

TAX ABATEMENT AGREEMENT

**County of St. Louis,
and
City of Duluth**

THIS TAX ABATEMENT AGREEMENT, entered into this ____ day of _____, 2020, by and between the **County of St. Louis**, a municipal corporation created and existing under the laws of the State of Minnesota (“County”) and the **City of Duluth**, a municipal corporation created and existing under the laws of the State of Minnesota (“City”) is in response to the following:

A. City has a documented unfulfilled need to provide housing in the downtown area of Duluth.

B. Costco Wholesale Corporation (“Developer”) desires to develop property at the northeast quadrant of Haines Road and Arrowhead Road for an approximately 160,000 square foot Costco Wholesale store, and an approximately 725 car parking lot.

C. City desires to reimburse Developer for costs associated with gaps in available project financing for public infrastructure to support the site’s development through abatement of real property taxes to be received by the City from payment of taxes on the property upon which the project will be located, all as authorized by Minnesota Statutes §§ 469.1813 - 1815.

D. County has agreed to assist City in reimbursing such costs based upon the County’s ability to reimburse City for said costs through the abatement of real property taxes to be received by the County from the payment of taxes on the property upon which the project will be built, all as authorized by Minnesota Statutes §§ Sections 469.1813-1815.

E. Pursuant to County Board resolution _____ (_____, 2020), County is willing to so abate said taxes and to provide said proceeds to City, as hereinafter provided for, in order to assist City in reimbursing Developer for costs associated with the project.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto hereby agree as follows:

ARTICLE I

1. Definitions: For the purposes of this Agreement the following terms shall have the meaning hereinafter ascribed to them:

1.1. Project: shall mean the Public-Eligible elements of the Costco Development to be constructed by Developer as depicted on Exhibit A attached hereto.

1.2. Property: shall mean the property upon which the Project will be constructed located in St. Louis County, Minnesota and legally described as:

THE NORTH HALF OF THE NORTH HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTH HALF OF THE NORTH HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE NORTH HALF OF THE SOUTH HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTH HALF OF THE SOUTH HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, ALL IN SECTION 7, TOWNSHIP 50, RANGE 14, ST. LOUIS COUNTY, MINNESOTA.

AND

THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, EXCEPT THE SOUTH 400.00 FEET OF THE WEST 400.00 FEET THEREOF, ALL IN SECTION 7, TOWNSHIP 50, RANGE 14.

1.3. TAF: shall mean Tax Abatement Financing.

1.4. Development Agreement: shall mean that agreement between City and Developer which provides for the reimbursement to Developer of TAF-Eligible Costs up to the amount of \$2,000,000, of which \$1,350,000 will be funded through City tax abatement and \$650,000 of which will be funded through County tax abatement.

1.5. TAF Proceeds: shall mean the portion of County real property taxes on the Property which is actually received by County in any year.

1.6. TAF-Eligible Costs: shall mean the Eligible Costs associated with redevelopment of the Project as shown on Exhibit B, attached hereto and made a part hereof, incurred as part of the Project and paid for by Developer.

ARTICLE II

2. TAF-Eligible Costs Stipulation. The parties hereto hereby agree that Developer will incur the TAF-Eligible Costs in furtherance of the Project that are listed on Exhibit B and that the amount of those costs for each item of such costs related thereto is substantially as shown on said Exhibit B. The parties further stipulate that the total amount of TAF-Eligible Costs incurred by Developer will be at least \$1,350,000 per the City and \$650,000 per the County.

ARTICLE III

3. TAF Proceeds to City.

3.1. Commencing with real estate taxes payable in the year 2021, County hereby agrees and commits that it will remit all TAF Proceeds as herein defined to City for the term of this Agreement in an amount not to exceed \$650,000.00. Said payments shall be due and payable to City no later than thirty (30) days after receipt thereof by County. County shall be obligated to pay those TAF Proceeds to City actually received by County and such obligation shall apply to such proceeds only when and to the extent received by County.

3.2. Notwithstanding anything to the contrary herein, County's obligation to pay the TAF proceeds is furthered conditioned upon: a) Developer having paid real estate taxes on the Property in the relevant tax-payable year; and b) certification from the City that TAF-Eligible Costs of at least \$650,000 have been paid by Developer.

3.3. Payments may be made by check or wire transfer, as mutually agreed by the finance staff of the County and City, respectively. If a payment is not made in a particular year because the conditions described in Section 3.2 are not met, City's right to receive the payment in that year is terminated (i.e., payments are not withheld and paid in a future year).

3.4. The City shall apply the County TAF Proceeds solely to reimburse Developer for TAF-Eligible Costs.

ARTICLE IV

4. Term. The term of this Agreement shall be deemed to run from the date of first receipt of TAF Proceeds by City from County for a period of ten (10) years or until the total amount of TAF Proceeds received by City equals the amount of \$650,000.00, whichever is sooner (the "Termination Event"). Upon the happening of the Termination Event, this Agreement shall terminate and County shall have no further obligation to remit TAF Proceeds to City.

ARTICLE V

5. Default. If City gives Developer any notice of default under the Development Agreement, City will promptly provide a copy of the default notice to County.

ARTICLE VI

6. Force Majeure. In the event that County is prevented from making the payments to City required by Article III above due to events or circumstances which were beyond its control, including but not limited to laws enacted by the State of Minnesota Legislature, it shall be County's obligation to use its best efforts to secure an alternative source or sources of funding to meet said obligation and to the extent that such source or sources are available, County is obligated to make the payments to City in amounts which County would have been obligated to pay City pursuant to said Article III, had it not been for the event of Force Majeure; provided that nothing herein shall be deemed to require County to make such payments from its General Fund or to levy additional property taxes on other property in St. Louis County to make such payments.

