

SWI96SCC

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: DEVELOPMENT IMPROVEMENTS AGREEMENT

NAME OF AGENCY OR CONTRACTOR: SAFEWAY INCORPORATED

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: SAFEWAY COTTONWOODS
CENTRE, 29 AND F ROADS - FILE NO. SPR-1996-107

CITY DEPARTMENT: COMMUNITY DEVELOPMENT

YEAR: 1996

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

DEVELOPMENT IMPROVEMENTS AGREEMENT

1. **Parties:** The parties to this Development Improvements Agreement ("the Agreement") are SAFEWAY INC. ("the Developer") and THE CITY OF GRAND JUNCTION, Colorado ("the City").

THEREFORE, for valuable consideration, the receipt and adequacy of which is acknowledged, the Parties agree as follows:

2. **Effective Date:** The Effective Date of the Agreement will be the date that this agreement is recorded which is not sooner than recordation of the PLAT

RECITALS

The Developer seeks permission to develop property within the City to be known as SAFEWAY COTTONWOODS CENTRE, which property is more particularly described on Exhibit "A" attached and incorporated by this reference (the "Property"). The City seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements in the development and limiting the harmful effects of substandard developments. The purpose of this Agreement is to protect the City from the cost of completing necessary improvements itself and is not executed for the benefit of materialmen, laborers, or others providing work, services or material to the development or for the benefit of the purchasers or users of the development. The mutual promises, covenants, and obligations contained in this Agreement are authorized by state law, the Colorado Constitution and the City's land development ordinances.

DEVELOPER'S OBLIGATION

3. **Improvements:** The Developer will design, construct and install, at its own expense, those on-site and off-site improvements listed on Exhibit "B" attached and incorporated by this reference. The Developer agrees to pay the City for inspection services performed by the City, in addition to amounts shown on Exhibit B. The Developer's obligation to complete the improvements is and will be independent of any obligations of the City contained herein.

4. **Security:** To secure the performance of its obligations under this Agreement (except its obligations for warranty under paragraph 6), the Developer will enter into an agreement which complies with either option identified in paragraph 28, or other written agreement between the City and the Developer.

5. **Standards:** The Developer shall construct the Improvements according to the standards and specifications required by the City Engineer or as adopted by the City.

6. **Warranty:** The Developer warrants that the Improvements, each and every one of them, will be free from defects for a period of twelve (12) months from the date that the City Engineer accepts or approves the improvements completed by the Developer.

7. **Commencement and Completion Periods:** The improvements, each and every one of them, will be completed within ONE YEAR from the Effective Date of this Agreement (the "Completion Period").

8. **Compliance with Law:** The developer shall comply with all relevant federal, state and local laws, ordinances, and regulations in effect at the time of final approval when fulfilling its obligations under this Agreement.

9. **Notice of Defect:** The Developer's Engineer shall provide timely notice to the Developer, contractor, issuer of security and the City Engineer whenever inspection reveals, or the Developer's Engineer otherwise has knowledge, that an improvement does not conform to City standards and any specifications approved in the

development application or is otherwise defective. The developer will have thirty (30) days from the issuance of such notice to correct the defect.

10. **Acceptance of Improvements:** The City's final acceptance and/or approval of improvements will not be given or obtained until the Developer presents a document or documents, for the benefit of the City, showing that the Developer owns the improvements in fee simple and that there are no liens, encumbrances, or other restrictions on the improvements. Approval and/or acceptance of any improvements does not constitute a waiver by the City of any rights it may have on account of any defect in or failure of the improvement that is detected or which occurs after approval and/or acceptance.

11. **Use of Proceeds:** The City will use funds deposited with it or drawn pursuant to any written disbursement agreement entered into between the parties only for the purpose of completing the Improvements or correcting defects in or failure of the Improvements.

12. **Events of Default:** The following conditions, occurrences or actions will constitute a default by the Developer during the Completion Period:

- a. Developer's failure to complete each portion of the Improvements in conformance with the agreed upon time schedule; the City may not declare a default until a fourteen (14) calendar day notice has been given to the Developer;
- b. Developer's failure to demonstrate reasonable intent to correct defective construction of any improvement within the applicable correction period; the City may not declare a default until a fourteen (14) calendar day notice has been given to the Developer;
- c. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer; in such event the City may immediately declare a default without prior notification to the Developer;
- d. Notification to the City, by any lender with a lien on the property, of a default on an obligation; the City may immediately declare a default without prior notification to the Developer;
- e. Initiation of any foreclosure action of any lien or initiation of mechanics lien(s) procedure(s) against the Property or a portion of the Property or assignment or conveyance of the Property in lieu of foreclosure; the City may immediately declare a default without prior notification to the Developer.

13. **Measure of Damages:** The measure of damages for breach of this Agreement by the Developer will be the reasonable cost of satisfactorily completing the Improvements plus reasonable City administrative expenses. For improvements upon which construction has not begun, the estimated costs of the Improvements as shown on Exhibit "B" will be prima facie evidence of the minimum cost of completion; however, neither that amount nor the amount of a letter of credit, the subdivision improvements disbursement agreement or cash escrow establish the maximum amount of the Developer's liability.

