

## MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (this “Agreement”) is dated as of February 8, 2022, and is entered into by and among the OCONEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY, a public body corporate and politic of the State of Georgia (the “Authority”), OCONEE COUNTY, GEORGIA (the “County”), a political subdivision of the State of Georgia, and COSTCO WHOLESALE CORPORATION, a Washington corporation (the “Company”), in order to evidence the agreements of the respective parties hereto.

**WHEREAS**, the Authority was duly created and is validly existing pursuant to the Constitution and Laws of the State of Georgia (the “State”), including an amendment to the Constitution of the State (1962 Ga. Laws, p. 871, *et seq.*), as amended (1977 Ga. Laws 1582) as continued (1987 Ga. Laws, p. 3562, *et seq.*), as hereafter amended (the “Amendment”); and the Authority is now existing and operating as a body corporate and politic, and its members have been duly appointed and entered into their duties; and

**WHEREAS**, the Authority was created for the purpose of promoting and expanding for the public good and welfare, industry and trade within the County and reducing unemployment to the greatest extent possible; and

**WHEREAS**, the Authority proposes to acquire certain land (the “Project”), which is to be leased to Epps Bridge Centre II CWC, L.L.C. (the “Developer”), pursuant to a Lease Agreement, dated as of February 8, 2022 (the “Lease Agreement”) and subleased by the Developer to the Company, pursuant to a Sublease Agreement, dated as of February 8, 2022 (the “Sublease Agreement”), to be used for the development of a membership wholesale and retail general merchandise facility for the Company (collectively, the “Premises”); and

**WHEREAS**, the acquisition of the Project will be financed with the proceeds derived from the issuance of (a) the Oconee County Industrial Development Authority Taxable Revenue Bonds (Economic Development Project), Series 2022, in the aggregate principal amount of \$16,000,000 (the “Senior Bonds”), which are to be issued pursuant to a Trust Indenture, dated as of February 8, 2022, between the Authority and Regions Bank, as trustee (the “Trustee”), and (b) the Oconee County Industrial Development Authority Subordinate Taxable Revenue Note (Economic Development Project), Series 2022, in the original principal amount of \$64,000,000 (the “Subordinate Note”); and

**WHEREAS**, the Authority and the County will enter into an Intergovernmental Contract, dated as of February 8, 2022, in connection with the issuance of the Senior Bonds (the “Senior Bonds Contract”) and an Intergovernmental Contract, dated as of February 8, 2022, in connection with the issuance of the Subordinate Note (the “Subordinate Note Contract” and, together with the Senior Bonds Contract, the “Contracts”), pursuant to which the Authority will agree to issue the Senior Bonds and the Subordinate Note to acquire the Project, and the County, in consideration of the Authority’s doing so, will agree to pay to the Authority certain amounts each month equal to the amount of Local Option Sales Tax, collected pursuant to Official Code of Georgia Annotated §48-8-80 *et seq.*, generated at the Premises as provided in the previous month’s sales and use tax return required to be filed with the Department of Revenue of the State

of Georgia (the “Sales and Use Tax Returns”) multiplied by the County’s percentage share on the Local Option Sales Tax (provided, however, that such payments shall not be paid from the revenues of such Local Option Sales Tax, but shall be paid from the annual *ad valorem* property tax authorized to be levied pursuant to Official Code of Georgia Annotated § 48-5-220(20) (individually, the “Senior Bonds Contract Payments” and the “Subordinate Note Contract Payments”, and collectively, the “Contract Payments”); and

**WHEREAS**, the Senior Bonds will be secured by a first lien on the Senior Bonds Contract and the Senior Bonds Contract Payments and the Subordinate Note will be secured by a first lien of the Subordinate Note Contract and the Subordinate Note Contract Payments; and

**WHEREAS**, the Senior Bonds and the Subordinate Note shall mature on or before March 1, 2048; and

**WHEREAS**, in order to calculate the amount of Contract Payments due each month and in consideration of the above mentioned benefit to the Company to be derived from the acquisition of the Project, the Lease Agreement and the Sublease Agreement, the Company has agreed to provide the Authority, the County and the Trustee with the monthly Sales and Use Tax Returns for the Local Option Sales Tax generated at the Premises.

