

RESOLUTION NO. 1820

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF WILSONVILLE THE FOUR PARTY AGREEMENT FOR TAKEOVER OF OFF-SITE WORK REQUIRED OF THE ARGYLE SQUARE DEVELOPMENT PERMIT.

WHEREAS, the City has entered into a Development Agreement with Argyle Capital, LLC, an Oregon limited liability company ("Developer"), which provides the developer will design and construct certain off-site improvements in the sum of \$1.76 million as required by the development permit approval by the City for the Argyle Square development; and

WHEREAS, the proposed Argyle Square development includes retail tenants, Target Corporation, a Minnesota corporation ("Target"), and Costco Wholesale Corporation, a Washington corporation ("Costco"), who share an interest in having the off-site work designed and constructed; and

WHEREAS, the parties desire to have a secure financial arrangement to insure performance, payment and satisfactory completion of the design and construction of the off-site work without duplication of costs for multiple bonds or letters of credit; and

WHEREAS, a letter of credit in the sum of \$2.6 million will be issued by Sterling Savings Bank and the original letter placed in escrow and the sum of \$2.6 million to be transferred to escrow in the event of failure of performance and/or payment in the design and construction of the off-site work and to be drawn upon in accordance with the Four Party Agreement For Takeover of Off-Site Work, a copy of which is marked Exhibit 1, attached hereto and incorporated by reference herein; and

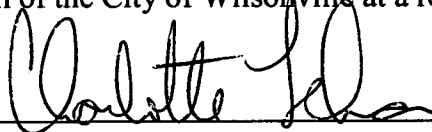
WHEREAS, staff has reviewed the form of the letter of credit, the Four Party Agreement For Takeover of Off-Site Work, and the security sum of \$2.6 million, which is approximately 150% of the estimated costs for engineering construction of the off-site work of \$1.76 million and find that they are in legal form and order;

NOW, THEREFORE , THE CITY OF WILSONVILLE RESOLVES AS
FOLLOWS:

1. That a letter of credit in the sum of \$2.6 million issued by Sterling Savings Bank, together with the Four Party Agreement For Takeover of Off-Site Work is satisfactory security to insure performance, payment, and substantial completion of the off-site work as required by the Development Agreement between the City of Wilsonville and Argyle Capital, LLC;


2. That the City Manager is authorized to execute the Four Party Agreement For Takeover of Off-site Work, a copy of which has been marked Exhibit 1, attached hereto and incorporated by reference herein.

ADOPTED, by the City Council of the City of Wilsonville at a regular meeting thereof on the 17th day of March, 2003.



CHARLOTTE LEHAN, Mayor

Attest:



SANDRA C. KING, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan Yes
Councilor Helser Yes
Councilor Kirk Yes
Councilor Scott-Tabb Yes
Councilor Holt Yes

FOUR PARTY AGREEMENT FOR TAKEOVER OF OFF-SITE WORK

This Four Party Agreement for Takeover of Off-Site Work (the "Agreement") is made and entered into this ____ day of March, 2003 by and between the **CITY OF WILSONVILLE**, an Oregon municipal corporation (the "City"), **TARGET CORPORATION**, a Minnesota corporation ("Target"), **COSTCO WHOLESALE CORPORATION**, a Washington corporation ("Costco") and **ARGYLE CAPITAL LLC**, an Oregon limited liability company ("Developer").

WITNESSETH:

WHEREAS, Developer is the owner and developer of the Shopping Center; and

WHEREAS, the Shopping Center is comprised of the Developer Tract and the Retailers' Tracts (as defined below), is located in the City of Wilsonville and is more particularly shown on the site plan attached as Exhibit X (the "Site Plan") to the Operation and Easement Agreement entered into by Target, Costco and Developer effective as of the date of this Agreement (the "OEA"); and

WHEREAS, Target and Costco (individually, a "Retailer" and collectively, the "Retailers") each has executed or will execute as tenant, and Developer has executed or will execute as landlord, a ground lease of a separate tract of land (each, a "Retailer's Tract" and collectively, the "Retailers' Tracts") upon which they plan to build and operate their respective retail establishments within the Shopping Center as shown on the Site Plan; and

WHEREAS, Developer is obligated, pursuant to the Retailers' SDAs (as defined below) to perform certain site improvement work in connection with the development of the Shopping Center (the "Site Improvement Work"), which Site Improvement Work in the aggregate includes (i) certain work to be performed on each of the Retailers' Tracts (such work on the Retailers' Tracts being collectively referred to as the "Retailer Site Work" and individually as the "Target Site Work" and the "Costco Site Work"); and (ii) certain work, other than the Retailer Site Work, to be performed within the Shopping Center, including without limitation the Permanent Access Drives, and on the Developer Tract (the "Onsite Work") and (iii) certain work required by the City of Wilsonville to be performed outside the Shopping Center (the "Off-Site Work"); and

WHEREAS, the Retailers have each entered into a Site Development Agreement with Developer to set forth the agreements and understandings relating to the performance of the Site Improvement Work (or applicable portions thereof) and the payment of a portion of the costs of the Site Improvement Work by each of the Retailers. (The Target Site Development Agreement shall be referred to herein as the "Target SDA". The Costco Site Development Agreement shall be referred to herein as the "Costco SDA". Collectively, the Retailers' Site Development Agreements shall be referred to herein as the "Retailers' SDAs"); and

