

AFTER RECORDING, RETURN TO:

Costco Wholesale
999 Lake Drive
Issaquah, WA 98027
Attn: Property Management/Legal

Space Above for County Recorder's Use

Tax Parcel I.D. Nos.: 05-052-0004; 05-050-0019;
05-121-0001; 05-121-0002; and 05-121-0003

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration"), dated as of May 26th, 2022 ("**Effective Date**"), is made by and between **BLUE SPRING BUSINESS PARK, LLC**, a Utah limited liability company ("**Declarant**"), and **COSTCO WHOLESALE CORPORATION**, a Washington corporation ("**Costco**"). Declarant and Costco are referred to individually as a "**Party**" and collectively as the "**Parties**".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Cache County, Utah, being legally described on Exhibit A attached hereto and made a part hereof (collectively, the "**Restricted Property**");

WHEREAS, pursuant to that certain Ground Lease, dated on or about the Effective Date (as amended from time-to-time, the "**Ground Lease**"), between Declarant and Costco, Costco leases from Declarant that certain real property located in Cache County, Utah, being legally described on Exhibit B attached hereto and made a part hereof (the "**Costco Parcel**"); and

WHEREAS, as a primary inducement to Costco to lease the Costco Parcel, Developer has agreed to execute and deliver to Costco this Declaration, in recordable form, setting forth those specific restrictive covenants in Costco's favor herein against the Restricted Property.

NOW THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Declarant hereby declares and the Parties hereby agree and acknowledge as follows:

1. **Restrictive Covenants.** Subject to the exclusion described below for a Costco Facility or Business (as defined below), Declarant hereby covenants and agrees for itself and Declarant Entities (as defined below) that:

(a) No portion of any Restricted Property shall be used or operated: (i) as a wholesale or retail general merchandise facility substantially similar to a prototypical

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Costco Wholesale warehouse store that has a merchandising concept based upon a relatively limited number of stock keeping units in a large number of product categories (the “**Merchandising Concept**”); (ii) as a grocery store or supermarket, including, without limitation, a grocery store or supermarket that forms a part of or is otherwise integrated into a larger retail store, such as the business concepts commonly referred to as a “supercenter” or “hypermarket” (a “**Grocer**”); (iii) as a wholesale or retail establishment selling wine, beer, spirits or other alcoholic beverages intended for off-premises consumption (“**Alcoholic Beverage Retailer**”); (iv) as a “Wal-Mart” store or “Wal-Mart Supercenter” or any other store operated under the “Wal-Mart” brand (a “**Wal-Mart**”); (v) as any business operated by Amazon, or under the “Amazon” brand that is involved in the retail sale of groceries or provision of retail grocery delivery service, whether in a bricks-and-mortar store (such as Amazon Fresh) or by ecommerce (such as Amazon Pantry) (“**Amazon Grocer**”); provided, however, that the Amazon Grocer prohibition shall not apply to the operation of a Whole Foods grocery store, if and only if, such operations are substantially similar to the manner in which Whole Foods grocery stores were being operated as of December 31, 2021, or to an Amazon distribution center or fulfillment center not open to the public; or (vi) to support a facility operating under the Merchandising Concept, as a Grocer, as an Alcoholic Beverage Retailer, as a Wal-Mart, or as an Amazon Grocer (i.e., for parking or other necessary improvements for such a facility). The Merchandising Concept restriction includes, but shall not be limited to: (vii) any business that operates as a warehouse club; (viii) any business operated under the tradenames of Sam's, BJ's, Price Smart, Jetro, or Smart and Final; and (ix) any business similar to those operated under the tradenames Costco, Sam's, BJ's, Price Smart, Jetro, or Smart and Final.

