

SAF96SEW

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: CONTRACT

NAME OF AGENCY OR CONTRACTOR: SAFEWAY STORES 46, INCORPORATED

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: SANITARY SEWER LIFT
STATION AT 588 ¾ 29 ROAD

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1996

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

LIFT STATION AGREEMENT

1790785 0321PM 03/10/97
MONIKA TODD CLK&REC MESA COUNTY CO

THIS LIFT STATION AGREEMENT is made this 20th day of November, 1996 by and between the CITY OF GRAND JUNCTION, a municipal corporation of the State of Colorado ("City") and SAFEWAY STORES 46, INC., a Delaware corporation ("Safeway").

RECITALS

A. Safeway desires to construct a sanitary sewer lift station (the "lift station") upon the shopping center development located at the southeast corner of 29 and F Roads in Grand Junction, Mesa County, Colorado (the "shopping center"). The lift station will be constructed in the location identified as 588-3/4 29 Road on the Plat attached to and made a part of this Agreement as Exhibit A. The purpose of the lift station is to provide access from the shopping center to the sanitary sewer lines lying in the public right-of-way along 29 Road.

B. The Fruitvale Sanitation District ("FSD") has constructed sanitary sewer lines in the public right-of-way along 29 Road in Grand Junction, Colorado. The existing sanitary sewer lines in 29 Road are sized for removal of the effluent from the shopping center. The FSD has permitted Safeway to connect the shopping center to the FSD's sanitary sewer lines via the lift station, provided that maintenance of the lift station is performed by the City of Grand Junction. Upon completion of the lift station, Safeway desires that the City of Grand Junction Waste Water Department maintain the lift station in accordance with the provisions of this Agreement.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Safeway agree as follows:

TERMS

1. Plans and Specifications. Safeway agrees to prepare any and all plans and specifications for the design and construction of the lift station. The plans and specifications shall be subject to the written approval of the City and FSD.
2. Permits. Safeway agrees to obtain any and all permits required to construct the lift station. Safeway will construct the lift station in accordance with the plans and specifications and all applicable laws, rules, regulations and ordinances.
3. Inspections. During construction of the lift station, Safeway agrees to pay the wages and expenses of a City construction inspector, to be selected by the City, who will be on the construction site at such times as the City deems reasonably necessary during the

Recorder's Note: No Exhibit A attached at time of Recording

construction of the lift station. The construction inspector shall act as agent for the City during construction of the lift station. Provided the lift station is constructed in accordance with the City-approved plans and specifications, one year after its completion, if no warranty work is required, the City will accept the lift station for maintenance in accordance with and pursuant to the maintenance agreement between FSD and the City. If warranty work is required, acceptance shall be one year after the successful completion of such warranty work.

4. Maintenance. After the City has accepted maintenance responsibilities, the City agrees to provide all normal and reasonable operation and maintenance service to the lift station, subject to the provisions set forth in this Section 4:

4.1. The City will provide emergency call-out service for sewage blockage at a rate of \$108.00 per hour during normal operating hours (8 AM to 5 PM, Monday through Friday) and \$162.00 per hour for overtime, weekends and holidays. An authorized representative from the District must authorize all call-outs. The District will identify in writing, from time to time, those persons who are so authorized. The minimum monthly charge for emergency call-out service is \$100.00 per month. Any call-out charge will be applied against the monthly minimum.

4.2. Safeway shall pay for lift station and associated system maintenance at a rate of \$420.00 per month. Maintenance services shall include all routine operation and maintenance and routine repairs. Any cost for any part or piece of equipment which exceeds \$100.00 will be furnished or paid for separately by Safeway.

4.3. The City may charge prevailing rates for maintenance services and in addition thereto may amend the rates set forth in subsections 4.1 and 4.2 above by giving notice to Safeway on or before September 30 of each year beginning in 1997 for the subsequent year. If written notification is not provided to Safeway by September 30, then the rate schedule will continue for the following calendar year.

