

**OFFSITE ROAD IMPROVEMENT AGREEMENT
FOR SIENNA RIDGE RETAIL CENTER, PD07-0008R
BETWEEN THE COUNTY AND THE DEVELOPERS**

AGMT #18-54870

THIS ROAD IMPROVEMENT AGREEMENT, hereinafter called “Agreement” made and entered into by and between the **COUNTY OF EL DORADO**, a political subdivision of the State of California (hereinafter referred to as “County”) and **DONAHUE SCHRIBER REALTY GROUP, L.P.**, a Delaware limited partnership duly qualified to conduct business in the State of California, whose principal place of business is 200 East Baker Street, Suite 100, Costa Mesa, California 95626 and **SAFEWAY, INC.**, a Delaware corporation, duly qualified to conduct business in the State of California, whose principal place of business is 11555 Dublin Canyon Road, Pleasanton, California 94588 (hereinafter referred to as “Developers”) concerning the offsite road and drainage improvements for the **Sienna Ridge Retail Center Project, PD07-0008R** (formerly known as Serrano Commercial Village J5 and hereinafter referred to as “Project”) in accordance with the improvement plans entitled **Sienna Ridge Bass Lake Road and Sienna Ridge Drive** and cost estimates prepared by RSC Engineering, Inc., James H. Vanderpost, P.E., Registered Civil Engineer, and approved by Adam Bane, Senior Civil Engineer, Development/Right of Way/Environmental, El Dorado County Community Development Services, Department of Transportation (hereinafter referred to as “Transportation”).

RECITALS

WHEREAS, Developers have prepared the Sienna Ridge Bass Lake Road and Sienna Ridge Drive Improvement Plans and cost estimates for the construction of the Project that have been approved by County Engineer; and

WHEREAS, the Developers shall provide County satisfactory security in the form of cash payments or Performance Bond and Laborers and Materialmens Bond (“Bonds”) for the Project work prior to construction;

WHEREAS, it is the intent of the parties hereto that the performance of Developers’ obligations shall be in conformance with the terms and conditions of this Agreement and shall be in conformity with all applicable state and local laws, rules, and regulations;

NOW, THEREFORE, the parties hereto in consideration of the recitals, terms, and conditions herein, do hereby agree as follows:

SECTION 1. THE WORK

Developers will, at their own cost and expense, in a workmanlike manner, faithfully and fully design, and construct or cause to be constructed all of the offsite road, drainage, and road related improvements for the Project, inclusive of but not limited to, road drainage

required by the Conditions of Approval and will perform the requirements of this Agreement in accordance with the plans, change orders, and itemized cost estimates approved by County and hereby made a part of this Agreement for all purposes as if fully incorporated herein. The Developers shall improve the frontage along the east side of Bass Lake Road including constructing two (2) access encroachments, a multiuse path, and a left turn pocket / refuge lane on southbound Bass Lake Road at the southerly access encroachment. The southerly access encroachment onto Bass Lake Road shall allow full access including left turns in and out, while the northerly access encroachment shall be restricted to a right-in and right-out turning movements only. All construction work shall be in accordance with all applicable state and local rules, regulations, ordinances, and policies including, but not limited to, the Public Contract Code, the Labor Code (inclusive of prevailing wage), and state licensing laws. Developers' obligations herein are for the completion of the improvements and shall not be relieved by contracting for the improvements. The improvements described herein are "public works" for purposes of the state prevailing wage laws.

An itemized account of the estimated cost of said improvements is set forth in Exhibit A, marked "Bass Lake Road – Off-Site Improvements Opinion of Probable Cost for Roadway Improvement Agreement," which is attached hereto and incorporated by reference herein.

County will require Developers to make such alterations, deviations, additions to, or deletions from the improvements shown and described on the plans, specifications, and cost estimates as may be reasonably deemed by County Engineer to be necessary or advisable for the proper completion or construction of the whole work contemplated. Developers shall be responsible for all design and engineering services of the Project, at the location and as generally depicted in the plans, specifications, and contract documents ultimately approved by County. The design shall be prepared in accordance with all applicable laws, statutes, orders, map conditions, and with County standards for the Project. Upon completion of the work, Developers shall provide proof of adequate professional liability insurance of the engineer overseeing construction of the Project, and in favor of the County. Developers shall further provide for the complete assignment of ownership of all plans and specifications to the benefit of County.