**NOW, THEREFORE**, in consideration of the foregoing premises, the parties hereto agree as follows:

Section 1.     Representations and Warranties.

The County makes the following representations and warranties:

(a)     The County is a political subdivision duly organized and lawfully operating under the Constitution and laws of the State. Under the Constitution and laws of the State, the County is authorized to execute, deliver and perform its obligations under this Agreement. The County has duly authorized the execution, delivery and performance of this Agreement. This Agreement is a valid, binding and enforceable obligation of the County.

(b)     The County has determined that the Project constitutes a lawful and valid public purpose of the Authority and will further the public purpose intended to be served by the Amendment.

(c)     Except as previously disclosed to the Authority and the Company in writing, no approval or other action by any governmental authority or agency or other person is required in connection with the execution, delivery and performance of this Agreement by the County, except as shall have been obtained as of the date hereof.

(d)     The authorization, execution, delivery and performance by the County of this Agreement do not violate the laws or Constitution of the State and do not constitute a breach of, or a default under, any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(e) There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of the County threatened, against or affecting the County in any court or before any governmental authority or arbitration board or tribunal which is reasonably anticipated to materially and adversely affect the transactions contemplated by this Agreement or which is reasonably anticipated to adversely affect the validity or enforceability of this Agreement or the ability of the County to perform its obligations under any of the foregoing.

The Authority makes the following representations and warranties:

(a) The Authority is a public body corporate and politic duly created and validly existing pursuant to the laws of the State. Under the laws of the State, the Authority is authorized to execute, deliver and perform its obligations under this Agreement. The Authority has duly authorized the execution, delivery and performance of this Agreement. This Agreement is a valid, binding and enforceable obligation of the Authority.

(b) The Authority has determined that the Project constitutes a lawful and valid public purpose and will further the public purpose intended to be served by the Amendment.

(c) Except as previously disclosed to the County and Company in writing, no approval or other action by any governmental authority or agency or other person is required in connection with the execution, delivery and performance of this Agreement by the Authority, except as shall have been obtained as of the date hereof.

(d) The authorization, execution, delivery and performance by the Authority of this Agreement do not violate the laws of the State and do not constitute a breach of, or a default under, any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(e) There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of the Authority threatened, against or affecting the Authority in any court or before any governmental authority or arbitration board or tribunal which is reasonably anticipated to materially and adversely affect the transactions contemplated by this Agreement or which is reasonably anticipated to adversely affect the validity or enforceability of this Agreement or the ability of the Authority to perform its obligations under any of the foregoing.

The Company makes the following representations and warranties:

(a) The Company is a Washington corporation, which is duly organized, existing and in good standing under the laws of the State of Washington and authorized to transact business under the laws of the State of Georgia, has the power to enter into this Agreement and to perform and observe its obligations contained herein in accordance with the terms hereof, and has, by proper action, been duly authorized to execute, deliver and perform this Agreement in accordance with the terms hereof.

(b) There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of the Company threatened, against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal which is reasonably anticipated to materially and adversely affect the transactions contemplated by this Agreement or which is reasonably anticipated to adversely affect the validity or enforceability of this Agreement or the ability of the Company to perform its obligations under any of the foregoing.

(c) The execution and delivery by the Company of this Agreement and the compliance by the Company with all of the provisions hereof and the consummation of the transactions contemplated hereby (A)(i) are within the corporate power of the Company, (ii) will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under, its Articles of Incorporation, its Bylaws, or any commitment, agreement or instrument of whatever nature to which the Company is a party or by which it may be bound, or to which any of its properties may be subject, or any license, judgment, decree, law, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its activities or properties, or (iii) result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement, and (B) have been duly authorized by all necessary action on the part of the Company.

