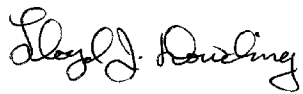



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INSTRUMENT NUMBER
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REGISTER OF DEEDS


This document prepared by  
and after recording return to:

Peter A. Levy, Esq.  
DLA Piper LLP  
203 North LaSalle Street  
Chicago, Illinois 60601  
(312) 368-4068

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**SECOND AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND  
EASEMENTS FOR SOUTHPORT WEST SUBDIVISION**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (this "Second Amendment") is made effective on this 8 day of December, 2015, by the Southport West Landowners Association, Inc., a Nebraska nonprofit corporation (the "**Association**") established pursuant to that certain Declaration of Covenants, Conditions, Restrictions and Easements for Southport West Subdivision dated June 7, 2005 and recorded in July 5, 2005 with the Sarpy County, Nebraska Register of Deeds (the "**Register**") as Instrument Number 2005-22478 (the "**Original Declaration**") and pursuant to authority granted to the Association by those parties who are the owners of fee simple interest of those Lots in the Southport West Subdivision (the "**Owners**") that have allocated to them not less than two-thirds of the memberships in the Association at a meeting of the Owners duly held on October 27, 2015 at which meeting a quorum was present in person or by proxy.

**RECITALS:**

A. Southport West Partners, LLC, a Nebraska limited liability company ("**Southport Partners**"), as declarant, together with Millard Lumber, Inc. and John Q. Hammons, Trustee of the John Q. Hammons Revocable Trust dated December 28, 1989 as amended and restated, as the owners of Lots 1 through 27 in Southport West, a subdivision (all of said lots, as they may have heretofore been resubdivided, are herein collectively referred to as the "**Southport West Subdivision**"), caused the Original Declaration to be recorded against the Southport West Subdivision, which Original Declaration has been amended by that certain First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Southport West Subdivision dated May 17, 2006 and recorded on May 24, 2006 with the Register as Instrument Number 2006-17152 (the "**First Amendment**"; the Original Declaration as amended by the First Amendment, is hereinafter called the "**Declaration**").

B. Costco Wholesale Corporation, a Washington corporation ("**Costco**"), has entered into a contract to acquire from Heritage-Westwood La Vista, LLC, a Delaware limited liability

company, title to certain real property situated in Sarpy County, Nebraska, legally described as follows, to-wit, and is hereby made a party to this Agreement:

Lot 3, Southport West Replat One, a subdivision in Sarpy County, Nebraska (referred to as the "**Costco Property**");

and hereby consents and agrees to the terms hereof, and authorizes the Owners to record this Second Amendment against the Costco Property.

C. Effective as of January 23, 2006, Lots 5 through 14 in the Southport West Subdivision were re-subdivided and replatted and are now known as Lots 1, 2 and 3, Southport West Replat One, a subdivision in Sarpy County, Nebraska filed with the Register of Deeds of Sarpy County, Nebraska (the "**Register**") on February 27, 2006 as Instrument Number 2006-06408.

D. Effective as of June 6, 2006, Lots 17, 18, 21 and 22 in the Southport West Subdivision were re-subdivided and replatted and are now known as Lots 1, 2 and 3, Southport West Replat Two, a subdivision in Sarpy County, Nebraska filed with the Register on October 20, 2006 as Instrument Number 2006-36144.

E. Effective as of June 21, 2007, Lot 1 in Southport West Replat Two, a subdivision, was re-subdivided and replatted and is now known as Lots 1, 2 and 3, Southport West Replat Three, a subdivision in Sarpy County, Nebraska filed with the Register on September 17, 2007 as Instrument Number 2007-28606.

F. Effective as of February 26, 2008, Lot 27 in Southport West Subdivision was re-subdivided and replatted and is now known as Lots 1 and 2, Southport West Replat Four, a subdivision in Sarpy County, Nebraska, filed with the Register on February 28, 2008 as Instrument Number 2008-05315.

G. Effective as of October 26, 2014, Lots 4 and 15 in Southport West Subdivision, were re-subdivided and replatted and are now known as Lots 1, 2, 3, 4 and 5, Southport West Replat Five, a subdivision in Sarpy County, Nebraska, filed with the Register on October 31, 2014 as Instrument Number 2014-24370.

H. The Owners desire to amend the Declaration in certain respects.

**NOW, THEREFORE**, the Owners hereby amend the Declaration as follows, and this Second Amendment shall run with the equitable and legal title to the land and shall be for the benefit or burden, as the case may be, of the Owners and Occupants of the Property (as defined in the Declaration) or any portion thereof within Southport West (as defined in the Declaration), their respective heirs, legal representatives, successors and assigns, and any mortgagees.

1. All capitalized terms not defined herein shall have the meanings given to them in the Declaration.

2. Amendment. The second sentence of Section 13.2 is hereby amended and restated in its entirety and shall provide as follows:

Thereafter, this Declaration or any provisions hereof, except as provided in Section 7.5 above, may be terminated, modified or amended in whole or in part with respect to all or any portion of Southport West by a vote of all Owners holding at least two-thirds (66.67%) of the membership in the Association; provided that any such document recorded within five (5) years after expiration of the Period of Declarant Control, shall be effective only if it is also duly executed by the President of the Association and; provided, further, no modification or amendment that has the effect of materially and adversely burdening or impacting an Owner's Lot will be effective to encumber such Lot without the Owner of such Lot voting for, consenting in writing to, or joining in, such amendment or modification.