WHEREAS, Developer and the City have entered into or will enter into a Development Agreement obligating Developer to perform the Off-Site Work (the "City's SDA"); and

WHEREAS, each Retailer's SDA gives the Retailer the right under certain circumstances to take over the Site Improvement Work required to be performed by Developer under the Retailer's SDA; and

WHEREAS, the City has the right to take over the Off-Site Work in the event Developer fails to complete the Off-Site Work; and

WHEREAS, subject to the terms and conditions of the Retailers' SDAs, Developer is required to provide one or more letters of credit for the benefit of Target for the uncompleted Site Improvement Work required to be performed by Developer under the Target SDA and is required to provide one or more letters of credit for the benefit of Costco for the uncompleted Site Improvement Work required to be performed by Developer under the Costco SDA; and

WHEREAS, the City requires Developer to provide security for Developer's obligation to the City to perform the Off-Site Work; and

WHEREAS, Developer has completed the Costco Site Work in accordance with the Costco SDA; and

WHEREAS, Developer and the Retailers have entered into a Three Party Agreement for Takeover of Onsite Work effective as of the date of this Agreement (the "Three Party Onsite Agreement") (i) to set forth certain uniform agreements and understandings in the event one or more of the Retailers desires to exercise its right under its Retailer's SDA to take over the obligations of Developer to perform the Target Site Work and/or the Onsite Work and (ii) to avoid duplicate or overlapping letters of credit required under the Retailers' SDAs; and

WHEREAS, Developer, the Retailers and the City desire to enter into this Agreement (i) to set forth certain uniform agreements and understandings in the event one or more of the Retailers desires to exercise its right under its Retailer's SDA to perform the Off-Site Work or the City desires to perform such work following default by Developer of the City's SDA and (ii) to avoid duplicate or overlapping letters of credit or other security required by the Retailers' SDAs and by the City.

NOW, THEREFORE, in consideration of the mutual agreements contained herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **DEFINITIONS.** Unless otherwise provided in this Agreement, all capitalized terms used but not defined in this Agreement shall have the meanings given

such terms in the OEA. As used in this Agreement, "Milestone Date" means a date specified in Exhibit B to the Costco SDA, a copy of which exhibit is attached hereto as Exhibit A, or a date specified in Exhibit C to the Target SDA, a copy of which exhibit is attached hereto as Exhibit B.

2. DEFAULT BY DEVELOPER. The parties hereto agree that in the event a Retailer claims a right to take over the Off-Site Work pursuant to its Retailer's SDA, or the City claims a right to take over the Off-Site Work pursuant to the City's SDA or otherwise, the party claiming such right shall deliver written notice to Developer and the other parties, which notice shall specify the facts entitling such party to take over such work (a "Preliminary Notice"). Developer shall have ten (10) days following receipt of a Preliminary Notice (the "Cure Period") to take action to cure the condition specified in the Preliminary Notice (a "Cure"). In the event that Developer timely effects a Cure, the Retailers shall continue to perform their respective obligations to make payments to Developer pursuant to the Retailers' SDAs if required. In the event a Retailer takes over the performance of the Off-Site Work in accordance with this Agreement, such Retailer shall have the same right to effect a Cure of any condition specified in a Preliminary Notice given subsequent to such takeover as is granted to Developer under this Agreement. The Preliminary Notice and Cure Period set forth herein shall run concurrently with any notice and cure period set forth in the Retailers' SDAs, and not in addition thereto.

3. TAKEOVER OF TARGET SITE WORK.

[intentionally omitted]

4. TAKEOVER OF OFF-SITE WORK. In the event that a Preliminary Notice is delivered in accordance with Section 2 hereof, and Developer fails to effect a Cure within the Cure Period, then the Retailer with the earliest missed Milestone Date pertaining to Off-Site Work shall have the first right, if it so desires, to take over completion of the Off-Site Work. Such Retailer shall deliver written notice of its decision to take over completion of the Off-Site Work (an "Off-Site Work Takeover Notice") or of its decision to decline to take over the completion of the Off-Site Work (a "Decline Notice") to Developer, the other Retailer and the City within three (3) business days after expiration of the Cure Period without cure. In the event such Retailer fails to deliver either an Off-Site Work Takeover Notice or a Decline Notice within such three (3) business day period, the Retailer shall be deemed conclusively to have given a Decline Notice. In the event such Retailer gives or is deemed to have given a Decline Notice, then the other Retailer shall have the next right to so take over completion of the Off-Site Work by adhering to the foregoing notice procedures. If a Retailer has elected to complete the Off-Site Work, the Retailer shall commence to take over the Off-Site Work within five (5) business days after giving the Off-Site Work Takeover Notice and shall diligently perform the work to completion subject to and in accordance with Section 5. If neither Retailer has given an Off-Site Work Takeover Notice within the required time, the City at any time thereafter may elect to take over and complete the Off-Site Work by giving written notice to Developer and the Retailers. If a Retailer has elected to complete

the Off-Site Work and has failed to timely commence or to diligently perform such work, the City may take over and complete the Off-Site Work after giving such Retailer a Preliminary Notice and opportunity to effect a Cure as provided in Section 2 of this Agreement.