(d) Neither the Company nor any of its business or properties, nor any relationship between the Company and any other person, nor any circumstance in connection with the execution, delivery and performance by the Company of this Agreement, is such as to require the consent, approval or authorization of, or the filing, registration or qualification with, any governmental authority on the part of the Company.

(e) This Agreement is a legal, valid and binding obligation of the Company enforceable in accordance with its terms, except to the extent the enforceability hereof may be subject to (i) the exercise of judicial discretion in accordance with general principles of equity, and (ii) bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights heretofore or hereinafter enacted to the extent constitutionally applicable.

Section 2. Monthly Reports.

The Company hereby agrees to provide the Authority, the County and the Trustee with monthly sales and use tax reports (the "Monthly Sales and Use Tax Reports") in the form attached hereto as Exhibit A, within five business days after the date the monthly Sales and Use Tax Returns are required to be filed with the State of Georgia Department of Revenue. The Monthly Sales and Use Tax Reports shall be provided to the Authority, the County and the Trustee by e-mail as provided in Section 5(b) hereof or by such other method as approved in writing by the parties hereto.

Section 3. Intergovernmental Agreement.

This Agreement shall also constitute an intergovernmental agreement under Georgia Constitution Art. IX, Sec. III, Para. I between the Authority and the County. Such

intergovernmental agreement is subject to the 50-year term limit contained in such provision of the Georgia Constitution, but shall expire earlier upon its complete performance.

Section 4. Effective Date of this Agreement; Duration of Term.

This Agreement shall become effective as of February 8, 2022 and the interests created by this Agreement shall then begin, and shall expire on the earlier of (a) March 1, 2048, or (b) the date the Senior Bonds and the Subordinate Note have been paid in full.

Section 5. Miscellaneous.

(a) Assignment by the Company. The Company hereby agrees that all rights and obligations of the Company under this Agreement shall be transferred and assigned by the Company to any party to which the Sublease Agreement is transferred and assigned and that such transfer and assignment of the Sublease Agreement shall be contingent upon the transfer and assignment hereof to such party. Upon the expiration or earlier termination of the Sublease Agreement and the purchase of the Premises by the Company, the Company hereby agrees that all rights and obligations of the Company under this Agreement shall be transferred and assigned by the Company to any party to which the Premises are transferred and that such transfer shall be contingent upon the transfer and assignment hereof to such party. Upon any such assignments, the assignee shall be responsible for providing the Monthly Sales and Use Tax Reports and the Company shall have no further obligations under this Agreement. Any such assignment shall not require the consent of the County or Authority, except to the extent the Authority's consent is required under the terms of the Lease Agreement or the Sublease Agreement.

(b) Notices. Except as provided in Section 2 regarding the Monthly Sales and Use Tax Reports, any notice, request or other communication (a "notice") required or permitted to be given hereunder shall be in writing and shall be delivered by hand or overnight courier (such as United Parcel Service or Federal Express), sent by email (provided a copy of such notice is deposited with an overnight courier for next business day delivery) or mailed by United States registered or certified mail, return receipt requested, postage prepaid and addressed to each party at its address as set forth below. Any such notice shall be considered given on the date of such hand or courier delivery, confirmed email transmission (provided a copy of such notice is deposited with an overnight courier for next business day delivery), deposit with such overnight courier for next business day delivery, or receipt via the United States mail, but the time period (if any is provided herein) in which to respond to such notice shall commence on the date of hand or overnight courier delivery or on the date received following deposit in the United States mail as provided above. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice. By giving at least five (5) days' prior written notice thereof, any party may from time to time and at any time change its mailing address hereunder. Any notice of any party may be given by such party's counsel. Notice addresses are as follows:

If to the Authority:                   Oconee County Industrial Development Authority  
23 North Main Street  
Watkinsville, Georgia 30677  
Attention: Chairman

e-mail:

with a copy to:

Daniel C. Haygood, Esq.  
Two South Main Street, Suite C  
Watkinsville, Georgia 30677  
e-mail: daniel@dch2001.com

If to the County:

Oconee County, Georgia  
23 North Main Street  
Watkinsville, Georgia 30677  
Attention: Chairman  
e-mail:

with a copy to:

Daniel C. Haygood, Esq.  
Two South Main Street, Suite C  
Watkinsville, Georgia 30677  
e-mail: daniel@dch2001.com

If to the Company:

Costco Wholesale Corporation  
45940 Horseshoe Drive Suite 150  
Sterling, Virginia 20166  
Attention: Corporate Counsel  
e-mail:

with a copy to:

Arnall Golden Gregory LLP  
171 17th Street NW  
Atlanta, Georgia 30363  
Attention: Andrew J. Schutt  
e-mail: Andrew.schutt@agg.com

If to the Trustee:

Regions Bank  
1180 West Peachtree Street  
Suite 1200  
Atlanta, Georgia 30309  
Attention: Corporate Trust Office  
e-mail:

(c) No Partnership or Agency. No partnership or agency relationship between or among the parties shall be created as a result of this Agreement.

(d) Governing Law; Jurisdiction and Venue. The transactions contemplated

hereunder and the validity and effect of this Agreement are exclusively governed by, and shall be exclusively construed and enforced in accordance with, the laws of the State of Georgia, except for the state's conflict of law rules. The Company consents to jurisdiction over it and to venue in Oconee County, Georgia.

(e) Amendments. Any amendments, deletions, additions, changes or corrections hereto must be in writing executed by the parties hereto.

(f) Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof.

(g) Counterparts. This Agreement may be signed in counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

(h) No Personal Liability of Representatives of Public Bodies. No official, member, director, officer, agent, or employee of the Authority or the County shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such public bodies. Without limitation, and without implication to the contrary, all parties hereto waive and release any and all claims against each such official, member, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of such public bodies into this Agreement.

(i) No Personal Liability of Representatives of Company. No official, member, manager, director, officer, agent, or employee of the Company shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such entity. Without limitation, and without implication to the contrary, all parties hereto waive and release any and all claims against each such official, member, manager, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of such entity into this Agreement.

(j) Time is of the Essence. Time is of the essence of this Agreement.

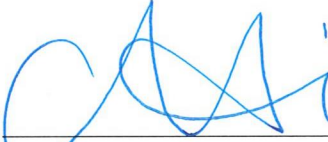
[Signature Pages Follow]

**IN WITNESS WHEREOF**, the parties have executed this Memorandum of Agreement and caused it to be delivered as of the following effective date: February 8, 2022.

AUTHORITY:

**OCONEE COUNTY INDUSTRIAL  
DEVELOPMENT AUTHORITY**

By:   
Chairman

Attest:   
Secretary



COUNTY:

**OCONEE COUNTY, GEORGIA**

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

Chairman



Attest: \_\_\_\_\_

Clerk



(SEAL)

COMPANY:

**COSTCO WHOLESALE CORPORATION,**  
a Washington corporation

By: Margaret McCulla

Margaret C. McCulla  
Assistant Secretary

EXHIBIT A

FORM OF MONTHLY SALES AND USE TAX REPORT

[See Attached.]

[LETTERHEAD OF THE COMPANY]

[Date]

Oconee County Industrial Development Authority  
Watkinsville, Georgia

Oconee County  
Watkinsville, Georgia

Regions Bank  
Atlanta, Georgia

Re: Costco Wholesale Sales and Use Tax paid for Oconee County, Georgia

To the above addressees:

I certify to the best of my knowledge and belief that the following taxable sales and use tax paid for our Oconee County, Georgia location, located at \_\_\_\_\_, are as follows:

Costco Wholesale Corp. – State Tax ID #308-311011

Period Filed – [MONTH], 20\_\_

Local Taxable Sales:	\$ _____
Local Sales Tax Paid:	\$ _____
Local Taxable Use:	\$ _____
Local Use Tax Paid:	\$ _____

Payment Date: \_\_\_\_\_  
Confirmation # \_\_\_\_\_

Sincerely,

[Attach Sales and Use Tax Return, Proof of Payment and Confirmation]