5. Capital Improvements. Any work, repair or replacement required to be made to the lift station shall be at Safeway's sole expense. If the City makes the repair or replacement, the City will bill Safeway for labor and materials plus 20% overhead, however, Safeway reserves the right to contract with a third party for any specific repair and replacement required or directed by the City, however such work shall meet all City standards.

6. Permitted Discharge. It is agreed that the City shall be responsible for policing Safeway relative to sewage materials or matters discharged into the sewage system; no oil, acid, or other matters that may be detrimental to the treatment process employed in the City's sewage treatment plant, nor storm drains or allowable ground waters shall be permitted to be discharged into the City's sanitary sewer line or lines, nor shall irrigation or drainage ditches be permitted to discharge into the City's lines. If any discharge is discovered in the line or lines contrary to the limitations provided in this paragraph, upon

proper notice from the City, Safeway agrees to do whatever is necessary to rectify the situation immediately.

7. Ownership. The lift station as constructed, including rights of way and easements required, shall remain the sole and separate property of Safeway, subject to a perpetual right of access and entry for maintenance of the lift station by the City and/or FSD.

8. Notices. Notices made by the parties under this Agreement may be served personally or may be served by depositing the same in the United States mail, postage prepaid, certified mail or nationally recognized overnight courier service addressed as follows:

- If to the City: City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81507
Attn: Utility Engineer

- If to Safeway: Safeway Stores 46, Inc.
5918 Stoneridge Mall Road
Pleasanton, CA 94588
Attn: Vice President, Real Estate Law
(510) 467-3000

- With a copy to: Safeway Inc.
6900 S. Yosemite Street
Englewood, CO 80112-1412
Attn: Construction Director
(303) 843-7600

9. Waiver of Default. A waiver of default by either party in the terms of conditions of this Agreement shall not operate as a waiver of any subsequent default.

10. Headings. The City and Safeway agree that the headings contained in this Agreement are inserted for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement.

11. Entire Agreement. It is agreed between the parties that once this Agreement is fully executed and delivered that it contains the entire agreement between the City and Safeway, and that, in executing it, the parties do not rely on any statement, promise, or representation not expressed in this Agreement and this Agreement once executed and delivered shall not be modified, changed or altered in any respect except by a writing executed and delivered in the same manner as required for this Agreement.

12. No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement will, create any partnership, joint venture or other joint or equity type agreement between the City and Safeway. No term or provision of this Agreement is intended to be, or will be, for the benefit of any person, firm, organization, or corporation not a party to this Agreement, and no such other person, firm, organization or corporation will have any right or cause of action under this Agreement.

13. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the City and Safeway and their respective successors and assigns; run with and be a burden on the lands served by the lift station.

THIS LIFT STATION AGREEMENT is executed as of the day and year first written above.

CITY OF GRAND JUNCTION
a municipal corporation

SAFEWAY STORES 46, INC.
a Delaware corporation

By: *Mark Clehen*
Its *City Manager*

By: *Linda S. MacDonald*
Its Assistant Vice President

By: *David Zepman*
Its *Mayor*

By: *[Signature]*
Its Assistant Secretary

SAFEWAY COTTONWOOD CENTRE

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That Walter K. Waymeyer, is the owner of that real property located in part of the NW1/4 of Section 8, Township 1 South, Range 1 East of the Ute Meridian, Mesa County, Colorado, being more particularly described as follows: (Original Warranty Deed Book 1058, Page 17, Book 1291, Page 13, and Book 1236, Page 981.)

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 POINT OF BEGINNING;

Thence North 00 degrees 01 minutes 29 seconds West, a distance of 509.94 feet; thence North 89 degrees 58 minutes 31 seconds East, a distance of 50.00 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 58 minutes 18 seconds East, a distance of 722.70 feet; thence South 00 degrees 02 minutes 06 seconds East, a distance of 809.41 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 792.82 feet; to the POINT OF BEGINNING.
Said parcel containing 10.977 Acres, as described.