5. PERFORMANCE OF WORK BY A RETAILER. The Retailers agree that all work performed by a Retailer pursuant to this Agreement shall be completed in accordance with the portion of the site plans and specifications for the Site Improvement Work set forth on Exhibit C hereto applicable to the Off-Site Work, as modified by any change orders approved in writing by the City, Developer and the Retailers (collectively, the "Plans and Specifications"). Developer, the Retailers and the City agree to cooperate among themselves in performing any of the Off-Site Work pursuant to this Agreement. Any Retailer electing to take over completion of the Off-Site Work shall have the obligation to complete all of the Off-Site Work with reasonable diligence and in a cost-effective manner in accordance with the Plan and Specifications. All work performed by a Retailer hereunder shall be performed in order to meet all Milestone Dates and in a good workmanlike manner, in accordance with sound professional standards, and in accordance with all requirements of law, including all rules, regulations, ordinances, statutes and guidelines relating to the construction and performance of the Off-Site Work and shall be constructed free of all construction liens arising out Off-Site Work being completed under the provisions of this Agreement.

6. SECURITY FOR OFF-SITE WORK. Developer shall provide a letter of credit, in the form attached hereto as Exhibit D, issued by Sterling Savings Bank (the "Bank") naming each Retailer and the City as a beneficiary in the amount of two million six hundred thousand dollars (\$2,600,000), which amount equals one hundred fifty percent (150%) of the estimated cost of the Off-Site Work ("the Off-Site Work LOC"). The Off-Site Work LOC shall provide that Target, Costco or the City may draw the entire proceeds, in a single draw, upon presentation to the Bank of (i) the Off-Site Work LOC and (ii) an affidavit stating that the affiant is an authorized officer of Target, Costco or the City (as the case may be) and that Target, Costco or the City (as the case may be) is entitled as of the date of the affidavit to draw the proceeds under the terms of this Agreement. The Off-Site Work LOC shall be held by First American Title Company, a California corporation ("Escrow Agent"), in escrow, and Escrow Agent shall hold and deliver the Off-Site Work LOC in accordance with the Construction Disbursement Agreement for Escrowed Funds (Four Party Agreement) attached hereto as Exhibit E (the "Escrow"). Developer shall deliver or cause the Bank to deliver a copy of the Off-Site Work LOC to each of Target, Costco and the City. Notwithstanding that Target, Costco and the City each shall receive a copy, it is understood and agreed that only one draw on the Off-Site Work LOC shall be permitted.

a. The Retailers and the City, and each of them separately, shall be entitled to obtain possession of the Off-Site Work LOC from Escrow Agent and to draw the proceeds of the Off-Site Work LOC upon the occurrence of any of the following events prior to the City's acceptance of the Off-Site Work: (i) Developer has failed to renew the Off-Site Work LOC within twenty (20) days before its expiration date;

(ii) Developer has failed to pay when due all or part of the costs of the Off-Site Work; (iii) the City, Target or Costco (as the case may be) has taken over the Off-Site Work pursuant to this Agreement; (iv) Developer or an affiliate of Developer has filed or had filed against it a petition in bankruptcy; or (v) a trustee or receiver has been appointed for the assets of Developer or an affiliate of Developer.

b. In connection with drawing on the Off-Site Work LOC, the proceeds of such LOC shall be placed in the Escrow, pursuant to the Construction Disbursement Agreement for Escrowed Funds (Four Party Agreement) attached hereto as Exhibit E, and the LOC proceeds will be drawn from Escrow pursuant to the draw request procedures set forth in such Agreement (excluding the discharging of any construction liens created by Developer which shall be the obligation of Developer to discharge). Notwithstanding the foregoing, at all times after the deposit of the proceeds in the Escrow and prior to the expiration of the Warranty Period (as defined below), funds in the Escrow shall be maintained in an amount not less than \$175,000.00 (the "Warranty Reserve Amount"), and Developer shall make deposits to the Escrow if necessary to maintain the Warranty Reserve Amount. The City may withdraw all or part of the Warranty Reserve from Escrow to pay the costs of correcting Defects (as defined below) appearing during the Warranty Period.

c. The parties acknowledge that the City requires Developer to guarantee the correction of faulty workmanship and the replacement of faulty materials used in the Off-Site Work ("Defects") for a period of one year after the City accepts the Off-Site Work (the "Warranty Period"). At any time after commencement of the Warranty Period, if the Off-Site Work LOC has not been drawn pursuant to this Section 6, Developer may reduce the Off-Site Work LOC to the Warranty Reserve Amount or, alternatively, may replace the Off-Site Work LOC with a new letter of credit in an amount not less than the Warranty Reserve Amount naming the City as beneficiary and in form and substance satisfactory to the City (the "Warranty LOC"). The City shall be entitled to obtain possession of and to draw on the Off-Site Work LOC or the Warranty LOC, as the case may be, to pay the costs of correcting Defects appearing during the Warranty Period after giving Developer notice and reasonable opportunity to correct the Defects. Draws by the City on the Off-Site Work LOC to correct Defects, or on the Warranty LOC, shall not be subject to the escrow requirements of this Agreement. The parties to this Agreement shall execute such further documents as Escrow Agent, Argyle or the City may reasonably request to effectuate this Section 6.c.

7. TEMPORARY LICENSE TO COMPLETE WORK. Each Retailer and the City shall have a temporary license over all portions of the Shopping Center as may be reasonably necessary to complete any portion of the Off-Site Work undertaken by said Retailer or the City as permitted under this Agreement. This temporary license shall terminate upon the completion of all of the Off-Site Work contemplated herein. Such license shall not permit any Retailer or the City to delay or obstruct completion of any construction upon the licensed Tract.

