

**DECLARATION OF RECIPROCAL
CROSS-ACCESS EASEMENT, DETENTION POND USE, AND
CONSTRUCTION OF PEDESTRIAN IMPROVEMENTS**

THIS DECLARATION OF RECIPROCAL CROSS-ACCESS EASEMENT, DETENTION POND USE, AND CONSTRUCTION OF PEDESTRIAN IMPROVEMENTS ("Declaration") is made and executed as of this 10 day of January, 2002, by COSTCO WHOLESALE CORPORATION, a Washington corporation, successor by merger to THE PRICE COMPANY, formerly a California corporation ("Declarant"), whose address is 999 Lake Drive, Issaquah, Washington, 98027.

WHEREAS, Declarant holds fee title to certain real property within the City of Albuquerque, New Mexico, more particularly described on Exhibit "A" attached hereto (the "Costco Property"); and

WHEREAS, Declarant also holds fee title to certain real property within the City of Albuquerque, New Mexico, more particularly described on Exhibit "B" attached hereto (the "New Project Property"); and

WHEREAS, the Costco Property and the New Project Property (together, the "Properties" and singly, a "Property") abut each other; and

WHEREAS, Declarant contemplates the sale and subsequent development of the New Project Property; and

WHEREAS, the Costco Property currently is developed and operated as a Costco membership warehouse facility; and

WHEREAS, the Costco Property has located on it a certain water drainage detention pond (the "Detention Pond") abutting the New Project Property, as more specifically shown on Exhibit "C" attached hereto; and

WHEREAS, the New Project Property (an undeveloped parcel of land except for a paved road through the northern portion of the Property as designated as "Paved Road" on Exhibit "C" attached hereto (as may be relocated in accordance with Section 2 of this Declaration, the "Paved Road")) is contemplated to consist of a mixed use development, consisting of retail, warehouse, office and/or other uses (the "New Project"); and

WHEREAS, the City of Albuquerque, in connection with the development of the New Project may require the placement of certain pedestrian improvements, including without limitation one or more sidewalks or stairs, on the Costco Property near the boundary of the New Project Property, to facilitate pedestrian access between the Properties (the "Pedestrian Improvements"); and

WHEREAS, the purchaser of the New Project Property, as a condition of such purchase, has requested a reciprocal cross-access easement for the benefit of each Property across the other Property which allows cross-vehicular and non-vehicular access to each of the Properties, the right to use the Detention Pond, and the right to construct Pedestrian Improvements, all as more fully set forth in this Declaration; and

WHEREAS the initial locations of certain access and drainage easements are depicted on the plat map recorded on July 9, 2001 as Document No. 2001078855 in Plat Book 2001C, Folio 194 of the records of Bernalillo County, New Mexico; and

WHEREAS, Declarant desires to grant the rights set forth in the preceding recital;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby declares and establishes, effective immediately, as follows:

1. Grant of Easement on Costco Property. Declarant hereby declares and establishes an easement for cross-vehicular and non-vehicular access that shall extend between Eubank Road and the New Project Property over and across existing drive aisles and sidewalks, if any, of the Costco Property that are used by the owner of the Costco Property (including successors, the "Costco Owner"), its employees, tenants, subtenants, licensees, agents, contractors and invitees ("Permittees") for vehicular and pedestrian access, ingress and egress, including the location of any Pedestrian Improvements, for the benefit of the New Project Property, its Owner(s) and Permittees, as the same may



Mary Herrera

Bern. Co. EASE

R 31.88

2882886987

5813848

Page: 1 of 13

81/16/2882 11:34A

Bk-A38 Pg-6887

be revised and amended from time to time by and at the sole cost of the Costco Owner. The Costco Owner shall have the right to redevelop, reconfigure and change uses of the Costco Property and/or relocate the access easement established hereunder so long as the changes comply with all applicable governmental requirements and do not materially impair, but provide at least one course for, access to the New Project Property as established hereunder. The location of the access easement, as the same may be revised and amended from time to time, may, at either Owner's election and at the sole cost of the electing Owner or of the Owner causing the relocation of a previously defined easement, be specifically defined and set forth in an amendment to this Declaration and filed of record with the County.