That said owners have caused the real property to be laid out and platted as SAFEWAY COTTONWOOD CENTRE, a subdivision of a part of the City of Grand Junction, Colorado. That said owner does hereby dedicate and set apart the real property as shown and labeled as the accompanying plat of SAFEWAY COTTONWOOD CENTRE as follows:

All Streets and Rights-of-way to the City of Grand Junction for the use of the public forever;

All Multi-Purpose Easements to the City of Grand Junction for the use of the public utilities as perpetual easements for the installation, operation, maintenance and repair of utilities and appurtenances thereto including, but not limited to electric lines, cable TV lines, natural gas pipelines, sanitary sewer lines, water lines, telephone lines, and also for the installation and maintenance of traffic control facilities, street lighting, street trees and grade structures;

All Utility Easements to the City of Grand Junction for the use of public utilities as perpetual easements for the installation, operation, maintenance and repair of utilities and appurtenances thereto including, but not limited to electric lines, cable TV lines, natural gas pipelines, sanitary sewer lines, water lines, and telephone lines.

All Irrigation Easements as set forth on this plat to the Owners of Lots 1 through 5 and the City of Grand Junction, as perpetual easements for the installation, operation, maintenance and repair of private irrigation systems;

All portions of this platted real property not occupied by building structures as ingress and egress easements, and for use by the Public Utilities, for the installation and maintenance of utilities.

All Detention/Retention easements to the owners of the Lots hereby platted for the purpose of conveying and detaining/retaining runoff water which originates from the area hereby platted and also for the conveyance of runoff from up stream areas.

All Grand Junction Drainage District Easements to the City of Grand Junction for the use of the Public and Grand Junction Drainage District, its successors and assigns, for the installation, operation, maintenance, and repair of Grand Junction Drainage District facilities.

All easements include the right of ingress and egress on, along, over, under, and through and across by the beneficiaries, their successors, or assigns, together with the right to trim or remove interfering trees and brush. Provided, however, that the beneficiaries of said easements shall utilize the same in a reasonable and prudent manner. Furthermore, the owners of lots or tracts hereby platted shall not burden nor overburden said easements by erecting or placing any improvements thereon which may prevent reasonable ingress and egress to and from the easement.

IN WITNESS WHEREOF, Walter K. Waymeyer, has caused his names to be hereunto subscribed this 17th day of June, A.D. 1996.

Walter K. Waymeyer
by: Walter K. Waymeyer

NOTARY PUBLIC CERTIFICATION

STATE OF California) ss
COUNTY OF Butte

The foregoing instrument was acknowledged before me by Walter K. Waymeyer, by Lorinda M. Spencer, Notary Public, this 17th day of June, A.D., 1996.

Witness my hand and official seal:

Lorinda M. Spencer
Notary Public

My Commission Expires March 10, 2000

LIENHOLDERS RATIFICATION OF PLAT

THE UNDERSIGNED, having property interests in or encumbrances upon the real property involved, DO HEREBY RATIFY AND AFFIRM the Plat of SAFEWAY COTTONWOOD CENTRE. Signed this 17th day of June, 1996.

Walter K. Waymeyer
by: WALTER K. WAYMEYER by:

NOTARY PUBLIC CERTIFICATION

STATE OF California) ss
COUNTY OF Butte

The foregoing instrument was acknowledged before me by Walter K. Waymeyer, by Lorinda M. Spencer, Notary Public, this 17th day of June, A.D., 1996.

Witness my hand and official seal:

Lorinda M. Spencer
Notary Public

My Commission Expires March 10, 2000

CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO) ss
COUNTY OF MESA)

I hereby certify that this instrument was filed in my office at 10:17 o'clock A. M., Sept. A.D., 1996, and was duly recorded in Plat Book No. 15 Page No. 1613/162, Reception No. 1771999, Drawer No. 0072.