8. ASSIGNMENT OF PERMITS AND LICENSES. In the event any Retailer exercises its right to complete any Off-Site Work as permitted herein, the contract with the general contractor for such Off-Site Work and any and all permits or approvals necessary to allow said Retailer to complete said work shall be deemed to have been assigned to such Retailer completing the Off-Site Work, and upon written request of any such Retailer, Developer will furnish a written assignment executed by Developer to further evidence such assignment. Said Retailer, to the extent said Retailer fails or elects not to complete the Off-Site Work, shall, upon request, reassign such permits or approvals to Developer, the other Retailer or the City, as the case may be, and as may be necessary to permit the completion of all Off-Site Work. Said Retailers shall cooperate with any needed bifurcation of the permits and approvals, if need be, so they separately cover the work to be performed by each of the Retailers performing work under this Agreement or the Multi-Party Onsite Agreement. Any assignment made pursuant to this provision shall be prior to any collateral assignment of said contract, permits and approvals to any construction lender. Any assignment of the permits and approvals by Developer to a Retailer hereunder shall not constitute a breach or default under any provisions of any loan agreement between Developer and its lender, or other documents entered into between Developer and its lender, which otherwise restrict such assignment of the permits and approvals.

9. INDEMNITY/INSURANCE. The provisions of Section 5.4 of the OEA with respect to insurance and indemnification shall be applicable to Developer and the Retailers under the terms and conditions of this Agreement.

10. ASSIGNMENT. In the event any Retailer or the City exercises its right to complete any Off-Site Work as permitted herein, the Developer hereby authorizes the Retailer or Retailers involved or the City, as the case may be, to go upon all parts of the Shopping Center and take possession of any equipment, materials, tools and appliances owned by, or otherwise in the control of Developer in order to complete the Off-Site Work involved. Subject to the provisions of Sections 4 and 5 herein, Developer further authorizes the party entitled to perform the Off-Site Work under the provisions of Sections 4 and 5 herein and to perform such other acts and take such action as shall be reasonably necessary for the expedient, proper, cost-efficient and legal completion of the Off-Site Work involved.

11. BINDING AGREEMENT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successor and assigns.

12. NOTICE. Any notice required to be given hereunder shall be in writing and shall be personally delivered, sent by registered or certified mail, postage prepaid, return receipt requested, or by overnight courier service and shall be deemed delivered, given and received upon the earlier of (a) the date upon which such notice was personally delivered or if sent by facsimile transmission, with receipt verification, followed by another permitted means of delivery; (b) if mailed, upon receipt; or (c) if sent by overnight courier service, one (1) business after deposit with the courier, to the address shown below:

DEVELOPER:

To: Argyle Capital LLC
Attn: Bruce E. Burns
Suite 475
4800 SW Meadows Road
Lake Oswego, Oregon 97035
Facsimile No: (503) 697-0541

with a copy to: Richard H. Williams
Lane Powell Spears Lubersky LLP
Suite 2100
601 SW Second Avenue
Portland, Oregon 97204
Facsimile No: (503) 778-2200

TARGET:

To: Target Corporation
Property Development
Attn: Property Administration
1000 Nicollet Mall
Minneapolis, Minnesota 55403
Facsimile No: (612) 761-3729

with a copy to: Target Corporation
Construction Department
1000 Nicollet Mall
Minneapolis, Minnesota 55403
Attn: John Pluhar
Facsimile No: (612) 761-1525

COSTCO:

To: Costco Wholesale Corporation
999 Lake Drive
Issaquah, Washington 98027
Attn: Gail Tsuboi,
Director of Property Management
Facsimile No: (425) 313-8105

with a copy to: Jeffrey H. Keeney
Tonkon Torp LLP
1600 Pioneer Tower
888 Fifth Avenue
Portland, Oregon 97204
Facsimile No.: (503) 972-3725

CITY:

To: City of Wilsonville
30000 SW Town Center Loop E.
Wilsonville, Oregon 97070
Attn: City Manager
Facsimile No.: (503) 682-1015

with a copy to: Michael E. Kohlhoff
City Attorney
30000 SW Town Center Loop E.
Wilsonville, Oregon 97070
Facsimile No.: (503) 682-1015

Upon at least ten (10) days' prior written notice, each party shall have the right to change its address to any other address within the United States of America.

13. GOVERNING LAW. Notwithstanding the place where this Agreement may be negotiated or executed, the parties agree that all terms and provisions hereof shall be construed under the laws of Oregon.

14. RELATIONSHIP OF PARTIES. Nothing contained in this Agreement shall be deemed or construed, either by the parties hereto or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture or other association between the parties hereto.

15. COUNTERPARTS. This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one instrument.

16. ENTIRE AGREEMENT/RELATION TO RETAILERS' SDAs. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof, but as between each Retailer and the Developer, the Retailer's SDA shall remain in full force and effect as it is the intent of the parties hereto that in the event of a conflict with the provisions of any Retailers' SDA, as to all the parties hereto, the provisions hereof shall supercede and control over said conflicting provision, but this Agreement shall not relieve Developer from liability to a Retailer for all of its obligations under the Retailer's SDA or from all of the remedies of each Retailer under its Retailer's SDA.

