

<p>RECORDING REQUESTED BY, AND WHEN RECORDED MAIL TO:</p> <p>CITY OF BREA 1 CIVIC CENTER CIRCLE BREA, CALIFORNIA 92821 ATTN: CITY CLERK</p>	<p><b>Recorded in Official Records, Orange County</b> <b>Hugh Nguyen, Clerk-Recorder</b></p>  <p><b>NO FEE</b></p> <p>* \$ R 0 0 1 5 9 6 5 7 8 5 \$ *</p> <p><b>2025000353340 01:13 pm 12/22/25</b></p> <p>866 EX26A A12 16</p> <p>0.00 0.00 0.00 0.00 45.00 0.00 0.00 0.00 0.00 0.00</p>
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SPACE ABOVE THIS LINE FOR RECORDER'S USE

EXEMPT FROM RECORDING FEE PER GOVERNMENT CODE SECTION 27383

**ECONOMIC DEVELOPMENT AGREEMENT**  
concerning 200 S. Kraemer Boulevard, Brea California (APN 320-221-24)  
and imposing restrictions on the conveyance thereof (Government Code §  
27281.5)

between

**THE CITY OF BREA,**  
a California Municipal Corporation

&

**DWIGHT MANLEY,**  
as Trustee of the DVQ REVOCABLE TRUST

THIS ECONOMIC DEVELOPMENT AGREEMENT ("Agreement"), is dated December 16, 2025 for reference purposes, and is entered into by and between the CITY OF BREA, a California municipal Corporation ("City") and DWIGHT MANLEY ("Trustee"), an individual in his capacity as Trustee of the DVQ REVOCABLE TRUST ("Owner"). City and Owner may be referred to herein each individually as a "Party" and collectively as "Parties."

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## RECITALS

A. Pursuant to Brea City Code Section 17.01.30, City may grant economic incentives, including reimbursement of sales taxes and use taxes, for certain types of private development projects that provide a significant and specific public benefit.

B. Pursuant to Brea City Code Section 17.01.040, City may grant economic incentives to retail warehouse stores that are more than 125,000 square feet in size, located on at least 10 acres, projected to generate at least \$175,000,000 per year in taxable retail sales, and projected to employ at least 50 persons in full-time positions.

C. Costco Wholesale Corporation, a Washington publicly-traded corporation ("Costco"), is in the business of operating membership-only big-box warehouse retail stores, and is considering leasing real property being purchased by Owner and generally located at 200 S. Kraemer Boulevard in the City of Brea, also known by Assessor Parcel Number 320-221-24 and more particularly described in Exhibit A to this Agreement (the "Property"), for the purpose of establishing and operating a new Costco warehouse store that meets the eligibility requirements for an economic incentive from City. For the purposes of this Agreement, the defined term Costco includes Costco's successors and assigns that may own or operate a warehouse store on the Property during the Operating Term.

D. The establishment and operation of a Costco warehouse store on the Property will contribute to the ongoing economic vitality of City, provide additional job opportunities, expand City's tax base, and otherwise improve economic and physical conditions in Brea.

E. In order to induce Owner to lease the Property to Costco to establish and operate a warehouse store on the Property, City is willing to provide financial assistance to Owner in which City's obligations for any particular fiscal year are contingent upon: (i) Costco operating a warehouse store on the Property during all of such fiscal year; (ii) Costco generating sales and use taxes from operations on the Property during all of such fiscal year; and (iii) City's actual receipt of such sales and use taxes generated by such operations.

F. In order to secure Owner's continued leasing of the Property to Costco, the contingent financial assistance provided by City and obligations of Owner under this Agreement shall run with the land and not be separately transferable from Owner's interest in the Property.

## AGREEMENT

In consideration of the promises set forth in this agreement, the Parties agree as follows.

### ARTICLE 1. DEFINITIONS

The following terms as used in this Agreement shall have the meanings given unless expressly provided to the contrary:

1.1 "Effective Date": The date this Agreement is recorded with the County of Orange.

1.2 “Fiscal Year”: City’s fiscal year, which commences July 1 and ends on June 30 of the following calendar year.

1.3 “Operating Term”: Fifty years, commencing on the date that Costco receives a Certificate of Occupancy for its warehouse store on the Property.