(b) Notwithstanding the foregoing or anything to the contrary contained herein, Costco agrees and acknowledges that (A) portions of the Restricted Property owned by the Declarant and/or the Declarant Entities, (I) are presently leased to the following tenants: Pepperidge Farms, Schreiber Foods, Al's Sporting Goods, FedEx Ground (by way of a sublease agreement with KW LGN, LLC, an affiliate entity of KiernanWest), KW LGN, LLC and any affiliate or subsidiary entities of KiernanWest, Embroidery Central, Core & Main; and (II) may be leased to the following prospective tenants: Foundation Building Materials, Parts Authority, Wi-Fiber, Thermo Fisher Scientific, General Electric Healthcare and any affiliate or subsidiary entities of GE Healthcare Systems, Frulact, and Cytiva (collectively, each aforementioned party and their respective affiliates and subsidiaries being deemed “**Permitted Users**”), and that (B) the Permitted Users shall not be prohibited by, or deemed to violate this Declaration so long as (I) the Permitted Users operate their businesses in accordance with the terms and conditions of the applicable lease agreement with Declarant and/or the Declarant Entities, including (but not limited to) the so-called “permitted use” provisions of the applicable lease agreement; and (II) Declarant and/or the Declarant Entities, has not modified such “permitted use” provisions of the applicable lease following the Effective Date without obtaining Costco’s prior written consent thereto, which consent may be granted or withheld in Costco’s commercially reasonable discretion.

(c) Except for the uses, operations, and businesses of the Permitted Users and the incidental sale of items or uses specified below, no portion of the Restricted Property

shall be used or operated as a car wash, motor vehicle fuel or service station, or motor vehicle tire sales, service or installation facility; provided that any motor vehicle tire sales, service or installation facility that is operated by and in connection with the Permitted Users and/or a general merchandise retail store or a traditional department store shall not be prohibited by or deemed a violation of this Declaration. An “incidental sale of items” under this Declaration is one in which there is no more than the lesser of (i) ten percent (10%) of the total floor area of such business or operation, or (ii) 2,000 square feet of sales and/or display area of such business or operation, relating to such items individually or in the aggregate.

(d) Notwithstanding anything to the contrary contained in this Declaration, in no event shall any of the prohibitions set forth in paragraphs (a) or (b) above prohibit the Costco Parcel from being used for or as a Costco Facility or Business.

(e) As used in this Declaration, the following terms shall have the following meaning:

(i) “**Restricted Property**” shall mean any real property within a one-half (1/2) mile in any direction from the exterior boundaries of the Costco Parcel that is currently or in the future owned by Declarant or the Declarant Entities.

(ii) “**Declarant Entities**” means Declarant and any subsidiary, affiliate, parent, person, or other entity that controls, is controlled by, or is under common control with Declarant. The terms “controls”, “is controlled by” or “under common control” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such controlled person or entity; the ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, at least fifty-one percent (51%) of the voting interest in, any person or entity shall be presumed to constitute such control.

(iii) A “**Costco Facility or Business**” shall mean any facility or business owned, leased, franchised, managed, operated, or controlled by Costco Wholesale Corporation or by any affiliate or subsidiary of Costco Wholesale Corporation, including, without limitation, a Costco Wholesale warehouse club, Costco Wholesale business center, or any of the constituent or ancillary uses associated therewith. A Costco Facility or Business shall also include a facility or business that is owned or operated by a person or entity other than Costco Wholesale Corporation, or any affiliate or subsidiary of Costco Wholesale Corporation, but which facility or business is intended to be included as part of or otherwise integrated into a Costco Facility or Business, such as leased or licensed departments, or co-branded or ancillary uses.

2. **Modification and Termination.** This Declaration or any provision hereof may only be amended or modified as to all or any portion of the Restricted Property upon the written consent of Costco and the specific owner(s) of the affected portions of the Restricted Property, which consent as to each Party shall not be unreasonably withheld, conditioned, or delayed.

Upon the expiration or earlier termination of the Ground Lease, Declarant and Costco, and each of their respective successors and assigns, shall promptly and cooperatively execute, deliver, and record an instrument that terminates and releases this Declaration (including, each of the restrictions contained in this Declaration) from all of the Restricted Property.

3. **Covenant Running with the Land.** The covenants contained in Section 1 hereof shall be deemed to be a covenant running with the title to the Restricted Property (subject to the terms hereof), shall inure to the sole and exclusive benefit of Costco and any affiliate of Costco, and shall (subject to the terms hereof) be binding upon the successors and assigns of Declarant and the applicable Declarant Entities in title to any portion of the Restricted Property, and any lessees or other transferees of any portion of the Restricted Property.

4. **Default.** In the event any Party fails to perform any provision of this Declaration, which failure continues for a period of ten (10) business days after receipt of written notice specifying the particulars of that failure, that failure will constitute a default and any other Party may thereafter institute legal action against the defaulting Party for specific performance, declaratory or injunctive relief, restraining order, or any other remedy provided by law; provided, however, that the defaulting Party will not be deemed to be in default if the failure to perform cannot be rectified within the aforementioned 10-business day period and that Party is diligently proceeding to rectify the particulars of that failure and rectifies the failure as soon as practicable. All remedies provided in this Section 4 or otherwise provided by law shall be cumulative and not exclusive.