14. **City's Rights Upon Default:** When any event of default occurs, the City may draw on the letter of credit, escrowed collateral, or proceed to collect any other security to the extent of the face amount of the credit or full amount of escrowed collateral, cash, or security less ninety percent (90%) of the estimated cost (as shown on Exhibit "B") of all improvements previously accepted by the City or may exercise its rights to disbursement of loan proceeds or other funds under the improvements disbursement agreement. The City will have the right to complete improvements itself or it may contract with a third party for completion, and the Developer grants to the City, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes

of constructing, reconstructing, maintaining, and repairing such improvements. Alternatively, the City may assign the proceeds of the letter of credit, the improvements disbursement agreement, the escrowed collateral, cash, or other funds or assets to a subsequent developer (or a lender) who has acquired the development by purchase, foreclosure or otherwise who will then have the same rights of completion as the City if and only if the subsequent developer (or lender) agrees in writing to complete the unfinished improvements and provides reasonable security for the obligation. In addition, the City may also enjoin the sale, transfer, or conveyance of lots within the development, until the improvements are completed or accepted. These remedies are cumulative in nature and are in addition to any other remedies the City has at law or in equity.

15. **Indemnification:** The Developer expressly agrees to indemnify and hold the City, its officers, employees and assigns harmless from and against all claims, costs and liabilities of every kind and nature, for injury or damage received or sustained, or alleged to be received or sustained, by any person or entity in connection with, or on account of, any act or failure to act concerning the performance of work at the development or the Property pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named in an action concerning the performance of work or the failure to perform work pursuant to this Agreement. The Developer is not an agent or employee of the City.

16. **No Waiver:** No waiver of any provision of this Agreement by the City will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both City and Developer; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.

17. **Amendment or Modification:** The parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the City by the City Manager or his designee and by the Developer or his authorized officer. Such amendment or modification shall be properly notarized before it shall be deemed effective.

18. **Attorney's Fees:** Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party; any City obligation under this section shall be subject to the overriding provisions of section 15, above. If the court awards relief to both parties, the attorney's fees may be equitably divided between the parties by the decision maker, subject to the overriding provisions of section 15, above.

19. **Vested Rights:** The City does not warrant by this Agreement that the Developer is entitled to any other approval(s) required by the City, if any, before the Developer is entitled to commence development or to transfer ownership of property in the development.

20. **Third Party Rights:** No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.

21. **Time:** For the purpose of computing the Abandonment and Completion Periods, and time periods for City action, such times in which war, civil disasters, or acts of God occur or exist will not be included if such times prevent the Developer or City from performing its obligations under the Agreement.

22. **Severability:** If any part, term, or provision of this Agreement is held by a court or courts of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.

23. **Benefits/burdens:** The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also shall be binding on the heirs, successors, and assigns of the Developer, and shall be a covenant(s) running with the Property. There is no prohibition on the right of the City to assign its rights under this Agreement. The City will expressly release the original Developer's guarantee or obligations under the improvements disbursement agreement if it accepts new security from any developer or lender who obtains the Property. However, no other act of the City will constitute a release of the original Developer from his liability under this Agreement.

24. **Notice:** Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

If to Developer: SAFENOX INC
4900 S. YOSEMITE
ENGLEWOOD, CO. 80112

If to City: City of Grand Junction
Community Development Director
250 N. 5th Street
Grand Junction, Colorado 81501

25. **Recordation:** Developer shall pay for all costs to record a copy of this Agreement in the Clerk and Recorder's Office of Mesa County, Colorado.

26. **Immunity:** Nothing contained in this Agreement constitutes a waiver of the City's immunity under any applicable law.

27. **Personal Jurisdiction and Venue:** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement, letter of credit, improvements disbursements agreement, or cash escrow agreement or any action to collect security will be deemed to be proper only if such action is commenced in Mesa County, Colorado. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

28. **Improvements guarantee.** The improvements guarantee required by the City to ensure that the improvements described in the improvements agreement are constructed to City standards may be in one of the following forms: (If I or II, then attach as Exhibit C.)

(I) disbursement agreement between a bank doing business in Mesa County and the City, or

(II) a good and sufficient letter of credit acceptable to the City, or

(III) depositing with the City cash equivalent to the estimated cost of construction of the improvements under the following terms:

(a) The Finance Department of the City may act as disbursing agent for disbursements to Developer's contractor(s) as required improvements are completed and accepted if agreed to in writing pursuant to a disbursement agreement; and

(b) The Finance Department of the City will disburse any deposit or any portion thereof, with no more than three checks, at no charge. If disbursements are made in excess of three checks, the developer will be charged \$100 per transaction for every transaction in excess of three.