2. Grant of Easement on New Project Property. Declarant hereby declares and establishes a temporary easement for cross-vehicular access over and across the Paved Road on the New Project Property for as long as the Paved Road remains in its current configuration prior to development of the New Project. The Declarant hereby further declares and establishes that when the New Project development is completed a permanent easement, which at the sole election of the owner of the New Project Property (including successors, the "New Project Owner") may or may not replace or include the aforementioned temporary easement, for cross-vehicular and non-vehicular access shall extend over and across the drive aisles and sidewalks on the New Project Property that will be used by the New Project Owner and/or its Permittees for vehicular and pedestrian access, ingress and egress, for the benefit of the Costco Property, its Owner(s) and Permittees, as such portion may be revised and amended from time by and at the sole cost of the New Project Owner. The foregoing notwithstanding, the New Project Owner shall have the right to redevelop, reconfigure and change uses of the New Project Property and/or relocate the access easement established hereunder so long as the changes comply with all applicable governmental requirements and do not materially impair, but provide at least one course for, access to the Costco Property as established hereunder. The location of such permanent easement, as the same may be revised and amended from time to time, may, at either Owner's election and at the sole cost of the electing Owner or of the Owner causing the relocation of a previously defined easement, be specifically defined and set forth in an amendment to this Declaration and filed of record with the County (the easements referred to in paragraphs 1 and 2 shall be referred to, together, as the "Easement").

3. Use of Easement. The Easement shall be used for vehicular and non-vehicular access across the Costco Property for the benefit and use of owners, employees, agents, tenants, subtenants, guests, invitees, licensees, and all others at the New Project located on the New Project Property, and for vehicular and non-vehicular access across the New Project Property for the benefit and use of owners, employees, agents, tenants, subtenants, guests, invitees, licensees, and all others at the Costco Property. The Costco Owner may use that portion of the Costco Property that is subject to the Easement for any purpose which does not interfere with the cross-vehicular and non-vehicular access rights granted by this Declaration, and after completion of development of the New Project, the New Project Owner may use that portion of the New Project Property that is subject to the Easement for any purpose which does not interfere with the cross-vehicular and non-vehicular access rights granted by this Declaration (all such property subject to the Easement shall be referred to as the "Easement Property"). During the development and construction phases of the New Project, the New Project Owner shall use commercially reasonable best efforts to minimize interference with the Easement rights granted to Costco Owner and to provide, if necessary and to the extent feasible, alternative temporary cross-vehicular and non-vehicular access across the New Project Property. Any temporary closing of the Easement rights granted to Costco Owner during the construction phase of the New Project allowed by this Declaration (a "Temporary Closing") shall occur only to the extent permitted by the City of Albuquerque. Subject to any Temporary Closings, at all times free access through the Easement will not be impeded and will be maintained; provided, however, Declarant and its respective successors in interest to each of the Properties reserve the right to close off the Easement on its Property for only such reasonable period or periods of time as may be legally necessary to prevent the acquisition of prescriptive rights by anyone; provided, however, that prior to closing off any portion of the Easement, as herein provided, such owner shall give written notice to the other owners of the Properties benefitted by this Declaration of its intention to do so, and shall coordinate such closing with the other owner(s) so that no unreasonable interference with the operations of the other owner(s) shall occur. The parking areas on each Property are intended to be for the exclusive use of the Owner of such Property and the Permittees of such Owner. Nothing contained in this Declaration shall be deemed to authorize or permit the use of the parking areas on any Owner's Property by any other Owner or its Permittees. Without limitation upon the foregoing, each Owner agrees to use reasonable efforts to prevent its Permittees from parking vehicles on any other Property, and each Owner may take such actions as are necessary to enforce the exclusive use of its Property(ies) by its Permittees only. Neither



2882886387

5613948

Page: 2 of 13

81/18/2002 11:34A

RL-A38 Pa-6887

Declarant nor any Person shall grant an easement or easements of the type set forth in Sections 1 and 2 for the benefit of any property not within the Properties at the time of such grant.