3. All of the improvements and landscaping to be constructed and installed by Costco on the Costco Property as disclosed by the plans and specifications therefor comply with the requirements of Articles VII and VIII of the Declaration and have received all approvals from the Association and any committee(s) of the Association required under said Articles VII and VIII.

4. The Architectural Committee of the Association granted the following waiver to Costco and the Costco Property: Notwithstanding anything to the contrary contained in Section 7.7 of the Declaration, in the event that all or any portion of the Costco Property is damaged or destroyed by fire or other casualty, Costco shall have the right, without having to obtain any approval from the Board or any committee of the Association, to elect, in its sole discretion, whether (a) to repair, rebuild or reconstruct the Costco Property in a manner that will restore it to a condition and appearance approved by the City (to the extent such approval is required under the laws of the City), or (b) to raze and remove the damaged improvements, restoring its lot substantially to its original unimproved condition.

5. The Architectural Committee of the Association granted the following waiver to Costco and the Costco Property: Notwithstanding anything to the contrary contained in Sections 9.2.11, 9.2.12 or 9.2.13 of the Declaration, Costco shall be permitted, without having to obtain any further consent or authorization from the Association or the Board, to engage in new and used vehicle sales and leasing, as well as vehicle maintenance, repair and servicing and in connection therewith, vehicle storage.

6. The Architectural Committee of the Association granted the following waiver to Costco and the Costco Property: Notwithstanding anything to the contrary contained in Section 9.2.15 of the Declaration, Costco shall be permitted, without having to obtain any further consent or authorization from the Association or the Board (but subject to complying with all applicable requirements of the City), to operate a Costco Fueling Station on the Costco Property.

7. Notwithstanding anything to the contrary contained in Section 9.4 of the Declaration, Costco shall be permitted, without having to obtain any further consent or authorization from the Association or the Board (but subject to complying with all applicable requirements of the City), to operate the Costco Property as a Costco Wholesale club and any

other business ancillary and related thereto that Costco currently operates in its stores located in the United States.

8. Notwithstanding anything in this Second Amendment to the contrary, any development or use of the Costco Property or any of the other Lots in the Southport West Subdivision shall be subject to all applicable requirements of the City from time to time.

9. As a consequence of Southport West Replats One, Two, Three, Four and Five, Exhibit B "Association Membership" to the Declaration is hereby amended in its entirety and replaced with Revised Exhibit B – Association Membership attached hereto.

10. Except as expressly set forth in this Second Amendment, the Declaration shall remain unchanged and in full force and effect.

**IN WITNESS WHEREOF**, the undersigned has executed this Second Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Southport West Subdivision as of the day and year first above written.

**SOUTHPORT WEST LANDOWNERS  
ASSOCIATION, INC.**, a Nebraska non-  
profit corporation,

By: \_\_\_\_\_

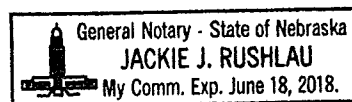
Dean Hokanson, President

STATE OF NEBRASKA                    )  
  ) ss.  
COUNTY OF Douglas                )

Before me, the undersigned Notary Public in and for said county and state, appeared Dean Hokanson, President of Southport West Landowners Association, Inc., a Nebraska non-profit corporation, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed on behalf of said corporation.

WITNESS my hand and Notarial Seal this 8<sup>th</sup> day of December, 2015.

Jackie J. Rushlau  
Notary Public



**REVISED EXHIBIT B**

**ASSOCIATION MEMBERSHIP**

<b><u>Lot</u></b>	<b><u>Net Acres</u></b>	<b><u>Number of Memberships</u></b>	<b><u>Percentage</u></b>
1	27.761	28	20.22%
2	2.281	2	1.66%
3	2.106	2	1.53%
Lot 1, Replat 5	3.398	3	2.47%
Lot 2, Replat 5	1.169	1	.85%
Lot 3, Replat 5	7.825	8	5.7%
Lot 4, Replat 5	2.078	2	1.51%
Lot 5, Replat 5	0.989	1	.72%
16	2.389	2	1.74%
Lot 1, Replat 3	4.946	5	3.60%
Lot 2, Replat 3	7.853	8	5.72%
Lot 3, Replat 3	6.534	7	4.76%
19	0.818	1	.60%
20	0.806	1	.59%
Lot 2, Replat 2	0.880	1	.64%
Lot 3, Replat 2	0.783	1	.57%
23	1.019	1	.74%
24	0.854	1	.62%
25	0.877	1	.64%
26	0.890	1	.65%
Lot 1, Replat 4	7.476	7	5.44%
Lot 2, Replat 4	11.197	11	8.15%
Lot 1, Replat 1	10.304	10	7.50%
Lot 2, Replat 1	11.590	12	8.45%
Lot 3, Replat 1	20.502	21	14.93%
<b>Totals</b>	<b><u>137.325</u></b>	<b><u>138</u></b>	<b><u>100%</u></b>