29. Conditions of Acceptance.

- a. The City shall have no responsibility or liability with respect to any street, or other improvement(s), notwithstanding the use of the same by the public, unless the street or other improvements shall have been accepted by the City. "Acceptance by the City" means a separate writing wherein the City specifies which improvements have been accepted and the date from which warranty(ies) shall run.
- b. Prior to requesting final acceptance of any street, storm drainage facility, or other required improvement(s), the Developer shall: (i) furnish to the City Engineer as-built drawings in reproducible form, blue-line stamped and sealed by a professional engineer and in computer disk form and copies of results of all construction control tests required by City specifications; (ii) provide written evidence to the City Engineer under signature of a qualified expert that the earth, soils, lands and surfaces upon, in and under which the improvements have been constructed, or which are necessary for the improvements, are free from toxic, hazardous or other regulated substances or materials; (iii) provide written evidence to the City Engineer that the title to lands underlying the improvements are merchantable and free and clear from all liens and encumbrances, except those liens and encumbrances which may be approved in writing by the City Engineer.

30. Phased Development. If the City allows a street to be constructed in stages, the Developer of the first one-half street opened for traffic shall construct the adjacent curb, gutter and sidewalk in the standard location and shall construct the required width of pavement from the edge of gutter on his side of the street to enable an initial two-way traffic operation without on-street parking. That Developer is also responsible for end-transitions, intersection paving, drainage facilities, and adjustments to existing utilities necessary to open the street to traffic.

Kathleen M. Perkins ^{ATD} 9/16/96
 Director of Community Development Date

City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

SAFEWAY INC., a Delaware corporation



x Donald Shaw 1-26-96
 Developer Date

(If Corporation, to be signed by President and attested to by Secretary together with the Corporate seals)

Linda S. McDowell 1-26-96

FORM ~~1000~~ LSM

EXHIBIT "A"

TYPE LEGAL DESCRIPTION BELOW, USING ADDITIONAL SHEETS AS NECESSARY. USE SINGLE SPACING WITH A ONE (1) INCH MARGIN ON EACH SIDE.

Commencing at the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 8, in Township 1 South, Range 1 East of the Ute Meridian, whence the Northwest corner of Section 8 bears North 00 degrees 01 minutes 29 seconds West, a distance of 1319.88 feet for a basis of bearings, with all bearings contained herein relative thereto; thence North 00 degrees 01 minutes 29 seconds West, a distance of 659.94 feet; thence North 89 degrees 58 minutes 18 seconds East, a distance of 30.00 feet to a point on the Easterly right of way of 29 Road and the TRUE POINT OF BEGINNING;

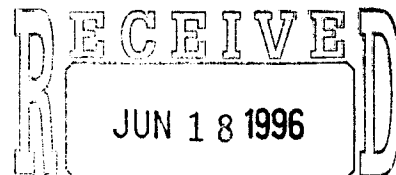
Thence North 00 degrees 01 minutes 29 seconds West, a distance of 509.94 feet along said right of way; thence North 89 degrees 58 minutes 31 seconds East, a distance of 20.00 feet; thence North 00 degrees 01 minutes 29 seconds West, a distance of 79.99 feet; thence North 44 degrees 59 minutes 38 seconds East, a distance of 28.28 feet to a point on the Southerly right of way of F Road; thence along said right of way South 89 degrees 59 minutes 16 seconds East, a distance of 722.70 feet; thence South 00 degrees 02 minutes 06 seconds East, a distance of 609.41 feet to a point on the South line of the N1/2 of the NW1/4 NW1/4; thence along said line South 89 degrees 58 minutes 17 seconds West, a distance of 762.82 feet; to the TRUE POINT OF BEGINNING. Said parcel containing 10.625 Acres, as described.

SAFEWAY

IMPROVEMENTS LIST/DETAIL
(Page 1 of 3)

LC

DATE: _____
 NAME OF DEVELOPMENT: SAFEWAY COTTONWOOD CENTRE
 PRINTED NAME OF PERSON PREPARING: LANDesign LTD.