1.4 “Penalty Assessments”: penalties, assessments, collection costs, and other costs, fees or charges resulting from late or delinquent payment of Sales and Use Taxes.

1.5 “Sales and Use Taxes”: taxes that both: (i) are derived from Costco’s business conducted on the Property (including all sales tax generated by the sale of retail goods and motor vehicle fuel); and (ii) are allocated to and actually received by City pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Revenue and Taxation Code Section 7200 *et seq.*). Sales and Use Taxes shall not include: Penalty Assessments; taxes levied by, collected for or allocated to the State of California, the County of Orange, any district or other entity; or any funds paid, granted or allocated to City by the State of California (including allocations of motor vehicle fuel tax revenues pursuant to California Constitution Article XIX), the County of Orange, any district or other entity, notwithstanding that such funds received by City are derived or measured by such other entity based upon taxable sales. Sales and Use Taxes also shall not include: (i) any portion of taxes received by City from any of Costco’s operations on the Property that City may be required to pay, transfer, assign, or allocate to any other entity or entities by virtue of any law, or by virtue of any contract entered into between City and any other governmental agency under Government Code Section 53084; (ii) the State Board of Equalization’s administrative and processing fee attributable to City’s portion of such taxes (calculated at the same percentage of such taxes as applies city-wide); and (iii) any sales tax “over-rides” for transportation and public safety. Sales and Use Taxes shall not be considered to have been received by City until City is able to confirm receipt of such taxes from the State Board of Equalization.

## ARTICLE 2. TERM

This Agreement shall begin on the Effective Date and shall expire at the end of the Operating Term unless sooner terminated as provided below. At least three years prior to the expiration of the Operating Term, if Costco has extended or intends to extend its lease on the Property, Owner and City shall reasonably cooperate and use commercially best efforts to extend the Operating Term or enter into a new, similar contract.

## ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF OWNER

Owner makes the following representations and warranties as of the Effective Date:

3.1 Status. Owner is duly organized, validly existing, and is qualified to do business and is in good standing in the State of California with full power and authority to perform the obligations contemplated by this Agreement.

3.2 Corporate Authority. Each person executing this Agreement on behalf of Owner warrants that he or she is duly authorized to execute this Agreement on Owner’s behalf of and that by his or her execution, Owner is formally bound to this Agreement. Owner shall provide

City written proof that each person executing this Agreement on Owner's behalf is duly authorized to bind Owner.

3.3 Legal Compliance. Owner has complied, or prior to the Operating Term will have complied, with all governmental requirements concerning its organization, existence, and transaction of business with respect to the Property. Owner has the right and power to own and operate its business as contemplated in this Agreement.

3.4 Enforceability. Owner has full right, power, and authority to execute and deliver this Agreement, and to perform the undertakings of Owner contained in this Agreement. This Agreement constitutes a valid and binding obligation of Owner, which is legally enforceable in accordance with its terms, subject to the application and effect of all governmental requirements including the laws of bankruptcy, creditor's rights exceptions, and equity.

3.5 Interest of Owner. Owner warrants and represents that: (i) as of the Effective Date it is in escrow to purchase the Property; (ii) it will use commercially best efforts to close escrow on the purchase of the Property and to lease the Property to Costco in accordance with this Agreement.

3.6 No Litigation. There is no litigation or other proceeding pending or threatened against Owner or the Property that may adversely affect the enforceability of this Agreement or the operation of Costco's business at the Property.

3.7 No Breach. None of the undertakings of Owner contained in this Agreement violates any applicable governmental requirements, or conflicts with or constitutes a breach or default under any contract by which Owner or the Property is bound.

3.8 Proceedings. To the best of Owner's knowledge, Owner is not in violation of any law, or of any order of any court or governmental agency the effect of which would prohibit Owner from performing its obligations under this Agreement.

3.9 Financial Information Accuracy. To the best of Owner's knowledge, all documents, reports, instruments, papers, data, information and forms of evidence delivered to City by Owner with respect to this Agreement (including information relating to Owner, Costco, or the Property) are accurate and correct in all material respects, are materially complete insofar as completeness may be necessary to give City true and accurate knowledge of the subject matter thereof, and do not contain any material misrepresentation or omission by Owner or any other person or entity. City may rely on such reports, documents, instruments, papers, data, information, and forms of evidence without any investigation or inquiry. No material adverse change in such financial condition has occurred as of the Effective Date from that disclosed in such financial information.

