing structure, as specified in paragraph 1.b.; or requiring the removal or alteration of the structure, because, at Date of Policy, the zoning ordinances and amendments have been violated with respect to any of the following matters:
 - a. Area, width, or depth of the Land as a building site for the structure
 - b. Floor space area of the structure
 - c. Setback of the structure from the property lines of the Land
 - d. Height of the structure, or
 - e. Number of parking spaces.
3. There shall be no liability under this endorsement based on:
 - a. the invalidity of the zoning ordinances and amendments until after a final decree of a court of competent jurisdiction adjudicating the invalidity, the effect of which is to prohibit the use or uses;
 - b. the refusal of any person to purchase, lease or lend money on the Title covered by this policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of an environmental protection lien that, at Date of Policy, is recorded in the Public Records or filed in the records of the clerk of the United States district court for the district in which the Land is located, unless the environmental protection lien is set forth as an exception in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued By
Chicago Title Insurance Company

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.
2. For the purposes of this endorsement only,
 - a. "Covenant" means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
 - b. "Improvement" means a building, structure located on the surface of the Land, road, walkway, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
3. The Company insures against loss or damage sustained by the Insured by reason of:
 - a. A violation on the Land at Date of Policy of an enforceable Covenant, unless an exception in Schedule B of the policy identifies the violation;
 - b. Enforced removal of an Improvement as a result of a violation, at Date of Policy, of a building setback line shown on a plat of subdivision recorded or filed in the Public Records, unless an exception in Schedule B of the policy identifies the violation; or
 - c. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.
4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
 - a. any Covenant contained in an instrument creating a lease;
 - b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land; or
 - c. except as provided in Section 3.c., any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen
Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued By
Chicago Title Insurance Company

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.
2. For the purposes of this endorsement only:
 - a. "Covenant" means a covenant, condition, limitation or restriction in a document or instrument recorded in the Public Records at Date of Policy.
 - b. "Private Right" means (i) an option to purchase; (ii) a right of first refusal; or (iii) a right of prior approval of a future purchaser or occupant.
3. The Company insures against loss or damage sustained by the Insured under this Owner's Policy if enforcement of a Private Right in a Covenant affecting the Title at Date of Policy based on a transfer of Title on or before Date of Policy causes a loss of the Insured's Title.
4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
 - a. any Covenant contained in an instrument creating a lease;
 - b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land;
 - c. any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances; or
 - d. any Private Right in an instrument identified in Exception(s) NONE in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued By
Chicago Title Insurance Company

1. As used in this endorsement, the following terms shall mean:
 - a. "Evicted" or "Eviction": (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of the Lease or (b) the lawful prevention of the use of the Land or the Tenant Leasehold Improvements for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.
 - b. "Lease": the lease described in Schedule A.
 - c. "Leasehold Estate": the right of possession granted in the Lease for the Lease Term.
 - d. "Lease Term": the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
 - e. "Personal Property": property, in which and to the extent the Insured has rights, located on or affixed to the Land on or after Date of Policy that by law does not constitute real property because (i) of its character and manner of attachment to the Land and (ii) the property can be severed from the Land without causing material damage to the property or to the Land.
 - f. "Remaining Lease Term": the portion of the Lease Term remaining after the Insured has been Evicted.
 - g. "Tenant Leasehold Improvements": Those improvements, in which and to the extent the Insured has rights, including landscaping, required or permitted to be built on the Land by the Lease that have been built at the Insured's expense or in which the Insured has an interest greater than the right to possession during the Lease Term.
2. Valuation of Estate or Interest Insured:
 If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction of the Insured, then, as to that portion of the Land from which the Insured is Evicted, that value shall consist of the value for the Remaining Lease Term of the Leasehold Estate and any Tenant Leasehold Improvements existing on the date of the Eviction. The Insured Claimant shall have the right to have the Leasehold Estate and the Tenant Leasehold Improvements affected by a defect insured against by the policy valued either as a whole or separately. In either event, this determination of value shall take into account rent no longer required to be paid for the Remaining Lease Term.
3. Additional items of loss covered by this endorsement:
 If the Insured is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 2 of this endorsement, any other endorsement to the policy, or Section 8(a)(ii) of the Conditions:
 - a. The reasonable cost of (i) removing and relocating any Personal Property that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, (ii) transportation of that Personal Property for the initial one hundred miles incurred in connection with the relocation, (iii) repairing the Personal Property damaged by reason of the removal and relocation, and (iv) restoring the Land to the extent damaged as a result of the removal and relocation of the Personal Property and required of the Insured solely because of the Eviction.
 - b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.