17. MODIFICATION. This Agreement can be modified only by written agreement signed by all of the parties hereto.

18. MISCELLANEOUS.

A. TIME. Time is of the essence with respect to the terms of this Agreement.

B. ATTORNEYS' FEES. In the event a party hereto employs an attorney to enforce any of the provisions hereof, or to protect its interest in any matter arising under this Agreement, or to recover damages for the breach of this Agreement, the party prevailing shall be entitled to receive from the applicable other party all reasonable costs, charges, and expenses, including attorneys' fees, expert witness fees, appeal fees expended or incurred in connection therewith whether resolves by out-of-court settlement, arbitration, pre-trial settlement, trial or appellate proceedings.

C. LIEN RIGHTS. The provisions of 3.4 of the OEA with respect to construction liens shall be applicable to the terms and conditions of this Agreement.

D. EXCULPATION PROVISIONS. No partner, shareholder, officer, director, member, trustee, employee, beneficiary or other constituent of a party hereto shall be personally liable for any judgment obtained against a party hereto arising out of a breach of this Agreement. The parties hereto agree to look solely to the interest in the Shopping Center of a defaulting Retailer for recovery of damages for any breach of this Agreement.

E. NO THIRD PARTY BENEFICIARY. Except as specifically provided for herein, no right, privilege or provision hereof shall inure to the benefit of any person or entity not a party hereto and there shall be no third party beneficiaries of this Agreement.

F. COMPLIANCE WITH LAW. The parties hereto agree to comply with all codes, orders and regulations applicable to the work to be performed hereunder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first written above.

TARGET:

TARGET CORPORATION,
a Minnesota corporation

By: _____
Name: _____
Title: _____

COSTCO:

COSTCO WHOLESALE CORPORATION,
a Washington corporation

By: _____
Name: _____
Title: _____

DEVELOPER:

ARGYLE CAPITAL LLC,
an Oregon limited liability company

By: Burns Bros., Inc., an Oregon
corporation, its sole member

By: _____
Bruce E. Burns, Chairman,
President and Chief
Executive Officer

CITY:

CITY OF WILSONVILLE, an Oregon
municipal corporation

By: _____
Its: _____

Approved as to Form:

City Attorney

Schedule of Developers Work

Costco Site Area: Approx. 14.62 AC (636,656 square feet)		Engineering/ Construction/Cost Responsibility		Latest Start Date	Completion Date	Notes
		Costco	ANGYLE			
ON-SITE						
1	Demolition/Clearing Site, including all trees root balls, rubbish and rubble, including off-site disposal	0%	100%	July 15, 2002	August 15, 2002	Costco acknowledges that Developer has completed Item 1 as per WRG Certification Letter dated December 17, 2002.
2	Environmental Remediation: Removal of all underground storage tanks or other underground tanks/vaults in area of Costco Site.	0%	100%	July 15, 2002	August 15, 2002	Costco acknowledges that Developer has completed Item 2 as per WRG Certification Letter dated December 17, 2002, and Geo-Design Letter dated August 13, 2002.
3	Subgrade Preparation (includes): Mass Excavation, Structural Fill import (granular or native). Fill Compaction, and Rough Grading to one tenth of a foot as follows: Building: Slab subgrade. Cement treatment, winterization. Parking Lot: Pavement section subgrade. Loading Dock area shall be excavated by Costco. Grade through all landscape islands except for perimeter islands. Landscape areas: Topsoil stockpiled adjacent to Costco site for placement in islands by Costco (estimated at 3,000 to 4,000).	0%	100%	August 1, 2002	October 30, 2002	Costco acknowledges that Developer has completed Item 3 as per WRG Certification Letter dated December 17, 2002, and the letters and field reports completed by Geo-Design dated 11/11/02.
4	Retaining Wall*: Engineering/Construction	0%	100%	July 15, 2002	November 30, 2002	Site retaining wall supporting Jack Burns Boulevard along the northeast boundary of the Costco Parcel, and the site retaining wall along the south side of the Costco Parcel. Costco acknowledges that Developer has completed Item 4 as per the letters and field reports completed by Geo-Design dated 11/11/02.
5	Relocation of existing Onsite Utilities to off-site (storm and sanitary sewer)	0%	100%	July 15, 2002	November 30, 2002	Relocate 24" Storm Main around building to eliminate existing ditch. Replace 400' of existing sanitary sewer mainline within the site as required by the City. Costco acknowledges that Developer has completed Item 5 as per WRG Certification Letter dated January 24, 2003.

* Construction of the following are part of the Costco Project and are to be completed by Costco not later than the Rent Commencement Date at Costco's sole expense: (1) retaining wall for fire truck "hammer head" along the south side of the Costco Parcel; (2) stairway from top of the retaining wall on the east side of the Costco Parcel; (3) retaining wall along Jack Burns Blvd. near the PGE transmission tower.

	OFF-SITE*					
6	Off-site Utilities servicing Costco (storm sewer, sanitary sewer, water, electricity, gas, telephone, and cable television extended, at a minimum, to within approximately 5' of Costco Parcel	0%	100%	August 1, 2002	December 31, 2002	Per the engineering drawings submitted to the City on October 28, 2002: WRG IN PROCESS OF COMPLETING SITE SURVEY CHECK AND CERTIFICATION AS OF 1/24/03
7	STREET IMPROVEMENTS Argyle Avenue, Robert Burns Drive, Jack Burns Boulevard, Gwen Burns Drive, Heather Place, Bruce Way, Scott Lane, and street improvements required to Elligsen Road and Parkway Center Drive to allow Costco to obtain occupancy.	0%	100%	October 1, 2002	June 30, 2003	Argyle/Group Mac. Getting WRG updated plans as of 1/24/03.
8	Existing Traffic Signal Modifications at SW Elligsen/Argyle Avenue and SW Elligsen/SW Parkway Center Drive	0%	100%	April 1, 2003	June 30, 2003	Argyle/Group Mac. Getting WRG updated plans as of 1/24/03.
*Costco is responsible for pro rata share per Section 6.1(b).						