CONSTRUCTION DEPARTMENT
 SAFEWAY STORES, INCORPORATED
 DENVER, COLORADO

LC 6/18/96

SAFEWAY COTTONWOOD CENTRE
 STREET IMPROVEMENTS 29 & F Roads

14-Jun-96

ITEM	DESCRIPTION	UNIT	QUAN	UNIT PRICE	CONTRACT TOTAL
1	Mobilization	LS	1	\$1,000.00	\$1,000.00
2	Removal & Disposal Concrete Flat Work	SY	145	\$10.50	\$1,522.50
3	Removal & Disposal 2 Foot Curb & Gutter	LF	493	\$4.00	\$1,972.00
4	Sub-Grade Preperation	SY	2,375	\$0.75	\$1,781.25
5	Class 6 ABC Under Asphalt & Concrete	TON	1,671	\$11.00	\$18,381.00
6	Grading C HBP	TON	414	\$26.50	\$10,971.00
7	7'-0" Mon. Curb, Gutter & Sidewalk	LF	315	\$14.25	\$4,488.75
8	6'-0" Detached Sidewalk	SF	4,998	\$2.10	\$10,495.80
9	8" Concrete Fillets	SF	875	\$3.80	\$3,325.00
10	8" Concrete Cross Pans	SF	150	\$3.50	\$525.00
11	Handicap Ramp	SF	2,224	\$3.00	\$6,672.00
12	2'-0" Curb and Gutter	LF	607	\$7.80	\$4,734.60
13	1'-6" Curb and Gutter	LF	161	\$6.50	\$1,046.50
14	Traffic Control Signs	EA	13	\$180.00	\$2,340.00
15	Post Delineators	EA	6	\$15.00	\$90.00
16	Traffic Control Pavement Striping	LS	1	\$4,000.00	\$4,000.00
17	Traffic Control	LS	1	\$6,000.00	\$6,000.00
18	Adjust MH's & Valves	EA	5	\$150.00	\$750.00
19	Decorative Concrete at Islands	LS	1	\$500.00	\$500.00
20	6' x 40' Quadrupole and Bike Detector Loops	LS	1	\$3,000.00	\$3,000.00
21	Compliance Testing	LS	1	\$2,200.00	\$2,200.00
TOTAL STREET IMPROVEMENTS					\$85,795.40

SAFEWAY COTTONWOOD CENTRE
SANITARY SEWER IMPROVEMENTS

ITEM	DESCRIPTION	UNIT	QUAN	UNIT PRICE	CONTRACT TOTAL
1	10" Sanitary Sewer Main	LF	383	\$17.00	\$6,511.00
2	Reconnect Sanitary Sewer Services	EA	4	\$250.00	\$1,000.00
3	Drop Manhole	EA	1	\$2,000.00	\$2,000.00
4	Manhole (10 to 12 Foot Depth)	EA	2	\$2,000.00	\$4,000.00
5	Trench Compaction	LF	383	\$3.25	\$1,244.75
6	Pipe Bedding	CY	50	\$10.00	\$500.00
7	Traffic Control	EA	1	\$2,500.00	\$2,500.00
8	Pumping Services	LS	1	\$2,500.00	\$2,500.00
9	Compliance Testing	LS	1	\$1,000.00	\$1,000.00
TOTAL SANITARY SEWER IMPROVEMENTS					\$21,255.75

SAFEWAY COTTONWOOD CENTRE
DOMESTIC WATER IMPROVEMENTS

14-Jun-96

ITEM	DESCRIPTION	UNIT	QUAN	UNIT PRICE	CONTRACT TOTAL
1	8" Wet Taps	EA	2	\$1,260.00	\$2,520.00
2	8" PVC Water Main	LF	50	\$13.00	\$650.00
3	Trench Compaction	LF	50	\$2.00	\$100.00
4	Pipe Bedding	CY	7	\$10.00	\$70.00
5	Traffic Control	LS	1	\$300.00	\$300.00
6	Compliance Testing	LS	1	\$150.00	\$150.00
TOTAL DOMESTIC WATER IMPROVEMENTS					\$3,790.00

SAFEWAY COTTONWOOD CENTRE
DRY UTILITY IMPROVEMENTS

ITEM	DESCRIPTION	UNIT	QUAN	UNIT PRICE	CONTRACT TOTAL
1	Trenching, Backfill, & Testing	LF	320	\$5.00	\$1,600.00
2	4" PVC Conduits	LF	8,960	\$2.00	\$17,920.00
3	Compliance Testing	LS	1	\$500.00	\$500.00
TOTAL DRY UTILITY IMPROVEMENTS					\$20,020.00

SAFEWAY COTTONWOOD CENTRE
STORM SEWER IMPROVEMENTS

14-Jun-96

ITEM	DESCRIPTION	UNIT	QUAN	UNIT PRICE	CONTRACT TOTAL
1	C.D.O.T. Type 13 Street Inlet	EA	1	\$1,200.00	\$1,200.00
TOTAL STORM SEWER IMPROVEMENTS					\$1,200.00

SAFEWAY COTTONWOOD CENTRE
DRY UTILITY IMPROVEMENTS

14-Jun-96

ITEM	DESCRIPTION	UNIT	QUAN	UNIT PRICE	CONTRACT TOTAL
1	City Inspection	LS	1	\$2,000.00	\$2,000.00
2	Costruction Supervision	LS	1	\$2,500.00	\$2,500.00
3	Construction Surveying	LS	1	\$2,500.00	\$2,500.00
4	As-Builts	LS	1	\$2,500.00	\$2,500.00
TOTAL DRY UTILITY IMPROVEMENTS					\$7,000.00

TOTAL ESTIMATED COST OF IMPROVEMENTS:

\$139,061.15

COLE POTTER 4/18/96
 SIGNATURE OF DEVELOPER DIRECTOR OF CONSTRUCTION DATE
 (If corporation, to be signed by President and attested to by Secretary together with the corporate seals.)