3.10 Taxes. To the best of Owner's knowledge, Owner has filed all federal, state, county and municipal tax returns required to have been filed by Owner, and has paid all taxes which have become due pursuant to such returns.

3.11 Warranties Against Payment of Consideration for Agreement. Owner represents and warrants that Owner has not employed or retained any person to solicit or secure this

Agreement for a commission, percentage, brokerage, or contingent fee. Owner further represents and warrants that no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Owner or any of its agents, employees, or representatives to any elected or appointed official or employee of City in an attempt to secure this Agreement or favorable terms or conditions for this Agreement. Breach of the representations or warranties of this Section 3.11 shall automatically terminate this Agreement, without further notice to or action by either Party, and Owner shall immediately refund any reimbursements made pursuant to ARTICLE 6 within 10 days of demand by City.

3.12 Default. If any material warranty, representation, or statement made or furnished by Owner to City is false or proved to have been false in any material respect when it was made, then Owner shall be in default under this Agreement.

#### **ARTICLE 4. BINDING EFFECT; ASSIGNMENT**

4.1 Obligations Running with the Land. The obligations established in this Agreement attach to and run with the Property, and shall be binding on Owner and any of Owner's successors-in-interest to the Property or any part thereof for the benefit and in favor of City and City's successors and assigns, as the case or context may require.

4.2 Assignment. Owner shall not assign its rights or obligations under this Agreement without the prior written consent of City, which consent shall be within City's sole discretion; provided, however, City will not unreasonably withhold, condition or delay its consent to an assignment if (i) the assignment results in merely a change in the form of ownership of Owner, including any assignment is to an entity that is affiliated with, wholly owned, or otherwise controlled by Owner, or (ii) the assignment is made in conjunction with a sale of all of the Property and the buyer agrees in writing to fulfill Owner's obligations under the Agreement. Notwithstanding the foregoing, Owner, without the consent of City, may assign all or a portion of its rights under this Agreement, including all or a portion of the Sales and Use Taxes payable to Owner hereunder, to (i) its lender(s) as collateral for any loan extended to Owner with respect to the Project, and (ii) its lender(s) in connection with any foreclosure action instituted against all or any portion of the Property or a deed-in-lieu of foreclosure granted by Owner, and such lenders may subsequently assign such rights to any purchaser of all or any portion of the Property from such lender so long as such subsequent purchaser agrees to assume the obligations of Owner under this Agreement that are related to the portion of the Property acquired by such purchaser. Following any assignment permitted under this Section, such assignee shall be deemed to be the "Owner" hereunder for all purposes related to the rights or obligations assigned to such assignee.

4.3 Estoppels. At Owner's request, City (through the City Manager) shall provide a written estoppel letter to Owner's lender(s) confirming the continuing effectiveness of this Agreement, that, to the knowledge of City, Owner is not in default of this Agreement, and such other statements as Owner or Owner's lender(s) may reasonably request with respect to this Agreement and items contemplated herein.

## ARTICLE 5. OBLIGATIONS OF OWNER

5.1 Costco Lease. On or before December 31, 2026, Owner shall lease the Property to Costco for purpose of establishing and operating a warehouse store thereon. In the event Owner does not execute such a lease agreement ("Lease") with Costco by such deadline, this Agreement shall automatically terminate. Owner shall provide City with a copy of a recorded memorandum of the Lease no later than 10 days of the Lease's execution.

5.2 Development for the Property. Owner shall take all commercially reasonable steps to facilitate: (i) Costco's development of a warehouse store on the Property; and (ii) Costco's continuous operation of a warehouse store on the Property for the term of the Lease or this Agreement, whichever is longer; and (iii) Costco's cooperation with City to fulfill the purposes and performance of this Agreement. In the event Costco permanently ceases to operate on the Property prior to the expiration of the Operating Term, this Agreement shall automatically terminate.