SITE IMPROVEMENT WORK SCHEDULE

<u>Section Reference</u>	<u>Brief Task Description</u>	<u>Date by Which Task Must Be Completed and Operational</u>
	File for grading permit	8/1/02
	Commence Site Improvement Work	8/1/02
3(A)	Grading	11/06/02
3(B)	Target Pad, Staging Area, temporary utilities, and access road	12/31/02
3(C)	Permanent water	12/31/02; provided however, if any of the items described in Section 3(C) must be installed prior to either the issuance of building permits or authorization to commence building construction, then Developer agrees to cause such items to be installed contemporaneously with the delivery of the Pad area to Target pursuant to Section 3(B). Fire hydrant protection shall be provided for building construction on or before the date required for Site Improvement Work under Section 3(B) if required as a condition to issuance of the building permit or authorization to commence construction. If any governmental jurisdiction requires permanent, rather than temporary service to be available, then Developer agrees to install permanent service by such date.
3(D)	Sanitary sewer	6/1/03
3(E)	Permanent electric, gas and telephone	6/1/03
3(F)	Storm sewer	6/1/03
3(G)	Parking lot and interior roads	8/8/03
3(H)	Parking lot lighting	8/8/03
3(I)	Common Area landscaping	8/8/03
3(J)	Off-Site Improvements	8/8/03
3(K)	Free-standing signs	6/1/03
3(L)	Final inspections and approvals	8/8/03

Argyle Square Document List

Sheet #	Sheet Title	Issue Date	Permit Date	Last Revision	X	Notes
Off-Site Improvements						
T1	Cover Sheet	10/11/2002		10/28/2002		
R1	Elligsen Road Plan / Profile	10/11/2002		10/28/2002		
R2	Elligsen Road Plan / Profile	10/11/2002		10/28/2002		
R3	Elligsen Road Plan / Profile	10/11/2002		10/28/2002		
R4	Elligsen Road Plan / Profile	10/11/2002		10/28/2002		
R5	Parkway Center Drive Plan / Profile	10/11/2002		10/28/2002		
R6	Parkway Center Drive Plan / Profile	10/11/2002		10/28/2002		
R7	Parkway Center Drive Plan / Profile	10/11/2002		10/28/2002		
R8	Wilsonville Detail Sheet	10/11/2002		10/28/2002		
R9	Detail Sheet	10/11/2002		10/28/2002		
R10	Detail Sheet	10/11/2002		10/28/2002		
R11	Median Details and South Driveway	10/11/2002		10/28/2002		
R12	Parkway Center Drive Sidewalk	10/11/2002		10/28/2002		
R13	Erosion Control Plan			10/28/2002		
TS1.0	Signal Plan - Parkway Center @ Elligsen	10/11/2002		10/28/2002		
TS1.1	Vehicle Detection Plan	10/11/2002	DELETED	10/28/2002		
TS1.2	Fire Pre-Emption Plan	10/11/2002		10/28/2002		
TS1.3	Signal Plan - Argyle @ Elligsen	10/11/2002		10/28/2002		
TS1.4	Vehicle Detection Plan	10/11/2002	DELETED	10/28/2002		
TS1.5	Ramp Meter Signal Plan	10/11/2002		10/28/2002		
TS1.6	Interconnect Plan					
TS2.0	Elligsen Road Demolition Plan	10/11/2002		10/28/2002		
TS2.1	Elligsen Road Demolition Plan	10/11/2002		10/28/2002		
TS2.2	Elligsen Road Demolition Plan	10/11/2002		10/28/2002		
TS2.3	Elligsen Road Demolition Plan	10/11/2002		10/28/2002		
TS3.0	Striping Plan - Elligsen Road	10/11/2002		10/28/2002		
TS3.1	Striping Plan - Parkway Center Drive	10/11/2002		10/28/2002		
TS3.2	Striping Legend	10/11/2002		10/28/2002		

STERLING SAVINGS BANK
INTERNATIONAL BANKING DIVISION
111 N. WALL
SPOKANE, WASHINGTON 99201-0696
(ISSUANCE/NEGOTIATION) 1-877-453-0892

REVISED - 03/12/03

IRREVOCABLE STANDBY LETTER OF CREDIT
NUMBER SSB-SB-2003/00XX

BENEFICIARY

City of Wilsonville
an Oregon municipal corporation
Attn: City Manager
30000 SW Town Center Loop E
Wilsonville, Oregon 97070

OR

Target Corporation,
a Minnesota corporation
Property Development
Attn: Property Administration
1000 Nicollet Mall
Minneapolis, Minnesota 55403

OR

Costco Wholesale Corporation
a Washington corporation
999 Lake Drive
Issaquah, Washington 98027
Attn: Gail Tsuboi
Director of Property Management