- c. The amount of rent that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate and Tenant Leasehold Improvements from which the Insured has been Evicted.
 - d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.
 - e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.
 - f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate.
 - g. If Tenant Leasehold Improvements are not substantially completed at the time of Eviction, the actual cost incurred by the Insured, less the salvage value, for the Tenant Leasehold Improvements up to the time of Eviction. Those costs include costs incurred to obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping.
4. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys' fees or expenses) resulting from environmental damage or contamination.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of the lack of a right of access to the following utilities or services:

Water service, natural gas service, electric power service, telephone service, storm water drainage, sanitary sewer either over, under or upon rights-of-way or easements for the benefit of the Land because of:

- (1) a gap or gore between the boundaries of the Land and the rights-of-way or easements;
- (2) a gap between the boundaries of the rights-of-way or easements ; or
- (3) a termination by a grantor, or its successor, of the rights-of-way or easements.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of Parcel A of the Land being taxed as part of a larger parcel of land or failing to constitute a separate tax parcel for real estate taxes.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of:

1. the failure of Parcels A, B and C of the Land to be contiguous to each other along their respective common boundary lines; or
2. the presence of any gaps, strips, or gores separating any of the contiguous boundary lines described above.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of the failure of a commercial building, known as 210 East Via Rancho Parkway, Escondido, CA, to be located on Parcel A of the Land at Date of Policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of the failure of Parcel A of the Land as described in Schedule A to be the same as that identified on the survey completed March 18, 2022, originally issued April 4, 2022, last revised January 4, 2023, prepared by or under the responsible charge of J. Marty Smith LS 8070, of/for Fuscoe Engineering, Job No. 0756-101-01.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The Company insures against loss or damage sustained by the Insured by reason of the failure of Parcel A of the Land to constitute a lawfully created parcel according to the subdivision statutes and local subdivision ordinances applicable to the Land.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued By
Chicago Title Insurance Company

1. The insurance provided by this endorsement is subject to the exclusion in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.
2. For purposes of this endorsement only, "Improvement" means a building, structure located on the surface of the Land, and any paved road, walkway, parking area, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
3. The Company insures against loss or damage sustained by the Insured by reason of the enforced removal or alteration of any Improvement, resulting from the future exercise of any right existing at Date of Policy to use the surface of the Land for the extraction or development of water excepted from the description of the Land or excepted in Schedule B.
4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
 - a. contamination, explosion, fire, flooding, vibration, fracturing, earthquake or subsidence; or
 - b. negligence by a person or an Entity exercising a right to extract or develop water; or
 - c. the exercise of the rights described in NONE.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued By
Chicago Title Insurance Company

When the policy is issued by the Company with a policy number and Date of Policy, the Company will not deny liability under the policy or any endorsements issued with the policy solely on the grounds that the policy or endorsements were issued electronically or lack signatures in accordance with the Conditions.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The policy is hereby amended by deleting Paragraph 14 of the Conditions, relating to Arbitration.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The Company insures against loss or damage sustained by the Insured if the exercise of the granted or reserved rights to use or maintain the easement(s) referred to in Exception(s) 2 through 6, 8, 9, 12, 15, 16, 17, and 19 through 23 of Schedule B results in:

- (1) damage to an existing building located on the Land, or
- (2) enforced removal or alteration of an existing building located on the Land,

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

Order No. 00092251-994-LT2-1TW

Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251

PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued by
Chicago Title Insurance Company

The Company insures against loss or damage sustained by the Insured if, at Date of Policy (i) the easement identified as Parcel B in Schedule A (the "Easement") does not provide that portion of the Land identified as Parcel A in Schedule A both actual vehicular and pedestrian access to and from Via Rancho Parkway (the "Street"), (ii) the Street is not physically open and publicly maintained, or (iii) the Insured has no right to use existing curb cuts or entries along that portion of the Street abutting the Easement.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

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PRO FORMA ENDORSEMENT
Attached to Policy No. Pro Forma-CA-FBSC-IMP-72306-1-22-00092251
Issued By
Chicago Title Insurance Company

1. The insurance provided by this endorsement is subject to the exceptions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.
2. For purposes of this endorsement only:
 - (a) "Improvement" means a building or structure located on the surface of the Land or the surface of adjoining land at Date of Policy that by law constitutes real property.
 - (b) "Future Improvement" means any of the following to be constructed on the Land after Date of Policy in the locations according to the Plans and that by law constitutes real property:
 - (i) a building; or
 - (ii) a structure.
 - (c) "Plans" means the proposed site plan depiction on page three (3) of that certain ALTA/NSPS Land Title Survey completed March 18, 2022, originally issued April 4, 2022, last revised November 21, 2022, prepared by or under the responsible charge of J. Marty Smith LS 8070, of/for Fuscoe Engineering, Job No. 0756-101-01.
3. The Company insures against loss or damage sustained by the Insured by reason of:
 - (a) An encroachment of any Improvement or Future Improvement located on the Land onto adjoining land or onto that portion of the Land subject to an easement, unless an Exception in Schedule B of the policy identifies the encroachment;
 - (b) An encroachment of any Improvement located on adjoining land onto the Land at Date of Policy, unless an Exception in Schedule B of the policy identifies the encroachment;
 - (c) Enforced removal of any Improvement or Future Improvement located on the Land as a result of an encroachment by the Improvement or Future Improvement onto any portion of the Land subject to any easement, in the event that the owners of the easement shall, for the purpose of exercising the right of use or maintenance of the easement, compel removal or relocation of the encroaching Improvement or Future Improvement; or
 - (d) Enforced removal of any Improvement or Future Improvement located on the Land that encroaches onto adjoining land.