5. **Miscellaneous.** This Declaration shall be governed by the laws of the State of Utah. Section titles or captions contained herein are inserted as a matter of convenience and for reference only, and in no way define, limit, extend, or describe the scope of this Declaration or any provisions hereof. In the event any term, covenant, condition, provision, or agreement contained in this Declaration is held to be invalid, void, or otherwise unenforceable, by any court of competent jurisdiction, such holding shall in no way affect the validity of enforceability of any other term, covenant, condition, provision, or agreement contained herein. Upon any sale, lease, or any other transfer of all or any portion of the Restricted Property (other than an assignment or transfer of rights pursuant to a mortgage, deed of trust, or otherwise as collateral for any indebtedness), such purchaser, lessee, or other transferee shall be deemed to have assumed the covenants and obligations in this Declaration and thereafter the restrictions contained in this Declaration shall be deemed to apply to and bind the purchaser, lessee, or transferee thereof (and its beneficiaries, if such transferee is a land trust) and the applicable portion of the Restricted Property.

[Intentionally Blank – Signature Pages and Acknowledgements to Follow]

SIGNATURE PAGE

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the Effective Date.

DECLARANT:

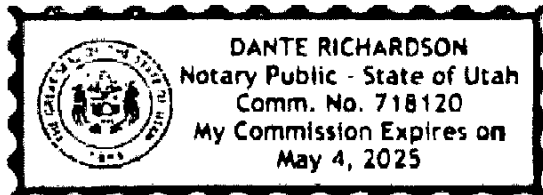
BLUE SPRING BUSINESS PARK, LLC,
a Utah limited liability company

By: *Jason Larsen*
Print Name: Jason Larsen
Title: Manager

ACKNOWLEDGMENT OF DECLARANT

STATE OF UTAH)
) : ss.
COUNTY OF Cooks)

The foregoing Declaration of Restrictive Covenants was acknowledged before me this 17th day of May, 2022, by Jason Larsen, the MANAGER of Blue Spring Business Park, LLC, a Utah limited liability company.



My Commission Expires: MAY 4, 2025

[Signature]
NOTARY PUBLIC
Residing at: Cooks

SIGNATURE PAGE (Continued)

IN WITNESS WHEREOF, Costco has executed this Declaration as of the Effective Date.

COSTCO:

COSTCO WHOLESALE CORPORATION,
 a Washington corporation

By: PC Pat
 Print Name: PAT CALZANS
 Title: VP

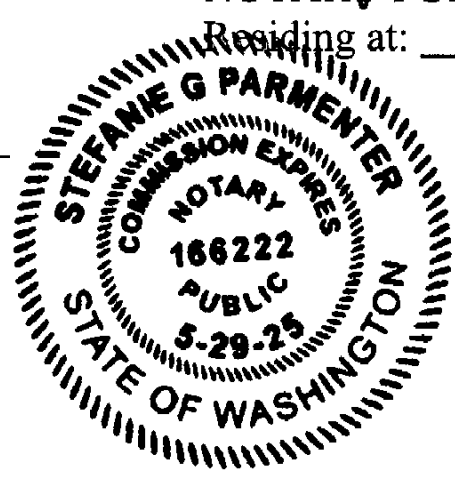
ACKNOWLEDGMENT OF COSTCO

STATE OF WA)
) : ss.
 COUNTY OF King)

23rd day of May, 2022, by Pat Calzans, the Executive VP of Costco Wholesale Corporation, a Washington corporation.

Stefanie G Parmenter
 NOTARY PUBLIC
 Residing at: Sammanish

My Commission Expires:
5/29/25



**EXHIBIT A
TO
DECLARATION OF RESTRICTIVE COVENANTS**

LEGAL DESCRIPTION OF RESTRICTED PROPERTY

The real property referenced in the foregoing Declaration as the "Restricted Property" is located in the County of Cache, State of Utah and is more particularly described as follows:

LOT 2, LOT 3, LOT 4, LOT 5, LOT 6, AND LOT 7, AS SET FORTH ON THE FINAL, OFFICIAL PLAT OF BLUE SPRING SUBDIVISION (PHASE 1), RECORDED ON MAY 3, 2022, IN THE OFFICIAL RECORDS OF THE CACHE COUNTY RECORDER, AS ENTRY NO. 1318875, IN BOOK 2022, AT PAGE 3608.