4. Maintenance of Easement. Declarant or any successor or assign of the Declarant who is a fee owner of all or any portion of the Easement Property shall maintain the Easement Property on that party's respective fee Property(s) at the fee owner's cost and expense. The minimum standard of maintenance for the Easement shall be comparable to the standard of maintenance followed in other first-class developments of comparable size in the State of New Mexico and in compliance with all applicable governmental laws, rules, regulations, orders and ordinances, and the provisions of this Declaration.

5. Relocation of the Easement Curb Cuts. Notwithstanding any other provision of this Agreement, the Easement shall not be relocated in any manner which requires the relocation of existing curb cuts or the installation of new curb cuts, unless the Owner of the New Project Property shall first, at such Owner's own cost and expense, obtain any and all necessary governmental approvals therefor, and either relocate or install, as applicable, such curb cuts in compliance with all applicable laws, ordinances and other governmental requirements.

6. Detention Pond. Declarant agrees that the New Project Owner shall have the non-exclusive right, title and interest afforded under the Drainage Plan No. L21/D37, to the extent pertinent to the New Project Property, to use the Detention Pond and appurtenant easements for use in draining storm waters from the New Project Property, so long as the New Project Property drainage facilities are consistent in all material respects with and pursuant to Drainage Plan No. L21/D37. Any other use of the Detention Pond by the New Project Property must be obtained by the New Project Owner from the City of Albuquerque, which has an exclusive easement in the Detention Pond pursuant to that certain Permanent Easement (10-20-00) (the "Permanent Easement") executed by and between The Price Company and the City of Albuquerque, filed October 26, 2000, recorded in Book A11, Page 6046, as Document No. 2000106461, records of Bernalillo County, New Mexico. Nothing herein shall limit the rights reserved to Declarant as Grantor under the Permanent Easement. All rights reserved to the Declarant under the Permanent Easement shall be deemed to benefit both the New Project Property and the Costco Property, and Declarant, to the extent that it has the right to do so, hereby assigns to New Project Owner its rights reserved under the Permanent Easement, but only to the extent that such rights affect the New Project Property. Declarant reserves its rights reserved under the Permanent Easement to the extent such rights affect the Costco Property. Neither Owner shall exercise any rights reserved under the Permanent Easement without the prior written consent of the other Owner, which consent shall not be unreasonably withheld, conditioned or delayed.

7. Construction of Pedestrian Improvements. The New Project Owner shall have the right to construct on the Costco Property, at the sole expense of the New Project Owner, any Pedestrian Improvements (e.g., to facilitate pedestrian links) required by the City of Albuquerque in connection with the New Project, so long as the Pedestrian Improvements on the Costco Property do not require any changes to the improvements on the Costco Property, including without limitation, the parking spaces and drive aisles of the Costco Property and do not interfere with the use or operation of those Costco Property improvements. If changes are required to landscaping improvements on the Costco Property due to City-imposed requirements, the New Project Owner shall be responsible for all costs in connection with such changes. The New Project Owner shall indemnify, defend and hold the Costco Owner harmless from any claims, demands, damages, or liabilities arising from any of the work contemplated by this Declaration conducted by or on behalf of the New Project Owner on the Costco Property. Notwithstanding the foregoing, to the extent, if at all, that NMSA Section 56-7-1 is applicable to the agreements to indemnify under this Declaration, this Declaration will not apply to liability, claims, damages, losses or expenses, including attorneys' fees, arising out of (a) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by the indemnitee, or its agents or employees; or (b) the giving of or the failure to give direction or instructions by the indemnitee, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

8. Other Restrictions. None of the following uses or operations will be made, conducted or permitted on or with respect to all or any part of the Properties:



20002006907
5613948
Page: 3 of 13
01/16/2002 11:34A

- (a) any public or private nuisance;
- (b) any excessive quantity of dust, dirt, or fly ash; provided however, this prohibition shall not preclude the sale of soils, fertilizers, or other garden materials or building materials in containers if incident to Declarant's operations or to the operation of a home improvement or general merchandise store; and provided further that this prohibition shall not preclude dust from construction activities to the extent that dust mitigation measures consistent with City of Albuquerque requirements are used;
- (c) any use that creates a commercially unreasonable risk of fire, explosion or other dangerous hazard, including the storage, display or sale of explosives or fireworks, but the foregoing shall not prohibit the operation of a gas station or propane sales facility in accordance with applicable law;
- (d) any distillation (other than so-called micro-brewing of beer), refining, smelting, agriculture or mining operations;
- (e) any mobile home or trailer court, labor camp, junk yard, stock yard or animal raising (but not precluding pet shops);
- (f) any drilling for and/or removal of subsurface substances;
- (g) any dumping of garbage or refuse, other than in enclosed receptacles intended for such purpose (but the same does not prohibit government-required consumer recycling facilities); or
- (h) any cemetery, mortuary or similar service establishment.

9. REMEDIES.

(a) Legal Action Generally. If the Costco Owner or the New Project Owner or any successor owner to either of them (an "Owner") breaches any provision of this Declaration, then any other Owner may institute legal action against the defaulting Owner for specific performance, injunction, declaratory relief, damages, or any other remedy provided by law. All remedies herein or at law shall be cumulative and not inclusive. As used herein, any reference to rights or remedies "at law" or "under applicable law" shall also include any rights or remedies in equity.

(b) Injunctive and Declaratory Relief. In the event of any violation or threatened violation by any Owner, tenant, or occupant of the Project (or any portion thereof) of any of the terms, covenants, conditions, and restrictions herein contained, in addition to any other remedies provided for in this Declaration, any Owner shall have the right to enjoin such violation or threatened violation and to bring an action for declaratory relief in a court of competent jurisdiction.

(c) Right to Cure or Abate. If any Owner (a "Defaulting Owner") violates any covenant, condition or restriction contained in this Declaration, or permits or suffers any occupant of its Property to violate any covenant, condition or restriction of this Declaration, then in addition to any other remedy provided for in this Declaration, any other Owner may demand by written notice (the "Default Notice") that the violation be cured. If the Defaulting Owner does not cure the violation within thirty (30) days after receipt of the Default Notice, or if such default is of a kind which cannot reasonably be cured within thirty (30) days, and the Defaulting Owner does not within such thirty (30) day period commence to cure such default and diligently thereafter prosecute such cure to completion, then the notifying Owner (and its agents and employees) shall have the right to (i) pay any sum owed by the Defaulting Owner to the Person entitled thereto, (ii) enter upon the portion of the Easement or Property owned by the Defaulting Owner and summarily abate, remove or otherwise remedy any improvement, thing or condition which violates the terms of this Declaration, and (iii) enter upon the portion of the Easement or Property owned by the Defaulting Owner and perform any obligation of the Defaulting Owner to be performed



thereon. The Defaulting Owner shall, within ten (10) days of written demand by the other Owner, accompanied by appropriate supporting documentation, reimburse the other Owner for all costs and expenses incurred in undertaking any of the actions permitted by clauses (i) through (iii) in the preceding sentence, including without limitation, wages, benefits and overhead allocable to the time expended by any employee of such Owner in taking such actions, together with interest thereon at the rate equal to the Default Interest Rate, from the date such costs and expenses were advanced or incurred. "Default Interest Rate" shall mean the lesser of: (i) five percent (5%) per annum in excess of the "Prime Rate," and (ii) the highest lawful rate. The "Prime Rate" shall be the rate announced as such from time to time by Bank of America or its successor. If there shall be no such announced rate of such bank or its successor, then the "Prime Rate" shall be such equivalent rate as is charged from time to time by major money-center banks.

(d) Personal Obligation. Each Owner by acceptance of the deed to, lease of or other conveyance of all or a portion of a Property or any improvements thereon or interest therein, shall be deemed to covenant and agree to be personally bound by this Declaration during the period of such Owner's ownership of the applicable Property. Any sum not paid, or other obligation not performed when due, together with interest payable hereunder, and all costs and attorneys' fees incurred in connection with collection, shall be the personal obligation of the Person or Persons who were the Owners of the Property at the time the payment or obligation became due. The personal obligation for a payment or obligation already due shall not be released by any transfer of the Property subsequent to the date such payment or obligation became due, but such obligation shall run with the land and shall be binding upon any successor Owner.