C-1

4. Sections 3(c) and 3(d) of this endorsement do not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from the following Exceptions, if any, listed in Schedule B:

The encroachment shown in Exception 36(B) of Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **PRO FORMA**

Chicago Title Insurance Company

Countersigned by:

Pro Forma Specimen

Authorized Signature

This is a Pro Forma Endorsement. It does not reflect the present state of the Title and is not a commitment to (i) insure the Title or (ii) issue any of the attached endorsements. Any such commitment must be an express written undertaking on appropriate forms of the Company.

EXHIBIT D**FORM OF LESSEE'S ESTOPPEL CERTIFICATE**

The City of Escondido
201 N. Broadway
Escondido, California 92025

Re: North County Fair
Escondido, California

Costco Wholesale Corporation, a Washington corporation ("Lessee") is the Lessee under that certain Ground Lease dated _____ 2023 (the "Lease"), by and between the City of Escondido, California ("Lessor") and Lessee. Lessee hereby states that, to the best of its knowledge, as of the date of this Estoppel Certificate:

- (i) There is no default under the Lease nor has any notice of default been delivered by Lessee to Lessor;
- (ii) There has not been any assignment, modification or amendment of the Lease (except by _____);
- (iii) The Lease is in full force and effect; and
- (iv) No Fixed Rent or other charges payable by Lessee to Lessor under the Lease have been paid in advance.

This statement shall act as a waiver of any claim to the extent such claim is based on facts contrary to those asserted in this statement and to the extent said claim is asserted against a bona fide encumbrancer or purchaser for value, without knowledge of facts contrary to those contained in this statement. This statement shall in no event subject the undersigned to any liability whatsoever, notwithstanding the negligent or otherwise inadvertent failure of the undersigned to disclose correct and/or relevant information.

Dated: _____

Costco Wholesale Corporation,
a Washington corporation

By: _____

EXHIBIT E
FORM OF SHORT FORM LEASE

Recording Requested by
and when Recorded Return to:

Costco Wholesale Corporation
999 Lake Drive
Issaquah, WA 98027-5367
Attention: Rick Jerabek

THE UNDERSIGNED PARTIES DECLARE:
DOCUMENTARY TRANSFER TAX is:

\$ _____.
Computed on full value of property leased
City of Escondido

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum") is made this ____ day of _____, 2023 by and between THE CITY OF ESCONDIDO ("Lessor"), and COSTCO WHOLESALE CORPORATION, a Washington corporation ("Lessee"), with reference to the following:

1. Lease. Lessor and Lessee have executed that certain Lease, dated as of _____, 2023 (the "Lease"), which provides for the lease by Lessor to Lessee of that certain real property located in the City of Escondido, County of San Diego, State of California, which real property (the "Premises") is more particularly described on Exhibit A attached hereto and made a part hereof. As such, Lessor hereby leases the Premises to Lessee.

2. Term. The term of the Lease continues as of the date of the Lease Amendment and, except as provided below, shall expire at midnight of the day twenty (20) years after the Effective Date (as such term is defined in the Lease).

3. Extension Options. Under the terms of the Lease, Lessor has granted to Lessee seven (7) successive options to extend the term of the lease, each for an additional five (5) year period, upon the same terms and conditions as those applicable to the primary term of the Lease.

4. Mortgage / Deed of Trust. Pursuant to Article XI of the Lease, Lessor has agreed to join in the execution of any mortgage or deed of trust which Lessee may cause to be recorded against the Premises and the improvements located thereon, subject to the satisfaction of certain conditions set forth in the Lease with respect to such mortgage or deed of trust.

5. Right of First Refusal. Pursuant to Article XXIV of the Lease, Lessor has granted to Lessee a right of first refusal to purchase all or any portion of Lessor's fee interest in the Premises.

6. Miscellaneous Provisions.

(a) If any provision of this Memorandum or portion thereof, or the application to any person or circumstances, shall to any extent be held invalid, inoperative or unenforceable, then the remainder of this Memorandum, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Memorandum; and each provision of this Memorandum shall be valid and enforceable to the fullest extent permitted by law.

(b) This Memorandum shall be construed in accordance with the laws of the State of California.

(c) This Memorandum shall be binding upon and inure to the benefit of the successors and assigns of Lessor and Lessee.

(d) In the event action is instituted to enforce any of the provisions of this Memorandum, the prevailing party in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs.

(e) This Memorandum may be executed in more than one counterpart, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[Signature Page Immediately Follows]

All rights and obligations of Lessor and Lessee hereunder are governed by the terms, covenants, conditions, limitations and restrictions contained in the Lease.

ATTEST:
OFFICE OF THE CITY ATTORNEY

“LESSOR”:
THE CITY OF ESCONDIDO

By: _____
Name: _____
Title: _____

“LESSEE”:

COSTCO WHOLESALE CORPORATION,
a Washington corporation

By: _____
Name: _____
Title: _____

Exhibit A

Legal Description of the Premises