Clerk and Recorder

CITY OF GRAND JUNCTION APPROVAL

This plat of SAFEWAY COTTONWOOD CENTRE, a subdivision of a part of the City of Grand Junction, County of Mesa, State of Colorado, is approved and accepted this 16th day of July, A.D., 1996.

Shirley Dechen
City Manager

Linda Alfmen
President of City Council

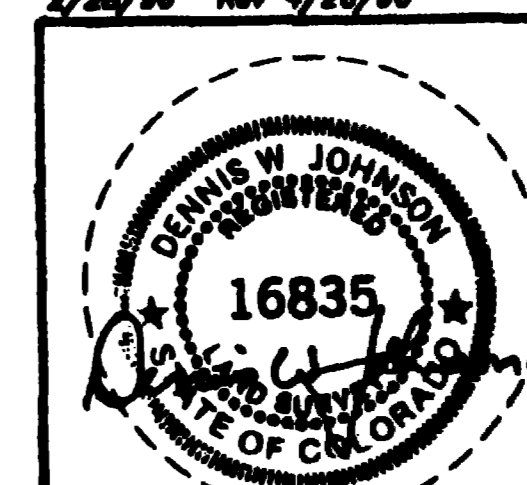
The Declaration of Covenants and Restrictions are recorded at Book _____, Page _____, Mesa County Records.

SURVEYOR'S CERTIFICATION

I, Dennis W. Johnson, do hereby certify that the accompanying plat of SAFEWAY COTTONWOOD CENTRE, a subdivision of a part of the City of Grand Junction, Colorado, has been prepared under my direct supervision and represents a field survey of same. This plat conforms to the requirements for subdivision plats specified in the City of Grand Junction Development code and the applicable laws of the State of Colorado.