SECTION 2. TRAFFIC CONTROL

A Traffic Control Plan that meets County Standards shall be prepared by a Registered Civil Engineer and submitted to Transportation for review and approval **prior to the start of work on the Project.**

The Traffic Control Plan shall address access to adjacent properties and the safe and convenient passage of public traffic through the work area. Road closure will not be permitted without El Dorado County Board of Supervisors approval, and two (2) lanes of traffic must be open at the end of each working day. The Traffic Control Plan shall include proposed flagging, signage, protective barriers, and limits on excavation within four (4) feet of travel ways open to traffic. The traffic signal at Bass Lake and Sienna Ridge Drive shall be maintained and operational at all times. The Traffic Control Plan shall also include any

proposed staging of the improvements, and adhere to the current California Manual on Uniform Traffic Control Devices (MUTCD).

SECTION 3. TIME

Developers shall cause the commencement of items of work after County's approval of the plans for the Project (which plans were approved on April 18, 2018) and shall complete the Project no later than two (2) years from the date of execution of this Agreement, subject to extensions for delays not within the control of the Developers. Construction activities shall be between 7:00 a.m. and 7:00 p.m. Mondays through Fridays; and 8:00 a.m. and 5:00 p.m. on weekends and federally recognized holidays.

SECTION 4. WARRANTY

Developers warrant against defect the materials and workmanship utilized on this Project for a period of one (1) year from the date of County's acceptance of the Project and shall make such replacements and repairs during such one (1) year period, at their sole cost and expense, as are necessary. County will retain a portion of the security posted in the amount of ten percent (10%) of the total value of work performed, in the form of a Performance Bond for one (1) year following acceptance of the work by County to secure the repair of any hidden defects in workmanship or materials which may appear.

SECTION 5. PERFORMANCE AND LABORERS AND MATERIALMENS BONDS

Developers shall deliver to Transportation a Performance Bond issued by a surety company acceptable to County, naming County as obligee, in the sum of **Four Hundred Eighteen Thousand Eight Hundred Eighty-Seven Dollars and No Cents (\$418,887.00)** conditioned upon the faithful performance of Developers' obligation for the full construction of the road improvements for the Project as required under this Agreement on or before the completion date specified above, and in the form approved by County.

Developers shall deliver to Transportation a Laborers and Materialmens Bond issued by a surety company acceptable to County, naming County as obligee, in the sum of **Four Hundred Eighteen Thousand Eight Hundred Eighty-Seven Dollars and No Cents (\$418,887.00)** conditioned upon the faithful performance of Developers' obligation for the full construction of the road improvements for the Project as required under this Agreement on or before the completion date specified above, and in the form approved by County.

The Bonds required by this Section are a condition precedent to County entering into this Agreement. Additionally, Developers shall ensure that the contractor awarded the work shall provide Payment and Performance Bonds that name County as an additional obligee and that include a one (1) year warranty provision in the Performance Bond against defects in materials and workmanship. The forms shall be County's approved forms. After contract award, Developers shall submit for County's review and approval the executed bonds together with certificates of insurance from the contractor naming County as an additional named insured.

SECTION 6. INDEMNIFICATION

To the fullest extent allowed by law, Developers shall defend, indemnify, and hold County harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorneys' fees and costs incurred, brought for, or on account of, injuries to or death of any person including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with Developers' obligations under this Agreement, or work on the Project, and the design (including the plats and legal descriptions for the acquisition of right-of-way) of the improvements whether by Developers or Developers' consultant, regardless of the existence or degree of fault or negligence on the part of County, Developers, any Contractor(s), Subcontractor(s), and employee(s) of any of these, except for the sole or active negligence of County, its officers and employees, or as expressly provided by statute. This duty of Developers to indemnify and hold County harmless includes the duties to defend set forth in California Civil Code Section 2778.

This duty to indemnify is separate and apart from the insurance requirements herein and shall not be limited thereto.

SECTION 7. ATTORNEY FEES

Developers shall pay costs and reasonable attorney fees, including County Counsel fees and costs, should County be required to commence an action to enforce the provisions of this Agreement or in enforcing the security obligations provided herein.