(e) Remedies Cumulative. The remedies provided in this Section are in addition to any remedies available elsewhere in this Declaration or under applicable law. Exercise of one remedy shall not be deemed to preclude exercise of other remedies for the same default, and all remedies available to an Owner may be exercised cumulatively.

10. MISCELLANEOUS.

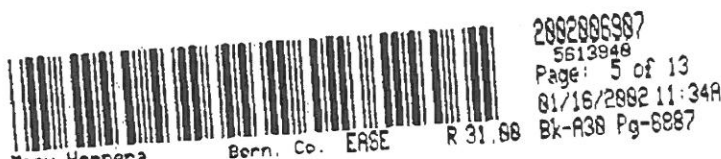
(a) Notices. Any notice, payment, demand, offer, or communication required or permitted to be given by any provision of this Declaration shall be deemed to have been sufficiently given or served to Declarant for all purposes if sent by registered or certified mail (return receipt requested), postage and charges prepaid, or by Federal Express or other reputable overnight delivery service requiring a signature upon receipt, addressed as follows:

To Declarant: Costco Wholesale Corporation
999 Lake Drive,
Issaquah, WA 98027
Attention: Real Estate Department - Property Management
Fax No.: 425-313-8114

Copy to: Berg & Parker LLP
4 Embarcadero Center, suite 1400
San Francisco, CA 94111
Attention: David B. Franklin
Fax No.: 415-397-6000

Any such notice shall be deemed to be given on the date on which it is received or receipt thereof is refused.

(b) Attorneys' Fees. In the event of any action between the Owners hereto for breach of or to enforce any provision or right hereunder, the unsuccessful Owner in such action shall pay to the successful



Owner all costs and expenses expressly including, but not limited to, reasonable attorneys' fees incurred by the successful Owner in connection with such action.

(c) Breach Shall Not Permit Termination. It is expressly agreed that no breach of this Declaration shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration, and such limitations shall not affect in any manner any of the rights or remedies which the Owners may have by reason of any breach of this Declaration.

(d) Breach - Effect on Mortgagee and Right to Cure. Breach of any of the covenants or restrictions contained in this Declaration shall not defeat or render invalid the lien of any Mortgage made in good faith, but all of the foregoing provisions, restrictions, and covenants shall be binding and effective against any owner of any portion of the Properties, or any part thereof, who acquires title by foreclosure or trustee's sale or by deed in lieu of foreclosure or trustee's sale. Notwithstanding any other provision in this Declaration for notices of default, the Mortgagee of any Owner in default hereunder shall be entitled to notice of said default, in the same manner that other notices are required to be given under this Declaration; provided, however, that said Mortgagee shall have, prior to the time of the default, notified the Owner hereto giving said notice of default of the Mortgagee's mailing address. In the event that any notice shall be given of the default of an Owner and such Defaulting Owner has failed to cure or commence to cure such default as provided in this Declaration then, and in that event, the Owner giving such notice of default covenants to give such Mortgagee (which has previously given the above stated notice to such Owner) under any Mortgage affecting the Property of the Defaulting Owner an additional notice given in the manner provided above, that the Defaulting Owner has failed to cure such default and such Mortgagee shall have thirty (30) days after said additional notice to cure any such default, or, if such default cannot be cured within thirty (30) days, diligently to commence curing within such time and diligently pursue such cure to completion within a reasonable time thereafter. Giving of any notice of default or the failure to deliver a copy to any Mortgagee shall in no event create any liability on the part of the Owner so declaring a default.

(e) Effect on Third Parties. Except for the foregoing Subsection (d), which is for the benefit of a Mortgagee, the rights, privileges, or immunities conferred hereunder are for the benefit of the Owners and not for any third party.