I have reviewed the estimated costs and time schedule shown above and, based on the plan layouts submitted to date and the current cost of construction, I take no exception to the above.

Jay Wisla 9-16-96
 CITY ENGINEER DATE

Katherine M. Portman 9/16/96
 COMMUNITY DEVELOPMENT DATE



San Francisco Agency, 580 California Street, Suite 2100, San Francisco, CA 94104
 Mailing Address, P.O. Box 3716, San Francisco, CA 94119
 Tel: (415) 986-1100 Fax: (415) 397-0791 Telex: 00340602

Irrevocable Standby Letter of Credit

May 14, 1996

Grand Junction Community Development Dept.
 250 North Fifth Street
 Grand Junction, Colorado 81501-2668

Attention: Michael T. Drollinger, Senior Planer

Re: IRREVOCABLE STANDBY LETTER OF CREDIT NO. S007/81695/96
 FOR US\$132,473.45 ISSUED BY THE BANK OF NOVA SCOTIA,
 SAN FRANCISCO AGENCY

Gentlemen:

We hereby open our Irrevocable Standby Letter of Credit No. S007/81695/96 (the "Credit") in your favor for drawings up to the aggregate amount of U.S.\$132,473.45 (U.S. One Hundred Thirty Two Thousand Four Hundred Seventy Three and 45/100 Dollars) effective immediately at our office at 580 California Street, 21st Floor, San Francisco, California 94104, for the account of Safeway Inc., 4th & Jackson Street, Oakland, California 94660.

We hereby undertake to honor your sight draft(s) drawn on us bearing upon its face the clause "Drawn under letter of credit No. S007/81695/96 dated May 14, 1996, accompanied by the following documents:

1. This Credit
2. A signed statement on the Grand Junction Community Development Department letterhead, signed by an authorized official of Grand Junction Community Development Department stating that Safeway Inc has failed to complete the following improvements, as required by Site Plan Review in connection with the Safeway Project - SE Corner 29 Road and F Road.

The amount of each draft which is negotiated pursuant to this Credit, together with the date of negotiation, must be endorsed on the reverse side of the Credit.

We hereby agree with you that drafts drawn under and in compliance with the terms of this Credit will be duly honored by us if presented at this office or by registered mail on or before the expiration date of May 9, 1997 or any extended date, it being a condition of this Credit that it shall be automatically extended without written amendments for additional periods of Ninety (90) days from this or any future expiration date unless at least Thirty (30) days prior to such date we shall notify you in writing by certified mail at your above address that we elect not to renew this Credit for such additional period.

(This forms part of The Bank of Nova Scotia San Francisco Agency
Irrevocable Standby Letter of Credit No.S007/81695/96 for US\$132,473.45)

Draft presentation before no later than 9.00 a.m. Pacific Standard Time on any business day shall be honored before 5.00 p.m. Pacific Standard Time on the same business day by wire transfer in immediately available funds to any account designated by you (or any other reasonable means specified by you). Draft presentation after 9.00 a.m. Pacific Standard Time and before 5.00 p.m. Pacific Standard Time, on any business day shall be honored on the following business day in immediately available funds to any account designated by you (or any other reasonable means specified by you). As used in this Credit, the term "business day" means a day other than Saturday, Sunday or any day in which banking institutions in the State of California are authorized or required by law to close.

This Credit may be amended to increase or decrease the amount that Beneficiary is entitled to draw hereunder if the Bank delivers (i) an amendment to this Credit to such effect or (ii) an Amended and Restated Irrevocable Letter of Credit in the form of this Credit and upon delivery of this Credit for cancellation.

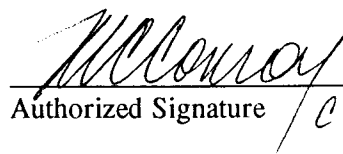
This Credit is governed by the Uniform Customs and Practice for Documentary Credits, 1983 revision, ICC Publication No. 400. This Letter of Credit shall not be transferable and it shall be governed by the laws of the State of California.

I 191



Authorized Signature

Recorder's Note: Not An Original
Signature When Recorded



Authorized Signature / 01403

81695 - San Francisco Agency

July 10, 1996

BRANCH		DATE OF ISSUE	
AMENDMENT TO LETTER OF CREDIT		ISSUING BANK'S NO. S007/81695/96	ADVISING BANK'S NO.
ADVISING BANK	APPLICANT Safeway Inc. Fourth & Jackson Streets Oakland, CA 94660		
BENEFICIARY Grand Junction Community Development 250 North Fifth Street Grand Junction, CO 81501-2668	AMOUNT USD132,473.45	DATE OF ISSUE May 14, 1996	
THIS AMENDMENT IS TO BE CONSIDERED AS PART OF THE ABOVE LETTER OF CREDIT AND MUST BE ATTACHED THERETO			

DEAR SIR(S)

THE ABOVE MENTIONED CREDIT IS AMENDED AS FOLLOWS:

- 1) Amount increased by USD6,587.70 From USD132,473.45 To USD139,061.15
(One Hundred Thirty Nine Thousand Sixty One Dollars & 15/100 United States Dollars)
To cover cost of travel to San Francisco, California in the event of draw.
- 2) Delete in its entirety Paragraph 2, item 2.
- 3) Insert the following in Paragraph 2, item 2:

A signed statement on the Grand Junction Community Development Department letterhead, signed by an authorized official of Grand Junction Community Development Department stating that Safeway, Inc. has failed to complete the improvements required in connection with the Safeway Project - S E corner 29 Road and F Road.