Date certified June 19th, 1996

2/28/96 Rev 4/26/96



DENNIS W. JOHNSON, P.L.S.
COLORADO PROFESSIONAL LAND SURVEYOR
P.L.S. NO. 16835

SAFEWAY COTTONWOOD CENTRE
NW1/4 Sec 8 T1S, R1E, UTE M.
MESA COUNTY, COLORADO

LANDesign
ENGINEERS • SURVEYORS • PLANNERS

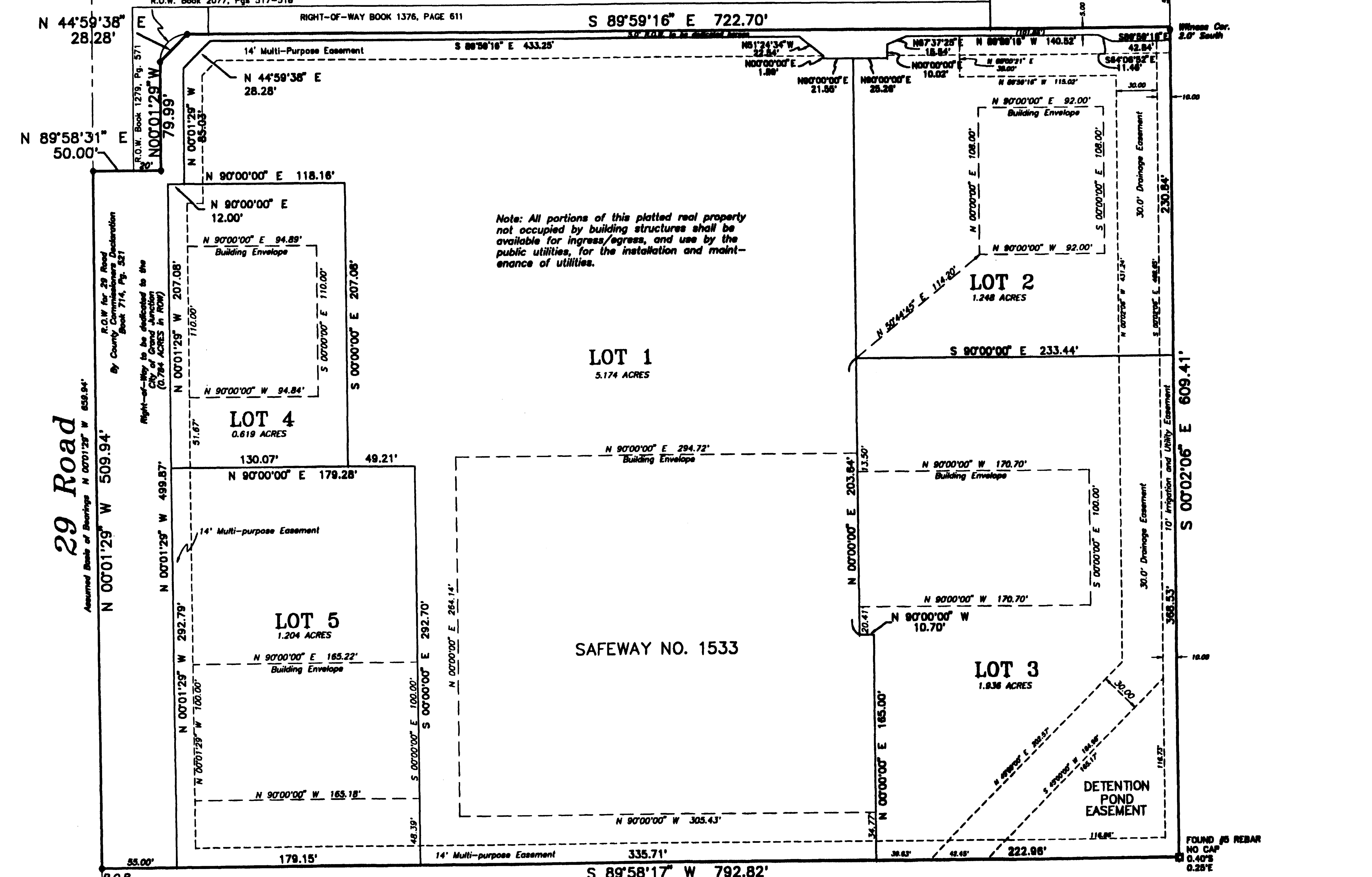
250 GRAND AVENUE
GRAND JUNCTION, COLORADO 81501 (970) 245-4088