ARTICLE VII

7. Amendments. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.

ARTICLE VIII

8. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Minnesota without regard to its choice-of-law provisions. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota.

ARTICLE XIX

9. Severability. In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

ARTICLE X

10. Entire Agreement. This Agreement, including Exhibit A, constitutes the entire agreement between County and City and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first above shown.

CITY OF DULUTH

COUNTY OF ST. LOUIS

By _____
Mayor

By _____
Board Chair

Attest: _____
City Clerk

By _____
County Auditor

Countersigned:

Approved as to Form and Execution:

By _____
City Auditor

By _____
Assistant County Attorney

Approved as to Form and Execution:

By _____
City Attorney

Exhibit A

Depiction of Project

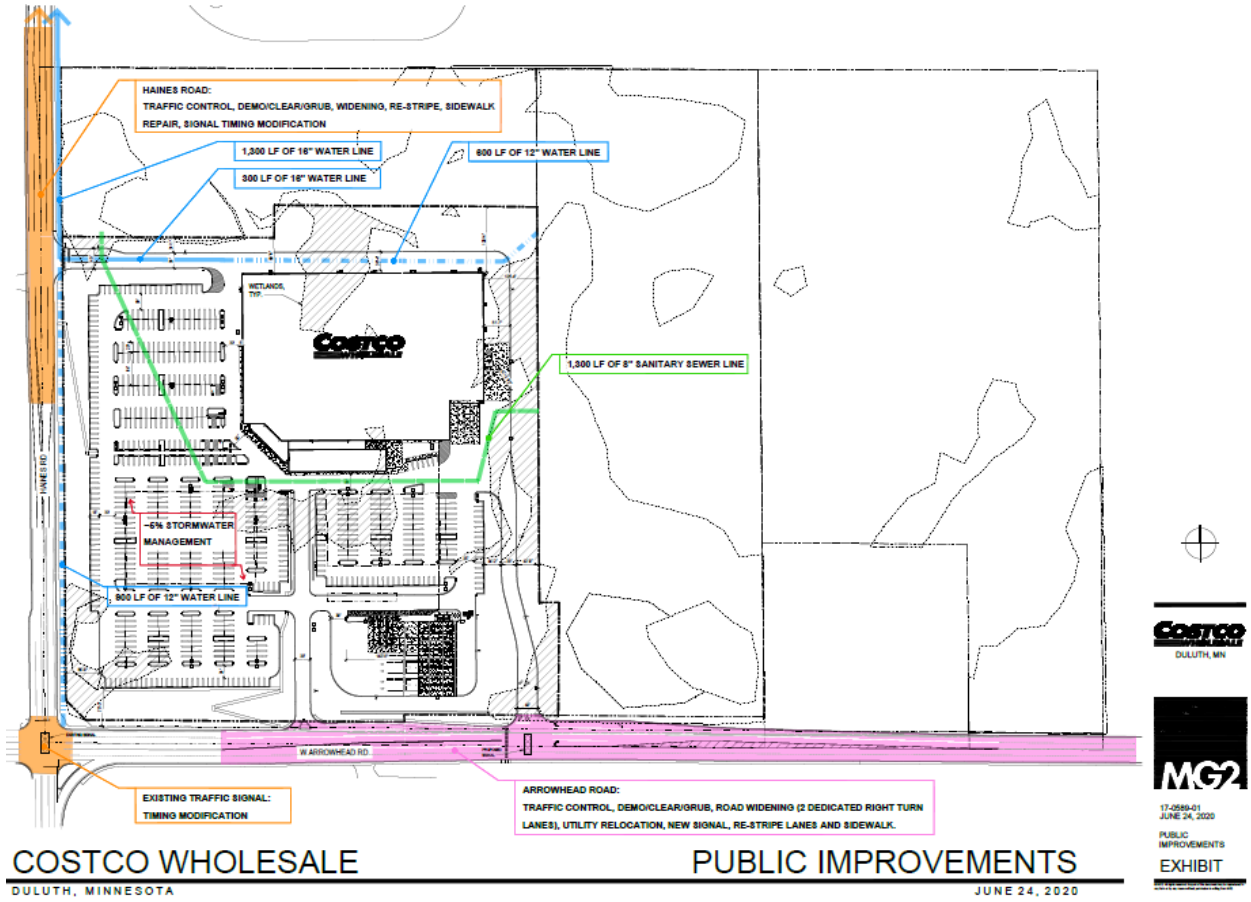


Exhibit B

TAF-Eligible Costs

Duluth, MN
 Costco Wholesale
 6.24.20
 Public Infrastructure and Associated Site Development Costs

Public Roadway Improvements		
Arrowhead Road (Traffic Control, Road Widening, Striping , Utility Relocation, New Signal)		\$1,048,828
Haines Raod (Traffic Control, Road Widening, Striping , Sidewalk Repair, Signal Timing Modification)		\$310,251
	15% GC,OH&P	Included
	Tax	Included
	Subtotal	\$1,359,079
Public Water Main		
3,100 LF 12" and 16" Pipe		\$341,781
Hardrock Excavation		\$100,850
	15% GC,OH&P	Included
	Tax	Included
	Subtotal	\$442,631
Public Sewer Main		
1,300 LF		\$163,837
	15% GC,OH&P	Included
	Tax	Included
	Subtotal	\$163,837
Stormwater Management Associated with Public Improvements		
5% of the Underground Stormwater Manangement System		\$41,649
	15% GC,OH&P	Included
	Tax	Included
	Subtotal	\$41,649
	TOTAL	\$2,007,196