Except so far as otherwise expressly stated this documentary credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED

THE ADVISING BANK IS REQUESTED TO NOTIFY THE BENEFICIARY OF THIS AMENDMENT

ADVISING BANK'S NOTIFICATION

YOURS FAITHFULLY

Recorder's Note: Not An Original
Signature When Recorded

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

REMARKS, PLACE, DATE, NAME AND SIGNATURE OF THE ADVISING BANK

ORIGINAL

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED THIS DOCUMENTARY CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500

TO: File
From: Michael T. Drollinger
Re: Improvements Agreement Check - Safeway

Please note that the improvements guarantee in the amount of \$900 (check #10875 from Concepts West Architecture was NOT deposited and was destroyed after the project was closed out.

San Francisco Agency, 580 California Street, Suite 2100, San Francisco, CA 94104
Mailing Address, P.O. Box 3716, San Francisco, CA 94119
Tel: (415) 986-1100 Fax: (415) 397-0791 Telex: 00340602

Irrevocable Standby Letter of Credit

May 14, 1996

Grand Junction Community Development Dept.
250 North Fifth Street
Grand Junction, Colorado 81501-2668

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2. A signed statement on the Grand Junction Community Development Department letterhead, signed by an authorized official of Grand Junction Community Development Department stating that Safeway Inc has failed to complete the following improvements, as required by Site Plan Review in connection with the Safeway Project - SE Corner 29 Road and F Road.

The amount of each draft which is negotiated pursuant to this Credit, together with the date of negotiation, must be endorsed on the reverse side of the Credit.

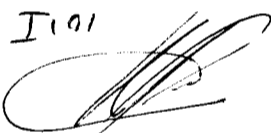
We hereby agree with you that drafts drawn under and in compliance with the terms of this Credit will be duly honored by us if presented at this office or by registered mail on or before the expiration date of May 9, 1997 or any extended date, it being a condition of this Credit that it shall be automatically extended without written amendments for additional periods of Ninety (90) days from this or any future expiration date unless at least Thirty (30) days prior to such date we shall notify you in writing by certified mail at your above address that we elect not to renew this Credit for such additional period.

(This forms part of The Bank of Nova Scotia San Francisco Agency
Irrevocable Standby Letter of Credit No.S007/81695/96 for US\$132,473.45)

Draft presentation before no later than 9.00 a.m. Pacific Standard Time on any business day shall be honored before 5.00 p.m. Pacific Standard Time on the same business day by wire transfer in immediately available funds to any account designated by you (or any other reasonable means specified by you). Draft presentation after 9.00 a.m. Pacific Standard Time and before 5.00 p.m. Pacific Standard Time, on any business day shall be honored on the following business day in immediately available funds to any account designated by you (or any other reasonable means specified by you). As used in this Credit, the term "business day" means a day other than Saturday, Sunday or any day in which banking institutions in the State of California are authorized or required by law to close.

This Credit may be amended to increase or decrease the amount that Beneficiary is entitled to draw hereunder if the Bank delivers (1) an amendment to this Credit to such effect or (ii) an Amended and Restated Irrevocable Letter of Credit in the form of this Credit and upon delivery of this Credit for cancellation.

This Credit is governed by the Uniform Customs and Practice for Documentary Credits, 1983 revision, ICC Publication No. 400. This Letter of Credit shall not be transferable and it shall be governed by the laws of the State of California.

I 191


Authorized Signature


Authorized Signature / 01403



San Francisco Agency, 580 California Street, Suite 2100, San Francisco, CA 94104
Mailing Address, P.O. Box 3716, San Francisco, CA 94119
Tel: (415) 986-1100 Fax: (415) 397-0791 Telex: 00340602

July 10, 1996

Grand Junction Community Development Department
250 North Fifth Street
Grand Junction, Colorado 81501--2668

Attn: Mr. Michael T. Drollinger
Senior Planner

Our Standby Letter of Credit Number S007/81695/96 issued
in your favor for the account of Safeway Inc.

Gentlemen:

Please find attached our amendment to the above subject Letter of Credit
increasing the amount from USD132,473.45 to USD139,061.15 and also
changing some of the language of the Letter of Credit itself.

Please acknowledge receipt by signing on the copy of this letter.