5.3 Local, State and Federal Laws. Owner shall carry out the operation of its business in conformity with applicable laws.

5.4 Anti-discrimination. Owner shall not discriminate against any employee or applicant for employment because of age, sex, marital status, race, handicap, color, religion, creed, ancestry, or national origin or any other basis prohibited by law.

5.5 Sales and Use Tax Reports. Owner shall provide or cause to be provided to City true and correct copies of all reports filed with the State Board of Equalization by Costco within 10 days after filing every such report, in order to allow City to preliminarily determine the amount of Sales and Use Taxes paid by Costco on account of sales from the Property; provided, however, that City shall not be deemed to have received any Sales and Use Taxes until City's actual receipt thereof.

5.6 Other Government Reports. Owner shall provide or cause to be provided to City such information and reports that City is required by law to publish or provide to any other governmental agency, including all information described in Revenue and Taxation Code Section 7213 and paragraphs (a) and (d) of Government Code Section 53083. Owner expressly acknowledges and agrees that its failure to provide or reasonably cooperate in the production of such information in a timely manner shall be a material breach of Owner's obligations under this Agreement.

5.7 Labor Code. Owner expressly acknowledges that it is aware that Costco's development of a warehouse retail store on the Property may constitute a public works project under Labor Code Section 1771, thereby requiring payment of prevailing wages. Owner shall provide Costco written notice of the same prior to leasing the Property to Costco or 30 days after the Effective Date, whichever is sooner, and shall concurrently provide City a copy of such notice.

## ARTICLE 6. FINANCIAL ASSISTANCE

6.1 Quarterly Reimbursements. Within 15 days after City confirms its quarterly receipt of Sales and Use Taxes paid by Costco on account of sales within City's jurisdiction during the Operating Term, City shall provide on a fiscal year quarterly basis financial assistance to Owner, in the form of a Sales and Use Tax reimbursement, in an amount equal to a percentage of such Sales and Use Tax receipts in accordance with following schedule:

Year of the Operating Term	Percentage of Sales and Use Taxes subject to Reimbursement
1-2	100
3-4	95
5-7	90
8-10	85
11-13	80
14-16	75
17-18	70
19-21	65
22-25	60
26-29	55
30-40	50
41-50	40

The foregoing schedule is based on the City's sales tax rate of 7.75% as of the Effective Date. Should the City's sales tax rate increase during the Operating Term, as to the Sales and Uses Tax receipts generated by the portion of the rate above 7.75%, City shall provide Owner a Sales and Use Tax reimbursement in an amount equal to 40% of such receipts.

Upon the expiration of the Operating Term or the earlier termination of this Agreement, City shall have no further obligation under this Agreement to provide a Sales and Uses Tax reimbursement to Owner. Notwithstanding the foregoing, for each year City provides Owner with a reimbursement of Sales and Use Taxes, City shall allocate to its Community Services Department 5% of the amount that is otherwise owed to Owner ("Community Benefit Contribution"). City shall appropriate the Community Benefit Contribution solely for the purpose of funding events, programs, and services at the Brea Senior Center (located at 500 S. Sievers Ave.) or at any additional or replacement City-owned facility subsequently established to serve City's senior citizen residents. The Community Benefit Contribution shall not be used for City administrative costs or overhead, but rather directly for events, programs and services.

6.2 Annual Adjustment. Promptly after each fiscal year of City that includes a portion of the Operating Term, City shall determine with respect to the preceding fiscal year, both the aggregate amount of Sales and Use Taxes received by City and the aggregate amount of quarterly reimbursements made to Owner pursuant to Section 6.1. If for any reason (including reporting errors or other adjustments) the aggregate amount of the quarterly payments made by City pursuant to Section 6.1 for the preceding fiscal year is less than the actual Sales and Use

Taxes generated during that same fiscal year, City shall pay to Owner an adjustment payment equal to the amount of the deficiency. If for any reason (including reporting errors or other adjustments) the aggregate amount of the quarterly payments made by City pursuant to Section 6.1 for the preceding fiscal year is more than the actual Sales and Use Taxes generated during that same fiscal year, then the amount of the excess shall be applied towards the next quarterly payment due under Section 6.1; except that if any unapplied excess remains after the Operating Term, then Owner shall pay the amount of the unapplied excess promptly to City upon demand.