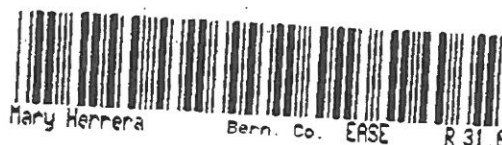
(f) No Partnership. Neither this Declaration nor any acts of the Owners hereunder shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the Owners to this Declaration.

(g) Severability. In the event any term, covenant, condition, provision, or agreement contained herein 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.

(h) Governing Law. This Declaration and the obligations of the Owners hereunder shall be interpreted, construed, and enforced in accordance with the laws of the State of New Mexico.

(i) Terminology. All personal pronouns used in this Declaration, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural and vice versa.

(j) Captions. Titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Declaration or any provisions hereof.



Mary Herrera

Bern. Co. EASE

R 31.88

2002086367

5813348

Page: 6 of 13

01/16/2002 11:34A

PK-R20 P-0007

(k) Consent. In any instance in which any Owner shall be requested to consent to or approve of any matter with respect to which such Owner's consent or approval is required by any of the provisions of this Declaration, such consent or approval or disapproval shall be given in writing, and shall not be unreasonably withheld or delayed, unless the provisions of this Declaration with respect to a particular consent or approval shall expressly provide otherwise.

(l) Estoppel Certificate. Each Owner hereby severally covenants that within thirty (30) days of the written request of another Owner, it will issue to such other Owner or to any prospective Mortgagee or purchaser of such Owner's Property, an estoppel certificate stating: (a) whether the Owner to whom the request has been directed knows of any default under this Declaration and if there are known defaults specifying the nature thereof; (b) whether to its knowledge this Declaration has been assigned, modified or amended in any way (and if it has, then stating the nature thereof); and (c) whether to the Owner's knowledge this Declaration as of that date is in full force and effect.

(m) Not A Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Project to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Declarant that this Declaration shall be strictly limited to and for the purposes herein expressed.

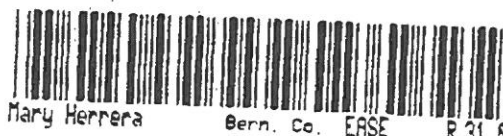
(n) Release. If an Owner shall sell, transfer or assign its entire interest in all or any portion of the Property, it shall be released from its unaccrued obligations hereunder from and after the date of such sale, transfer or assignment, as to the portion of such Property sold, transferred or assigned, and by acceptance of the deed to such portion of such Property sold, the successor owner shall become liable for, and shall be deemed to have assumed, all obligations hereunder accruing with respect to the portion of such Property sold from and after the date of such conveyance.

(o) Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Declaration.

(p) Entire Agreement. This Declaration and the exhibits hereto contain all the representations and the entire agreement that shall bind the Owners with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are superseded in total by this Declaration and Exhibits hereto. The provisions of this Declaration shall be construed as a whole according to their common meaning and not strictly for or against any Owner. This Declaration is not, however, intended to supersede the provisions of any lease as between an Owner and its tenant.

(q) Excuse for Non-Performance. Each Owner shall be excused from performing any obligation or undertaking provided in this Declaration, except any obligation to pay any sums of money under the applicable provisions hereof (unless such payment is conditioned upon performance of any obligation or undertaking excused by this Subsection), in the event and so long as the performance of any such obligation 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 or general shortage of labor, equipment, facilities, materials or supplies in the ordinary course on the open market; failure of normal transportation; strikes, lockouts, action of labor unions; condemnation, requisition; laws, orders of governmental approvals or permits despite the exercise of due diligence and best efforts by an Owner or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of such Owner, other than the lack of or inability to obtain funds.