For Information Purposes Only (Tax Parcel I.D. Nos. 05-121-0001, 05-121-0002, and 05-121-0003)

LOT 1, LOT 2, AND LOT 3, AS SET FORTH ON THE FINAL, OFFICIAL PLAT OF BLUE SPRING BUSINESS PARK SUBDIVISION, RECORDED ON DECEMBER 7, 2021, IN THE OFFICIAL RECORDS OF THE CACHE COUNTY RECORDER, AS ENTRY NO. 1306736, IN BOOK 2021, AT PAGE 3561.

For Information Purposes Only (Tax Parcel I.D. No. 05-052-0004)

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF 1000 NORTH STREET DESCRIBED IN DEED BOOK 1755 PAGE 1908 OF THE OFFICIAL RECORDS OF CACHE COUNTY, AND THE WESTERLY LINE OF 800 WEST STREET DESCRIBED IN DEED BOOK 1442 PAGE 567 OF THE OFFICIAL RECORDS OF CACHE COUNTY, LOCATED BY SURVEY AS S88°58' 12"E 16.00 FEET ALONG THE MONUMENT LINE BETWEEN LOGAN CITY GIS MONUMENTS LC-344 & LC-267 AND SOUTH 24.88 FEET FROM LOGAN CITY GIS MONUMENT LC-344; THENCE S 1°02'31"W ALONG THE WESTERLY LINE OF 800 WEST STREET 788.63 FEET TO THE NORTHEAST CORNER OF GP COMERCIAL SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE CACHE COUNTY RECORDER; THENCE N88°59'27"W (RECORD: S89°52°38"W) 1,076.90 FEET ALONG SAID PLAT, THE EXTENSION THEREOF, AS WELL AS THE NORTHERLY LINES OF DEED BOOK 1721 PAGE 1221 & DEED BOOK 859 PAGE 983 TO A REBAR & CAP (FOUND) AT A FENCE CORNER; THENCE CONTINUING ALONG SAID

DEED 859/983 THE FOLLOWING 2 (TWO) COURSES AND DISTANCES: S1°00'33"W (DEED: SO°07'22"E) 200.00 FEET; THENCE N88°59'27"W 152.13 FEET (DEED: S89°52'38"W 152.00 FEET) TO THE EASTERLY LINE OF 1000 WEST (STATE ROAD 252) AT A POINT 49.50 FEET PERPENDICULAR DISTANCE EASTERLY FROM THE CONTROL LINE OF SAID HIGHWAY AT ENGINEER STATION 285+52.89; THENCE N1°09'05"E ALONG SAID RIGHT-OF-WAY LINE 938.31 FEET TO THE SOUTHWEST CORNER OF THAT REAL PROPERTY CONVEYED TO THE UTAH DEPARTMENT OF TRANSPORTATION DESCRIBED IN DEED BOOK 1654 PAGE 799 OF THE OFFICIAL RECORDS OF CACHE COUNTY; THENCE ALONG SAID DEED THE FOLLOWING 4 ((FOUR) COURSES AND DISTANCES: S88°50'55"E (DEED: SS8°39'21"E) 5.99 FEET; THENCE N27°53'35"E (DEED: N28°05'09"E) 21.86 FEET; THENCE N45°14'26"E (DEED: N45°26'00"E) 27.92 FEET; THENCE N64°13'56"E (DEED: N64°25'30"E) 10.10 FEET TO THE SOUTH LINE OF 1000 NORTH STREET DESCRIBED IN DEED BOOK 1755 PAGE 1908 OF THE OFFICIAL RECORDS OF CACHE COUNTY; THENCE S89°17'43"E (DEED: S89°17'24"E) ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID STREET 1,182.81 FEET TO THE POINT OF BEGINNING.