APPLICANT

Argyle Capital LLC
4800 SW Meadows Road, Suite 475
Lake Oswego, OR 97035-3283

LETTER OF CREDIT NO.: SSB-SB-2003/00XX

EXPIRY DATE: April 30, 2004
AT: Our International Banking Department Only
Presently Located at
510 West Riverside Avenue
Spokane, WA 99201-0696
On or Before 3:00 PM

AMOUNT: US\$2,600,000.00
NOT EXCEEDING: --Two million six hundred thousand and no/100-----

We hereby issue our Irrevocable Standby Letter of Credit available by your draft(s) drawn at sight on us and accompanied by the following documents:

- An affidavit stating that the affiant is an authorized officer of the City Wilsonville, an Oregon municipal corporation, and that the City of Wilsonville is entitled as of the date of the affidavit to draw the entire proceeds pursuant to that certain Four Party Agreement for Takeover of Off-site Work dated March _____, 2003; OR
- An affidavit stating that the affiant is an authorized officer of Target Corporation, a Minnesota corporation, and that Target Corporation is entitled as of the date of the affidavit to draw the entire proceeds pursuant to that certain Four Party Agreement for Takeover of Off-site Work dated as of March _____, 2003 **OR**
- An affidavit stating that the affiant is an authorized officer of Costco Wholesale Corporation, a Washington corporation, and that Costco Wholesale Corporation is entitled as of the date of the affidavit to draw the entire proceeds pursuant to the Four Party Agreement for Takeover of Off-site Work dated as of March _____, 2003.
- The original Letter of Credit.

SPECIAL CONDITIONS:

1. Partial drawings are prohibited.

Drafts drawn under this Letter of Credit must bear the clause: "Drawn under Sterling Savings Bank Irrevocable Standby Letter of Credit No. SSB-SB-2003/00___."

Pursuant to U.S. Law, we are prohibited from issuing, transferring, accepting or paying Letters of Credit to any party or entity identified by the Office of Foreign Asset Control, U.S. Department of Treasury or subject to the denial of export privileges by the U.S. Department of Commerce.

This credit is subject to "The Uniform Customs and Practice for Documentary Credits" (1993 Revision) International Chamber of Commerce Publication No. 500.

We hereby engage with you that draft(s) drawn and/or documents presented and negotiated under and in compliance with the terms of this Irrevocable Standby Letter of Credit will be duly honored upon presentation to us.

The amount of each drawing must be endorsed on the reverse of this credit by the negotiating bank.

**STERLING SAVINGS BANK
A MEMBER OF THE FEDERAL RESERVE SYSTEM
INTERNATIONAL BANKING DIVISION**

BY: _____
Authorized Signature

**CONSTRUCTION DISBURSEMENT AGREEMENT FOR ESCROWED FUNDS
(FOUR PARTY AGREEMENT)**

This Agreement is dated for reference purposes as of March __, 2003, and is entered into by and between First American Title Company, a California corporation ("Escrow Agent"), the City of Wilsonville, an Oregon municipal corporation ("City"), Costco Corporation, a Washington corporation ("Costco"), Argyle Capital LLC, an Oregon limited liability company ("Argyle") and Target Corporation, a Minnesota corporation ("Target").

RECITALS

1. City, Argyle, Costco and Target (each a "Party") have entered into a Four Party Agreement for Takeover of Off-Site Work (the "Takeover Agreement") pursuant to which City, Costco and Target each have certain rights to draw a letter of credit issued by Sterling Savings Bank in the amount of Two Million Six Hundred Thousand Dollars (\$2,600,000.00) (the "LOC") and to deposit the proceeds into escrow, from which funds may be withdrawn to complete construction of certain improvements to be constructed on land owned or controlled by the City in connection with the development by Argyle of a commercial shopping center known as Argyle Square in the City of Wilsonville.

2. When issued, the LOC will be delivered to Escrow Agent, and Escrow Agent will hold and deliver the LOC to the Drawing Party (as defined below) in accordance with this Agreement.

3. The Party drawing the LOC (the "Drawing Party") will deposit with Escrow Agent, and Escrow Agent will acknowledge the receipt of funds received, in the amount of Two Million Six Hundred Thousand Dollars (\$2,600,000.00) ("LOC Funds").

4. The Parties desire that Escrow Agent hold and deliver the LOC, and hold and disburse the LOC Funds, in accordance with this Agreement, and the Escrow Agent is willing to do so on the terms set forth herein.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Upon receipt of the LOC, Escrow Agent agrees to hold and deliver the LOC as Escrow Agent in accordance with this Agreement. The escrow shall be maintained at the offices of Escrow Agent in Portland, Oregon. The Escrow Agent is authorized and directed to deliver the LOC to Target, Costco or the City (as the case may be) upon presentation to Escrow Agent of an affidavit stating that the affiant is an authorized officer of Target, Costco or the City (as the case may be) and that Target, Costco or the City (as the case may be) is entitled as of the date of the affidavit to obtain possession of the LOC and to draw the proceeds under the terms of the Takeover Agreement. If the LOC expires while held by Escrow Agent, Escrow Agent shall deliver the expired LOC to Argyle.

2. Upon receipt of the LOC Funds, Escrow Agent agrees to hold and disburse the LOC Funds as escrow agent in accordance with this Agreement. The escrow shall be maintained at the offices of Escrow Agent in Portland, Oregon. Escrow Agent is authorized and directed to disburse the LOC Funds in one or more disbursements in accordance with this Agreement to:

- a. Pay costs of construction of the Off-Site Work (as defined in the Takeover Agreement).
- b. Obtain lien waivers and satisfactions of liens and other encumbrances, if any, arising out of the Off-Site Work.