(r) Mechanic's Liens. In the event any mechanic's liens are filed against the Property of any Owner, including without limitation, the Easement over the liened Property, the Owner permitting or causing such lien to be filed hereby covenants either to pay the same and have it discharged of record promptly, or to take such action as may be required to reasonably and legally object to such lien, or to have the lien removed from



Mary Herrera

Bern. Co. EASE

R 31.00

2002006907

5613949

Page: 7 of 13

01/16/2002 11:34A

Bk-A30 Pg-6007

such Property, and in all events agrees to have such lien discharged prior to the entry of judgment for foreclosure of such lien. Upon request of the other Owner, the Owner permitting or causing such lien to be filed against the other Owner's Property agrees to furnish at its expense such security or indemnity conforming to this Declaration as may be required, to and for the benefit of such other Owner, to permit a title endorsement to such Owner's title policy to be issued relating to such Owner's Property without showing thereon the effect of such lien.

(s) Waiver of Default. No waiver of any default by any Owner to this Declaration shall be implied from any omission by any other Owner to take any action in respect of such default if such default continues or is repeated. No express written waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more written waivers of any default in the performance of any term, provision or covenant contained in this Declaration shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Declaration. The consent or approval by any Owner to or of any act or request by any other Owner requiring consent or approval shall not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar acts or requests. The rights and remedies given to any Owner by this Declaration shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or if any other right or remedy at law or in equity which any such Owner might otherwise have by virtue of a default under this Declaration, and the exercise of one such right or remedy by any such Owner shall not impair such Owner's standing to exercise any other right or remedy.

11. Duration of Easement; Modification. This Easement and other benefits and burdens contained in this Declaration shall be perpetual, unless terminated as a whole by the owners of all of the Property or terminated in part by the owner of the New Project Property or the owner of the Costco Property benefitted by the portion of the Easement so terminated. This Easement may be modified only by the written agreement of the owners of all the Properties. The Easement and other benefits and burdens contained in this Declaration, until terminated, shall run with the land and shall be deemed an easement appurtenant to each of the Properties.

12. Successors and Assigns. The benefits and obligations set forth in this Declaration shall be binding upon Declarant, its successor and assigns.

EXECUTED as of the date set forth above.

COSTCO WHOLESALE CORPORATION
a Washington corporation

By: _____
Its: _____

RICHARD L. OLIN
Vice President/Assistant Secretary



Mary Herrera

Bern. Co. EASE

R 31.00

2002006307

5613948

Page: 8 of 13

01/16/2002 11:34A

Bk-A30 Pg-6887

Exhibit "A"

[Legal description of Costco Property]

Tract lettered "A-1" Plat of Tracts A-1 & B-1, COSTCO DEVELOPMENT, Albuquerque, New Mexico, as the same is shown and designated on the Replat of said Subdivision, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on July 9, 2001, in Plat Book 2001C, folio 194.



Mary Herrera

Bern. Co.