For Information Purposes Only (Tax Parcel I.D. No. 05-050-0019)

BEGINNING AT THE SOUTHEAST CORNER OF LOT 8, BLOCK 4, PLAT "D", LOGAN FARM SURVEY, LOCATED BY SURVEY AS N88°58'12"W 84.76 FEET ALONG THE MONUMENT LINE BETWEEN LOGAN CITY GIS MONUMENTS LC-267 & LC-344 AND NORTH 719.16 FEET FROM LOGAN CITY GIS MONUMENT LC-267, SAID CORNER IS ALSO DEFINED AND DESCRIBED AS THE SOUTHEAST CORNER OF REMAINDER PARCEL 05-050-0019, CACHE HIGH SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE CACHE COUNTY RECORDER; THENCE N89°17'12"W ALONG THE SOUTH LINE OF SAID LOT 1,330.25 FEET TO THE EAST LINE OF 800 WEST STREET, DEFINED AND DESCRIBED AS A PART OF 1000 NORTH & 800 WEST ROADWAY & BASEMENT DEDICATION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE CACHE COUNTY RECORDER; THENCE N1°17'10"E ALONG SAID PLAT 296.79 FEET; THENCE N88°59'00"W 510.12 FEET; THENCE N0°45'00"E 376.21 FEET; THENCE S89°13'05"E 179.45 FEET TO THE WESTERLY LINE OF THAT REAL PROPERTY DESCRIBED IN DEED BOOK 1911 PAGE 1578 OF THE OFFICIAL RECORDS OF CACHE COUNTY; THENCE S1°25'28"W (RECORD: SOUTH) ALONG SAID WESTERLY LINE 13.50 FEET TO THE NORTH LINE OF LOT 3 OF SAID BLOCK 4; THENCE S89°13'05"E 334.25 FEET (RECORD: EAST 330') ALONG THE NORTH LINE OF LOT 3 TO THE NORTHWEST CORNER OF SAID LOT 8 AND THE NORTHWEST CORNER OF PARCEL 05-050-0019 AS DESCRIBED IN A BOUNDARY LINE ADJUSTMENT RECORDED IN DEED BOOK 1920 PAGE 1980 OF THE

OFFICIAL RECORDS OF CACHE COUNTY, SAID POINT IS ALSO THE NORTHWEST CORNER OF SAID CACHE HIGH SUBDIVISION; THENCE S89°13'05"E ALONG THE NORTH LINE OF SAID LOT 8 AND ALSO SAID SUBDIVISION 690.09 FEET TO THE NORTHWEST CORNER OF PARCEL 05-050-0022 AS DESCRIBED IN SAID BOUNDARY LINE ADJUSTMENT; THENCE S89°13'05"E ALONG THE NORTH LINE OF SAID LOT 8 AND ALSO SAID SUBDIVISION 86.39 FEET; THENCE ALONG THE EXTENSION OF, AND ALONG A CHAIN LINK FENCE LINE THE FOLLOWING 2 (TWO) COURSES AND DISTANCES: S1°23'16"W 221.77 FEET; THENCE S88°53'00"E 131.43 FEET TO THE WESTERLY LINE OF LOT 1 OF SAID CACHE HIGH SUBDIVISION; THENCE S1°23'16"W ALONG SAID WESTERLY LINE 77.46 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE S89°13'05"E ALONG SAID LOT AND EXTENSION THEREOF 423.50 TO THE EAST LINE OF LOT 8 OF SAID BLOCK; THENCE S1°23'16"W ALONG THE EASTERLY LINE OF SAID BLOCK 360.01 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING ANY PORTIONS OF:

LOT 6 AND LOT 7, AS SET FORTH ON THE FINAL, OFFICIAL PLAT OF BLUE SPRING SUBDIVISION (PHASE 1), RECORDED ON MAY 3, 2022, IN THE OFFICIAL RECORDS OF THE CACHE COUNTY RECORDER, AS ENTRY NO. 1318875, IN BOOK 2022, AT PAGE 3608.

**EXHIBIT B
TO
DECLARATION OF RESTRICTIVE COVENANTS**

LEGAL DESCRIPTION OF COSTCO PARCEL

The real property referenced in the foregoing Declaration as the “Costco Parcel” is located in the County of Cache, State of Utah and is more particularly described as follows:

LOT 1, AS SET FORTH ON THE FINAL, OFFICIAL PLAT OF BLUE SPRING SUBDIVISION (PHASE 1), RECORDED ON MAY 3, 2022, IN THE OFFICIAL RECORDS OF THE CACHE COUNTY RECORDER, AS ENTRY NO. 1318875, IN BOOK 2022, AT PAGE 3608.