6.3 Disputes. In the event of any dispute regarding the amounts payable under this Article, the Parties shall promptly meet and confer in good faith to attempt to resolve the dispute.

## ARTICLE 7. INDEMNIFICATION

7.1 To the maximum extent permitted by law, Owner shall defend, indemnify, and hold City and its elected officials, officers, contractors serving as City officials, agents, and employees (“Indemnitees”) harmless from liability for damage and/or claims for damage for personal injuries, including death, and claims for property damage, and with respect to all other actions and liabilities for damages arising from use of the Property, including development and operation of Costco’s retail warehouse store, except for such loss or damage arising from the sole negligence or willful misconduct of City. This indemnity provision applies to all damages and claims for damage regardless of whether or not City prepared, supplied, or approved the plans, specifications, or other documents for the Property, including any associated public or private improvements.

7.2 Without limiting the generality of Section 7.1, Owner shall also defend, indemnify, and hold the Indemnitees harmless from and against any and all claims, liabilities, losses, damages, costs, and expenses arising from or related to any claims that Costco or Costco’s contractors are required to pay prevailing wages pursuant to Labor Code Section 1720 *et seq.*, in connection with the development of Costco’s retail warehouse store on the Property.

7.3 Without limiting the generality of Section 7.1, in the event of any third party legal action challenging the validity, applicability, or interpretation of any provision of this Agreement, Owner shall also indemnify, defend, and hold harmless the Indemnitees with respect to all liability, costs, and expenses incurred by, and/or awarded against, City or any of the Indemnitees in relation to such action.

7.4 In the event of any litigation challenging its effectiveness, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless otherwise ordered by the court. Absent issuance of an injunction, Owner may elect to lease the Property to Costco pending completion of the litigation but it shall do so at its sole risk, and City shall not be liable for any loss suffered as a result thereof.

7.5 With respect to any legal action or claim falling within Owner’s defense, indemnity, and hold harmless obligations under this Article, City shall have the right to select counsel of its choice and the Parties shall cooperate in the defense. Owner shall enter into a joint defense and indemnity agreement, in a form approved by the City Attorney, and shall provide,

and maintain for the duration of such action or claim, a cash deposit to City in an amount determined by the City Attorney to be reasonably necessary to cover City's actual, reasonable legal fees, costs, and expenses. Owner shall not be entitled to a refund of funds expended from the deposit regardless of the outcome of the action or claim. City shall refund to Owner any unexpended funds from the deposit within 30 days of any final disposition or full and complete settlement of the action or claim.

7.6 With respect to any legal action or claim falling within Owner's defense, indemnity, and hold harmless obligations under this Article, Owner shall reimburse Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Owner's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Owner or Indemnitees.

7.7 This Article shall survive this the expiration or earlier termination of this Agreement.

#### **ARTICLE 8. DEFAULT; TERMINATION**

If either Party breaches any material obligation under this Agreement and fails to cure the breach within 30 days after receiving notice of the breach from the other Party (unless the breach cannot be cured within thirty days, in which event the cure period shall be extended so long as the Party commences the cure within the 30-day period and thereafter diligently pursues the cure to completion), the breaching Party shall be in default and the non-breaching Party may terminate this Agreement, in addition to all other remedies available at law or in equity.

#### **ARTICLE 9. GENERAL PROVISIONS**

9.1 Construction. The Parties acknowledge that each Party has been advised to have this Agreement reviewed by counsel, and agree that each Party and its counsel (and/or such other business and financial advisers as each Party desires) have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

9.2 Entire Agreement. This Agreement contains the entire contract of the Parties with respect to its subject matter, and supersedes all prior negotiations, understandings, or contracts. This Agreement may only be modified by a writing signed by both parties.

9.3 Severability. The invalidity in whole or in part of any provisions of this Agreement shall not void or affect the validity of the other provisions of this Agreement.

9.4 Exhibits. All Exhibits expressly referenced in this Agreement are incorporated into and made part of this Agreement by reference. In the event of any material discrepancy between the other express provisions of this Agreement and the provisions of any Exhibit, the other provisions of this Agreement shall prevail.