SECTION 8. INSURANCE

GENERAL INSURANCE REQUIREMENTS: Developers shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Management Division and documentation evidencing that Developers maintains insurance that meets the following requirements. In lieu of this requirement, Developers may have its Contractor provide proof of a policy of insurance satisfactory to the County's Risk Management Division and documentation evidencing that Contractor maintains said insurance so long as Contractor's insurance meets these same requirements and standards, and subject to Contractor assuming the same obligations as Developers as follows:

1. Full Workers' Compensation and Employers' Liability Insurance covering all employees performing work under this Agreement as required by law in the State of California.

2. Commercial General Liability (CGL) Insurance of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage, including but not limited to endorsements for the following coverage: premises, personal injury, operations, blanket contractual and independent contractors liability and a Two Million Dollar (\$2,000,000) aggregate limit.

3. Automobile Liability Insurance of not less than One Million Dollars (\$1,000,000) is required in the event motor vehicles are used by Developers in performance of the Agreement.

4. In the event Developers or its agent(s) are licensed professionals and are performing professional services under this contract, Professional Liability Insurance is required, with a limit of liability of not less than One Million Dollars (\$1,000,000).

5. Explosion, Collapse, and Underground (XCU) coverage is required when the scope of work includes XCU exposure.

PROOF OF INSURANCE REQUIREMENTS:

1. Developers shall furnish proof of coverage satisfactory to County's Risk Management Division as evidence that the insurance required herein is being maintained. The insurance will be issued by an insurance company acceptable to the Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.

2. The County of El Dorado, its officers, officials, employees, and volunteers shall be included as additional insured, but only insofar as the operations under this Agreement inclusive of the obligation to design and construct the Project are concerned. This provision shall apply to all general and excess liability insurance policies. Proof that County is named additional insured shall be made by providing the Risk Management Division with a certified copy, or other acceptable evidence, of an endorsement to the insurance policies naming County an additional insured.

3. In the event Developers cannot provide an occurrence policy, Developers shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.

4. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, and volunteers; or Developers shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

INSURANCE NOTIFICATION REQUIREMENTS:

1. The insurance required herein shall provide that no cancellation or material change in any policy shall become effective except upon prior written notice to County at the office of Community Development Services, Department of Transportation, 2850 Fairlane Court, Placerville, CA 95667.

2. Developers agree that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Developers shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event

Developers fail to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event. New certificates of insurance are subject to the approval of the Risk Management Division, and Developers agrees that no work or services shall be performed prior to the giving of such approval.

ADDITIONAL STANDARDS: Certificates shall meet such additional standards as may be determined by Transportation, either independently or in consultation with the Risk Management Division, as essential for protection of County.

COMMENCEMENT OF PERFORMANCE: Developers shall not commence performance of this Agreement unless and until compliance with each and every requirement of the insurance provisions is achieved.

MATERIAL BREACH: Failure of Developers to maintain the insurance required herein, or to comply with any of the requirements of the insurance provisions, shall constitute a material breach of the entire Agreement.

REPORTING PROVISIONS: Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.

PRIMARY COVERAGE: Developers' insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of Developers' insurance and shall not contribute with it.

PREMIUM PAYMENTS: The insurance companies shall have no recourse against the County of El Dorado, its officers, agents, employees, or any of them for payment of any premiums or assessments under any policy issued by any insurance company.

DEVELOPERS' OBLIGATIONS: Developers' indemnity and other obligations shall not be limited by the insurance required herein and shall survive the expiration of this Agreement.

SECTION 9. RESPONSIBILITY OF ENGINEER

Developers shall employ and make available to County an individual or firm acceptable by County Engineer to provide responses to contractor and construction inspector requests for information, and to provide requisite design revisions as requested by County Engineer before, during and close out of construction, and through the one-year warranty period of the Project. County Engineer shall be notified by Developers one (1) month in advance of terminating the services of the individual or firm accepted by County Engineer and shall employ a comparable replacement individual or firm acceptable by County Engineer simultaneously to the termination notice date. The individual or firm so employed shall act as Developers' representative to ensure full compliance with the terms and conditions set forth in

the plans, specifications, all permits and any other agreements, notices, or directives related to the Project. County Engineer shall have full access to the individual or firm to ensure that the Project is being constructed in accordance with the approved plans and County specifications. The cost associated with County's utilization of the individual or firm shall be a Project cost for which Developers are responsible.

SECTION 10. INSPECTION

An authorized representative of County will perform construction inspection and material testing in accordance with the most current State of California, Department of Transportation, Standard Specifications. All testing shall be accomplished to the reasonable satisfaction of County.