Sincerely,

Vincent R. Inocencio
Senior Operations Officer



San Francisco Agency, 580 California Street, Suite 2100, San Francisco, CA 94104
Mailing Address, P.O. Box 3716, San Francisco, CA 94119
Tel: (415) 986-1100 Fax: (415) 397-0791 Telex: 00340602

May 14, 1996

Michael T. Drollinger
Senior Planner
Grand Junction Community Development Dept.
250 North Fifth Street
Grand Junction, Colorado 81501-2668

Dear Michael,

Please find enclosed our Letter of Credit in the amount of \$132,473.45 related to the Safeway Cottonwood Centre.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Quick". The signature is written in a cursive style with a large, sweeping initial "J".

John A. Quick



San Francisco Agency, 580 California Street, Suite 2100, San Francisco, CA 94104
Mailing Address, P.O. Box 3716, San Francisco, CA 94119
Tel: (415) 986-1100 Fax: (415) 397-0791 Telex: 00340602

City of Grand Junction
Community Development Department
250 North 5th Street
Grand Junction, CO 81501

February 26, 1997

Attn: Mr. Michael T. Drollinger
Senior Planner

Our Standby Letter of Credit number S026/81695/97 for USD190,000.00

Gentlemen:

Please find attached our above subject Letter of Credit issued in your favor for the account of Safeway Inc.

This replaces our Letter of Credit Number S007/81695/96 in the amount of USD132,473.45 dated May 14, 1996, subsequently amended to USD139,061.15 on July 10, 1996.

Accordingly, please forward to us the original of the above Letter of Credit and the amendment for cancellation.

If you have any question or should you need additional information, please do not hesitate to call the undersigned.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Vincent R. Inocencio". The signature is fluid and cursive, with a large loop at the beginning.

Vincent R. Inocencio
Sr. Operations Officer

San Francisco Agency, 580 California Street, Suite 2100, San Francisco, CA 94104
Mailing Address, P.O. Box 3716, San Francisco, CA 94119
Tel: (415) 986-1100 Fax: (415) 397-0791 Telex: 00340602

Irrevocable Standby Letter of Credit

February 26, 1997

Grand Junction Community Development Dept.
250 North Fifth Street
Grand Junction, Colorado 81501-2668

Attention: Michael T. Drollinger, Senior Planner

Re: IRREVOCABLE STANDBY LETTER OF CREDIT NO.S026/81695/97
FOR USD190,000.00 ISSUED BY THE BANK OF NOVA SCOTIA,
SAN FRANCISCO AGENCY

Gentlemen:

We hereby open our Irrevocable Standby Letter of Credit No.S026/81695/97 (the "Credit") in your favor for drawings up to the aggregate amount of USD\$190,000.00 (One Hundred and Ninety Thousand and 00/100 United States dollars) effective immediately at our office at 580 California Street, 21st Floor, San Francisco, California 94104, for the account of Safeway Inc., 4th & Jackson Street, Oakland, California 94660.

We hereby undertake to honor you sight draft(s) drawn on us bearing upon its face the clause "Drawn under letter of credit No. S026/81695/97 dated February 26, 1997, accompanied by the following documents.

1. This Credit
2. A signed statement on the Grand Junction Community Development Department letterhead, signed by an authorized official of Grand Junction Community Development Department stating that Safeway Inc has failed to complete the improvements required in connection with the Safeway Project - SE Corner 29 Road and F Road.

This forms part of the Bank of Nova Scotia San Francisco Agency Irrevocable
Standby Letter of Credit No. S026/81695/97 for USD 190,000.00

The amount of each draft which is negotiated pursuant to this Credit, together with the date of negotiation, must be endorsed on the reverse side of the Credit.

We hereby agree with you that drafts drawn under and in compliance with the terms of this Credit will be duly honored by us if presented at this office or by registered mail on or before the expiration date of February 26, 1998 or any extended date, it being a condition of this Credit that it shall be automatically extended without written amendments for additional periods of Ninety (90) days from this or any future expiration date unless at least Thirty (30) days prior to such date we shall notify you in writing by certified mail at your above address that we elect not to renew this Credit for such additional period. Draft presentation before no later than 9:00 a.m. Pacific Standard Time on any business day shall be honored before 5:00 p.m. Pacific Standard Time on the same business day by wire transfer in immediately available funds to any account designated by you (or any other reasonable means specified by you). Draft presentation after 9:00 a.m. Pacific Standard Time and before 5:00 p.m. Pacific Standard Time, on any business day shall be honored on the following business day in immediately available funds to any account designated by you (or any other reasonable means specified by you). As used in this Credit, the term "business day" means a day other than Saturday, Sunday or any day in which banking institutions in the State of California are authorized or required by law to close.

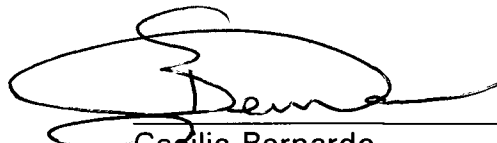
This Credit may be amended to increase or decrease the amount that Beneficiary is entitled to draw hereunder if the Bank delivers (1) an amendment to this Credit to such effect or (ii) an Amended and Restated Irrevocable Letter of Credit in the form of this credit and upon delivery of this Credit for cancellation.