9.5 Recitals. The Recitals set forth above are true and correct and are incorporated into this Agreement, in their entirety, by this reference.

9.6 No Waiver. Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions of this Agreement shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers under this Agreement at any one time or more times be deemed a waiver or relinquishment of such right or power at any other time or times.

9.7 No Third Party Beneficiaries. The performance of the Parties' respective obligations under this Agreement is not intended to benefit any person other than City and Owner, except as may be expressly provided otherwise in this Agreement. No person not a signatory to this Agreement shall have any rights or causes of action against any Party to this Agreement as a result of that Party's performance or non-performance under this Agreement, except as otherwise expressly provided in this Agreement.

9.8 Notices, Demands and Communications Between the Parties. Notices, demands and communications between City and Owner shall be deemed sufficiently given if (i) delivered personally, (ii) dispatched by registered or certified mail, postage prepaid, return receipt requested, or (iii) sent by nationally-recognized reputable overnight delivery service to the principal offices of City and Owner as set forth below (or to such other address as a Party may from time to time designate by notice in accordance with this Section), and shall be deemed received upon delivery or refusal of delivery, if delivered personally, within three business days after deposit of same in the United States mail, if mailed, or one business day after deposit of same with a nationally recognized reputable overnight delivery service if sent by such a delivery service.

To Owner                      DVQ Revocable Trust  
565 W. Lambert Road, Suite F  
Bream CA 92821

With a copy to:              Rutan & Tucker, LLP  
18575 Jamboree Road, 9<sup>th</sup> Floor Irvine, CA 92612  
Attn: Alan Fenstermacher

To City:                        City of Brea  
1 Civic Center Circle  
Brea, CA 92821  
Attn: City Manager

With a copy to:              Richards, Watson & Gershon  
1 Civic Center Circle  
P.O. Box 1059  
Brea, CA 92822-1059  
Attn: Brea City Attorney

9.9 Conflicts of Interest; Prohibited Interests. Owner warrants and maintains that, as of the Effective Date, it has no knowledge that any officer or employee of City has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in

the business of Owner. If any information regarding an officer or employee of City having an interest in this transaction or in the business of Owner as of the Effective Date comes to the knowledge of Owner at any time during the Operating Term, Owner shall immediately make a complete, written disclosure of such interest to City, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws. If City subsequently is provided information that Owner had knowledge but failed to disclose knowledge of any such interest, and Owner fails to acknowledge such interest within 14 days of notification by City, Owner's failure shall constitute a breach of this Agreement.

9.10 Warranty Against Payment of Consideration for Agreement. Owner warrants that it has not paid or given, and will not pay or give, to any third person, any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as attorneys.

9.11 Release of City Officials. No official, agent, employee, or attorney of City shall be personally liable to Owner, or any successor in interest of Owner, in the event of any default or breach by City or for any amount that may become due to Owner or its successors, or on any obligations under the terms of this Agreement. Owner waives and releases any claim it may have personally against the members, officials, agents, employees, consultants, or attorneys of City with respect to any default or breach by City or for any amount that may become due to Owner or its successors, or on any obligations under the terms of this Agreement. Owner makes such release with full knowledge of Civil Code Section 1542, and waives any and all rights thereunder to the extent of this release, if such Section 1542 is applicable. California Civil Code Section 1542 provides as follows:

"A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

9.12 City Not Liable For Damages. It is acknowledged by the Parties that City would not have entered into this Agreement if it could be held liable in damages under or with respect to this Agreement. Consequently, and except for the payment of attorneys' fees in accordance with this Agreement or specific performance of its obligations under Section 6.1 of this Agreement, City shall not be liable in damages to Owner, or to any assignee, transferee, or any other person, and Owner covenants on behalf of itself and its successors in interest not to sue for or claim any damages: (i) for any breach of this Agreement; (ii) for the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant hereto; (iii) arising out of or connected with any dispute, controversy, or issue regarding the application or interpretation or effect of the provisions of this Agreement; or (iv) for any injury to or interference with the rights of Owner, allegedly or actually arising out of, or incurred in connection with, the parties entering this Agreement, or their exercise of any rights under this Agreement.