3. To obtain a disbursement of the LOC Funds hereunder, the Drawing Party shall submit to Escrow Agent the following items:

- a. A certificate from the City stating that the work or portions thereof for which payment is requested has been completed pursuant to the Plans and Specifications (as defined in the Takeover Agreement);
- b. A list of the names and addresses of major subcontractors and the major suppliers of materials used in the work for which payment is requested;
- c. Certificates from Baugh Skanska, Inc. or its successor as the general contractor for the Off-Site Work (the "General Contractor"), Group Mackenzie, Inc., or its successor as the project engineer and the Drawing Party as to Off-Site Work Project Costs (the "Project Costs") incurred during the period covered by the application and cumulative Project Costs incurred through the end of such period;
- d. Conditional lien waivers for the work covered by the application by the General Contractor and/or its major subcontractors and major material suppliers (the "Contractors") as well as copies of sworn statements and lien waivers signed by the Contractors for work covered by the immediately preceding application for payment stating (i) that the General Contractor, subcontractors or material suppliers waive any liens or right to lien with respect to such work; (ii) the amount theretofore received by the General Contractor, subcontractors and material suppliers; and (iii) that none of the contracts with the General Contractor, subcontractors, or material suppliers have been changed, or, if any contract has been changed, indicating the increase or decrease in the amount of the contract.

4. If documents are missing, Escrow Agent will advise the Drawing Party. If the documents are supplied to the Escrow Agent, Escrow Agent will disburse to the Drawing Party or to another party identified by the Drawing Party in the relevant Request for Payment, the amounts certified therein as the Project Costs incurred during the period covered by the application; or if less, the amount requested by the Drawing Party.

5. Upon receipt of the LOC Funds, Escrow Agent shall deposit the LOC Funds in an interest bearing account. The interest earned shall be added to and become a part of the LOC Funds. Upon receipt of a certificate by the City that the City has accepted the Off-Site Work, Escrow Agent shall disburse to Argyle all LOC Funds remaining in the escrow except One Hundred Seventy-Five Thousand Dollars (\$175,000.00) (the "Warranty Reserve Amount"). Upon receipt of a certificate by the City that the Warranty Period has expired and that the City has made no warranty claims, or that any such claims have been satisfied, Escrow Agent shall disburse to Argyle all remaining funds in the escrow. As used in this Agreement, "Warranty Period" means the period beginning on the date this City issues its certificate or other appropriate document accepting the Off-Site Work and ending on the first anniversary of such date. If Escrow Agent has not disbursed all LOC Funds before July 1, 2005, Escrow Agent shall disburse all LOC Funds then remaining in the escrow by check made payable jointly to the City and Argyle and delivered to the City.

6. Escrow Agent will keep and maintain books and records in sufficient detail to reflect the disbursements made by it pursuant to this Agreement. Any Party may during normal business hours examine the books and records of Escrow Agent pertaining to the escrow and the disbursements.

7. The functions and duties assumed by Escrow Agent include only those described in this Agreement, and Escrow Agent is not obligated to act except in accordance with the terms and conditions of this Agreement. Escrow Agent does not insure that the Off-Site Work will be completed, or that the Off-Site Work will be in accordance with the Plans and Specifications, or that sufficient funds will be available for the completion of the Off-Site Work. Escrow Agent may conclusively rely upon and shall be protected in acting upon any notice, consent, order or other document believed by it to be genuine and to have been signed or presented by the proper party or parties, consistent with reasonable due diligence on Escrow Agent's part. Escrow Agent shall be under no obligation to institute or defend any action, suit or proceeding in connection with this Agreement. If any dispute arises with respect to the disbursement of the LOC Funds, Escrow Agent may continue to hold the same or until directed by written instructions from the Parties or a final judgment of a court with jurisdiction, or Escrow Agent may commence an action in interpleader and in connection therewith remit the same to a court of competent jurisdiction pending resolution of such dispute, and the Parties hereby indemnify and hold harmless Escrow Agent for any action taken by it in good faith in the execution of its duties hereunder.

8. Escrow Agent shall not be responsible for any losses of documents or funds while such documents or funds are not in its custody. Documents or funds which are deposited in the United States mail shall not be construed as being in the custody of Escrow Agent.

9. This Agreement shall be binding upon the Parties and their respective successors and assigns.

10. This Agreement can be amended or modified only by a written Amendment signed by the parties hereto.

11. This Agreement, and any claims arising out of or related to this Agreement, shall be governed by the laws of Oregon, without regard to conflicts of law principles.

ESCROW AGENT:

FIRST AMERICAN TITLE COMPANY,
a California corporation

By: _____
Name: _____
Its: _____

TARGET:

TARGET CORPORATION,
a Minnesota corporation

By: _____
Name: _____
Title: _____

COSTCO:

COSTCO WHOLESALE CORPORATION,
a Washington corporation

By: _____
Name: _____
Title: _____

DEVELOPER:

ARGYLE CAPITAL LLC,
an Oregon limited liability company

By: Burns Bros., Inc., an Oregon
corporation, its sole member

By: _____
Bruce E. Burns, Chairman,
President and Chief
Executive Officer

[Signatures continue on following page]

CITY:

**CITY OF WILSONVILLE, an Oregon
municipal corporation**

By: _____
Its: _____

Approved as to Form:

City Attorney