This Credit is governed by the Uniform Customs and Practice for Documentary Credits, 1993 revision, ICC Publication No. 500. This Letter of Credit shall not be transferable and it shall be governed by the laws of the State of California.

Very truly yours,



Vincent Inocencio
Sn. Operations Officer



Cecilia Bernardo
Assistant Agent

Original letters of credit given to Kristen Ashbeck on April 2, 2002. Copy of Release of DIA in file.

1. Dated May 14, 1996 No. S007/81695/96 for \$132,473.45
2. Amendment dated July 10, 1996 No. S007/81695/96 increased to \$139,061.15
3. Dated February 26, 1997 No. S026/81695/97 for \$190,000

Stephanie Tuin
City Clerk

RELEASE OF IMPROVEMENTS AGREEMENT & GUARANTEE
Grand Junction Community Development Department
FILE SPR-1996-107

This memorandum relates to a certain recorded Improvements Agreement and Guarantee dated September 16, 1996 and recorded at Book 2264, Pages 640-651 of the land records of Mesa County, Colorado, by and between Safeway, Inc. (Developer) and the City of Grand Junction (City) pertaining to Safeway Cottonwood Centre (Project).

Legal Description: See Attached Exhibit A

Whereas, Developer has installed and constructed certain public and private improvements at and for the Project, which completion was guaranteed by the execution of an Improvements Agreement and Guarantee, and

Whereas, the City of Grand Junction and all other agencies possessing regulatory authority over the Project and/or the improvements have inspected the improvements and have accepted the same,

NOW THEREFORE, officials of the City of Grand Junction and other officials duly representing their agencies, possessing and representing by their signatures, affixed thereto, that they possess sufficient authority to accept improvements and release the portion of the guarantee pertaining to the improvements under their jurisdiction, do accept, sign and release said improvements agreement and guarantee.

CITY OF GRAND JUNCTION:

By: City Engineer	<u>[Signature]</u>	Date	<u>2/20/02</u>
City Utilities Manager	<u>NA</u>	Date	<u> </u>
Fire Marshall	<u>NA</u>	Date	<u> </u>
Community Development	<u>[Signature]</u>	Date	<u>2/20/02</u>

UTE WATER:

By: NA Date

CENTRAL GRAND VALLEY SANITATION DISTRICT:

By: NA Date

In accordance with the above signatures, I hereby certify that the Improvements Agreement & Guarantee and the recording evidencing the agreement and guarantee, at Book 2264, Pages 640-651 of the Mesa County land records, have been completed and accepted and in accordance with the provisions of the Grand Junction Zoning and Development Code are hereby released, subject to the required warranty period.

Planning Manager
Director of Community Development [Signature] Date 2-20-02

The foregoing instrument was executed before me this 20th day of February, 2002

by [Signature], Director of Community Development for the City of Grand Junction, Colorado. *Manager*

Witness my hand and official seal.

Notary Public [Signature]

My commission expires November 28, 2005

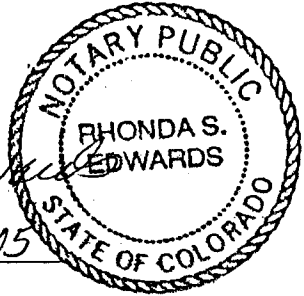


EXHIBIT "A"

TYPE LEGAL DESCRIPTION BELOW, USING ADDITIONAL SHEETS AS NECESSARY. USE SINGLE SPACING WITH A ONE (1) INCH MARGIN ON EACH SIDE.

Commencing at the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 8, in Township 1 South, Range 1 East of the Ute Meridian, whence the Northwest corner of Section 8 bears North 00 degrees 01 minutes 29 seconds West, a distance of 1319.88 feet for a basis of bearings, with all bearings contained herein relative thereto; thence North 00 degrees 01 minutes 29 seconds West, a distance of 659.94 feet; thence North 89 degrees 58 minutes 18 seconds East, a distance of 30.00 feet to a point on the Easterly right of way of 29 Road and the TRUE POINT OF BEGINNING;

Thence North 00 degrees 01 minutes 29 seconds West, a distance of 509.94 feet along said right of way; thence North 89 degrees 58 minutes 31 seconds East, a distance of 20.00 feet; thence North 00 degrees 01 minutes 29 seconds West, a distance of 79.99 feet; thence North 44 degrees 59 minutes 38 seconds East, a distance of 28.28 feet to a point on the Southerly right of way of F Road; thence along said right of way South 89 degrees 59 minutes 16 seconds East, a distance of 722.70 feet; thence South 00 degrees 02 minutes 06 seconds East, a distance of 609.41 feet to a point on the South line of the N1/2 of the NW1/4 NW1/4; thence along said line South 89 degrees 58 minutes 17 seconds West, a distance of 762.82 feet; to the TRUE POINT OF BEGINNING. Said parcel containing 10.625 Acres, as described.

SAFEWAY