9.13 Venue. In the event of any litigation hereunder, all such actions shall be instituted in a court of competent jurisdiction located in the County of Orange, State of California.

9.14 Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

9.15 No Joint Venture. Nothing contained herein shall be construed to render City in any way or for any purpose a partner, joint venture, or associated in any relationship with Owner, Costco, or any other person or entity; nor shall this Agreement be construed to authorize either Party to act as agent for the other.

9.16 Records. The City or any representative or designee thereof may at any time during normal business hours, upon reasonable prior notice, examine the books and records of Owner or any officer, employee, agent, contractor, affiliate, related person, assignee or franchisee, to the extent that such books and records relate, directly or indirectly, to the determination of Sales and Use Taxes generated from the Property. Owner shall keep the originals or true and correct copies, at Owner's principal place of business; provided that if such location is not located in Orange County, California, then Owner shall keep additional copies of such records in a location reasonably approved by City.

9.17 Waiver. The waiver by City or Owner of any breach by the other Party of any provision shall not be deemed to be a waiver of such provision or any subsequent breach of the same or any other provision. Either Party's acceptance of any performance by the other Party after the due date of such performance shall not be deemed to be a waiver by either Party of any preceding breach by the other Party of any provision of this Agreement, regardless of such Party's knowledge of such preceding breach at the time of acceptance of such performance.

9.18 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

9.19 Severability. Each and every provision of this Agreement is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected hereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the day and year first above written.

**CITY:**

CITY OF BREA, a California municipal corporation

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

Cecilia Hupp  
Mayor



**OWNER:**

DVQ REVOCABLE TRUST

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

Dwight Manley  
Trustee

**ATTEST:**

\_\_\_\_\_  
Victoria Popescu  
City Clerk

**APPROVED AS TO FORM:**

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

Terence Boga  
City Attorney

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the day and year first above written.

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By: \_\_\_\_\_  
Cecilia Hupp  
Mayor

**OWNER:**

DVQ REVOCABLE TRUST

By:  \_\_\_\_\_  
Dwight Mahley  
Trustee

**ATTEST:**

\_\_\_\_\_  
Victoria Popescu  
City Clerk

**APPROVED AS TO FORM:**

By \_\_\_\_\_  
Terence Boga  
City Attorney

**CALIFORNIA ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }  
County of Orange }  
On December 22, 2025 before me, Zach Tellez, Notary Public,  
Date Here Insert Name and Title of the Officer  
personally appeared Dwight Marley  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Zach Tellez  
Signature of Notary Public

Place Notary Seal and/or Stamp Above

**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

Corporate Officer – Title(s): \_\_\_\_\_

Partner –  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

Corporate Officer – Title(s): \_\_\_\_\_

Partner –  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

## EXHIBIT A

### Property Legal Description

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL B: APN: 320-221-24

LOT 1 OF TRACT NO. 10129, IN THE CITY OF BREA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 422, PAGES 8 THROUGH 12, INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES, MINERALS AND WATER, IN, UNDER OR THAT MAY BE PRODUCED FROM SAID REAL PROPERTY, WITH THE FREE, PERPETUAL AND EXCLUSIVE RIGHT TO EXPLORE, PROSPECT FOR, DRILL FOR, PRODUCE, TAKE AND REMOVE THE SAME FROM ONLY THAT PORTION OF SAID REAL PROPERTY WHICH UNDERLIES A PLANE PARALLEL TO AND 100 FEET BELOW THE SURFACE THEREOF, WHICH PORTION IS HEREINAFTER REFERRED TO AS "SUBSURFACE LAND", AS RESERVED BY UNION OIL COMPANY OF CALIFORNIA, A CORPORATION, IN DEED RECORDED FEBRUARY 20, 1964 AS INSTRUMENT NO. 16522, IN BOOK 6932, PAGE 548 OF OFFICIAL RECORDS, AND OTHER DEEDS OF RECORD.

NOTE: THE RIGHT OF SURFACE ENTRY WAS RELINQUISHED BY AN INSTRUMENT RECORDED JANUARY 11, 1978 AS INSTRUMENT NO. 14644, IN BOOK 12526, PAGE 1999 OF OFFICIAL RECORDS.