EASE

R 31.00

2002006997

5613948

Page: 8 of 13

01/16/2002 11:34A

Bk-A38 Pg-6887

Exhibit "B"**[Legal description of New Project Property to be sold]**

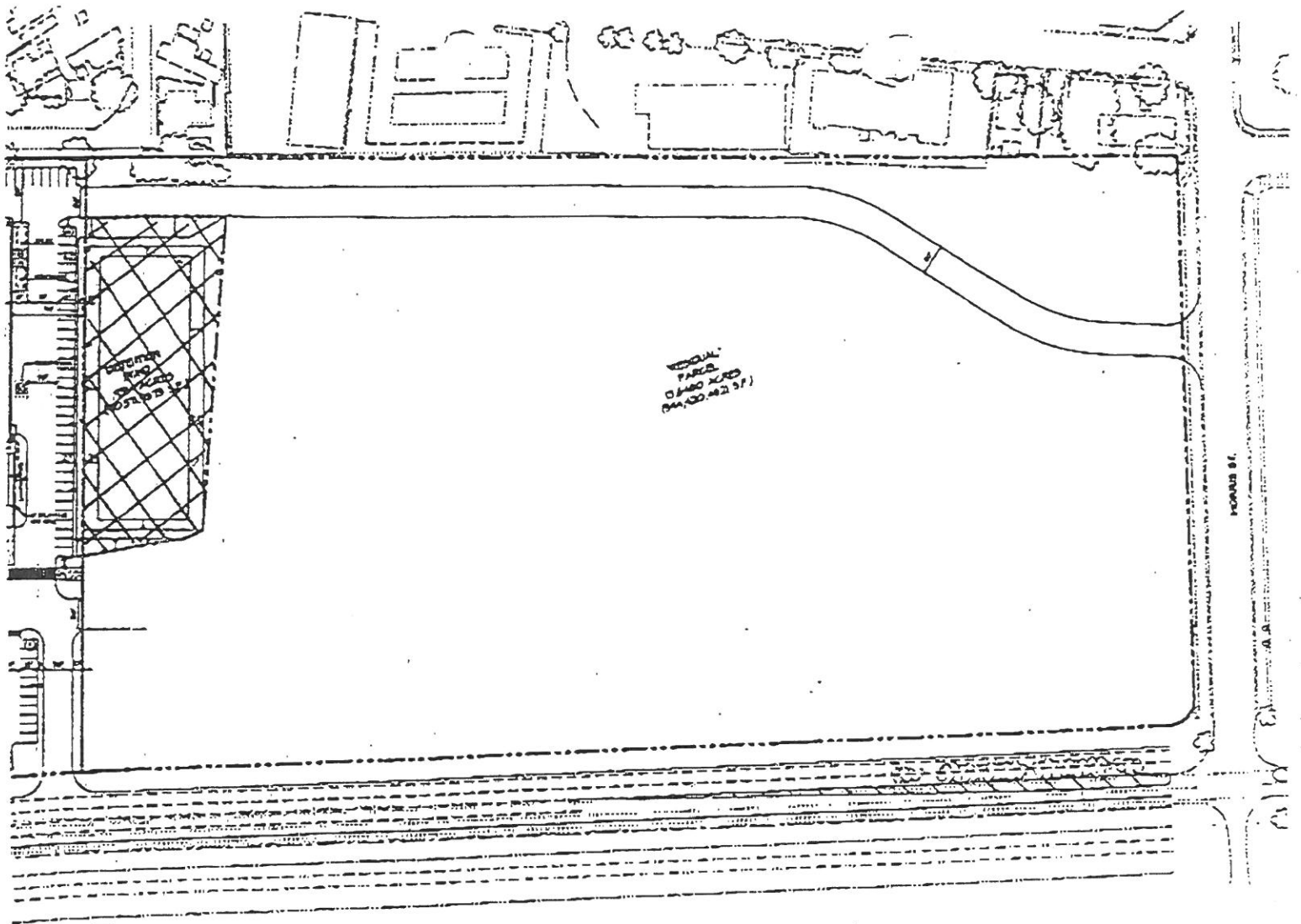
Tract lettered "B-1" Plat of Tracts A-1 & B-1, COSTCO DEVELOPMENT, Albuquerque, New Mexico, as the same is shown and designated on the Replat of said Subdivision, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on July 9, 2001, in Plat Book 2001C, folio 194.



Exhibit "C"

[Drawing showing location of Paved Road]





Mary Herrera

Bern. Co. ERSE

R 31.00

2002006907

5813848

Page: 12 of 13

01/16/2002 11:34A

Bk-A30 Pg-6887

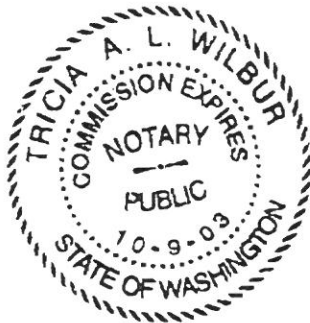
= not included

ACKNOWLEDGMENTS

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 10th day of January, 2002, before me personally appeared Richard J. Olin, known to me to be the V.P./Assistant Secretary of COSTCO WHOLESALE CORPORATION, the corporation that executed the attached Declaration, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed thereto (if any) is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



A handwritten signature in cursive script, appearing to read "Tricia A. L. Wilbur", written over a horizontal line.

Tricia A. L. Wilbur
Notary Public in and for the
State of Washington
Residing at: Kent
My commission expires: 10/9/03



2002006987
5813949
Page: 13 of 13
61/16/2002 11:34A
Bk-A38 Pg-6887