PROJECT NO. 0517B	SUR. BY: DWJ	DRAWN: DWJ	CHECKED: DWJ	SHEET: 1	OF: 2
DATE: 2/25/96					

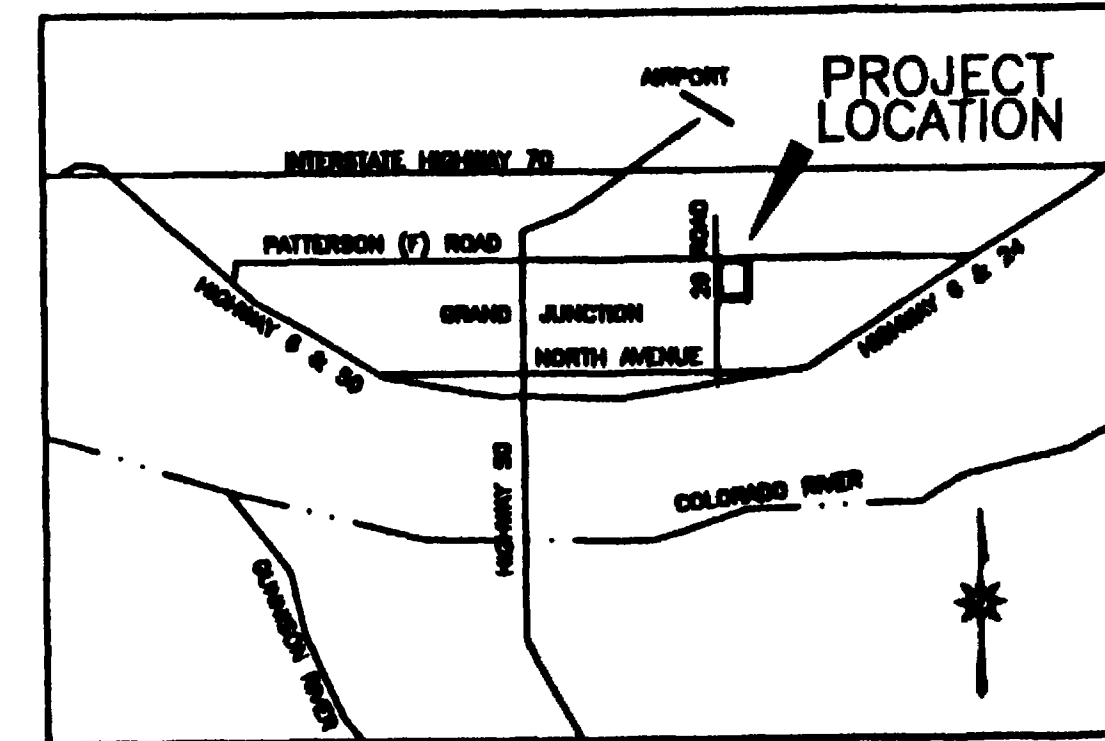
SAFeway COTTONWOOD CENTRE

NE COR. NW1/4 NW1/4
SECTION 8
T1S, R1E, 14M
MCSM #54

NORTHWEST CORNER
SECTION 8
T1S, R1E, 14M
MCSM IN MON. BOX
NO NUMBER
BENCHMARK
AIR PHOTO 1984
LINES AND 1978
ELEV. = 4883.11



Note: All portions of this platted real property not occupied by building structures shall be available for ingress/egress, and use by the public utilities, for the installation and maintenance of utilities.



NE1/4 NW1/4 NW1/4
SECTION 8
T1S, R1E, UTE MERIDIAN



SCALE: 1"=50'
50 25 0 50

SW1/4 NW1/4 NW1/4

Basis of bearings assumes the West line of the NW1/4 NW1/4 of Section 8 to bear N 00°09'21" W 1319.88 feet. Both monuments on this line are Mesa Co. Survey Markers as shown on this plat.

Note: Property corners located during this survey that were within 0.25± feet of the calculated point were accepted as being "in position".

Easement and Title Information provided by Meridian Land Title Company, Policy No. 20844

LEGEND

- ◆ MESA COUNTY OR BLM SURVEY MARKER
- SET CENTERLINE MONUMENT PER CODE
- SET ALUMINUM CAP ON No. 5 REBAR, PLS 16635 IN CONCRETE PER CODE
- (R) RECORD MEASUREMENT
- FOUND REBAR, AS NOTED

SURVEYOR'S CERTIFICATION

I, Dennis W. Johnson, do hereby certify that the accompanying plat of SAFEWAY COTTONWOOD CENTRE, a subdivision of a part of the City of Grand Junction, Colorado, has been prepared under my direct supervision and represents a field survey of same. This plat conforms to the requirements for subdivision plats specified in the City of Grand Junction Development code and the applicable laws of the State of Colorado.

AREA SUMMARY

LOT 1	= 5.174 Acres	47.13%
LOT 2	= 1.248 Acres	11.37%
LOT 3	= 1.936 Acres	17.64%
LOT 4	= 0.619 Acres	5.64%
LOT 5	= 1.204 Acres	10.97%
ROAD ROW	= 0.796 Acres	7.25%

ALUMINUM CAP ON No. 5 REBAR TO BE SET UPON COMPLETION OF CONSTRUCTION AT ALL LOT CORNERS

SHEET 2

SAFeway COTTONWOOD CENTRE

NW1/4 Sec 8 T1S, R1E, UTE M.
MESA COUNTY, COLORADO

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ENGINEERS • SURVEYORS • PLANNERS
288 GRAND AVENUE
GRAND JUNCTION, COLORADO 81501 (970) 245-4098

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS

2/28/06
Rev 4/26/06