SECTION 11. RECORD DRAWINGS

Developers shall have an engineer prepare Record Drawings describing the finished work. The Record Drawings shall be submitted to Transportation at the completion of the work.

SECTION 12. FEES

Developers shall pay all fees in accordance with Transportation's fee schedules, including but not limited to application, plan checking, construction oversight, inspection, administration, and acceptance of the work by County.

SECTION 13. DEFAULT, TIME TO CURE, AND REMEDY

Developers' failure to perform any obligation at the time specified in this Agreement will constitute a default and County will give written notice of said default ("Notice") in accordance with the notice provisions of this Agreement. Notice shall specify the alleged default and the applicable Agreement provision Developers shall cure the default within ten (10) days ("Time to Cure") from the date of the Notice. In the event that Developers fail to cure the default within the Time to Cure, Developers shall be deemed to be in breach of this Agreement.

SECTION 14. PUBLIC UTILITIES

Developers shall investigate and determine if existing public and private utilities conflict with the construction of the Project. Developers shall make all necessary arrangements with the owners of such utilities for their protection, relocation, or removal. Developers shall pay all costs of protection, relocation, or removal of utilities. In the event that the utility companies do not recognize this Project as a County project for which the utility companies bear one hundred percent (100%) of the cost of relocation, then, as between County and Developers, Developers shall pay all costs of protection, relocation, or removal of utilities. Notwithstanding the aforementioned, nothing in this provision shall be construed to

prevent Developers from making a claim to the owner of said utilities for reimbursement for relocation costs.

SECTION 15. RIGHT-OF-WAY CLEARANCE

Developers warrant and represent that it has sufficient right, title, and interest to complete the improvements described herein and, therefore, no additional right of way is required.

SECTION 16. NO DEVELOPERS' REIMBURSEMENT

The Parties agree and acknowledge that the Project costs associated with the improvements contemplated herein are not eligible for reimbursement by County and all costs shall be borne by Developer.

SECTION 17. CONTRACT ADMINISTRATOR

The County Officer or employee with responsibility for administering this Agreement is Andrew S. Gaber, P.E., Deputy Director, Development, Right of Way, Environmental, Community Development Services, Department of Transportation, or successor.

SECTION 18. ACCEPTANCE

Upon completion of the Project and upon receipt by County's Board of Supervisors of a certification from Community Development Services, Department of Transportation, that all work has been completed and that the conditions of this Agreement have been fulfilled, the Board of Supervisors will accept the Project road improvements.

SECTION 19. REIMBURSEMENT TO COUNTY

County shall be entitled to reimbursement by Developers of costs and expenses incurred by County for construction oversight, inspection, right-of-way, administration, and acceptance of the work performed pursuant to this Agreement.

SECTION 20. THE PROJECT/ DEVELOPERS' STATUS

Developers are constructing and completing the Project improvements as described herein and are acting as independent agents and not as agents of County.

SECTION 21. NOTICE TO PARTIES

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado
Community Development Services
Department of Transportation
2850 Fairlane Court
Placerville, California 95667

Attn: Andrew S. Gaber, P.E.,
Deputy Director
Development/ROW/Environmental

or to such other location as County directs.

Notices to Developers shall be in duplicate and addressed as follows:

Donahue Schriber Realty Group, L.P.
200 East Baker Street, Suite 100
Costa Mesa, California 95626

Attn.: Neil Madewell
Senior Director - Construction

Safeway, Inc.
11555 Dublin Canyon Road
Pleasanton, California 94588

Attn.: Natacha Epley
Sr. Counsel

or to such other location as Developers direct.

SECTION 22. AUTHORIZED SIGNATURES

The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

With a copy to:

County of El Dorado
Community Development Services
Department of Transportation
2850 Fairlane Court
Placerville, California 95667

Attn: Adam Bane, P.E.,
Senior Civil Engineer

Requesting Contract Administrator Concurrence:

By: _____

Andrew S. Gaber, P.E.
Deputy Director
Development/ROW/Environmental
Community Development Services
Department of Transportation

Dated: _____

Requesting Department Concurrence:

By: _____

Rafael Martinez, Director
Community Development Services
Department of Transportation

Dated: _____

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

-- COUNTY OF EL DORADO --

By: _____

Dated: _____

Board of Supervisors
"County"

Attest:
James S. Mitrison
Clerk of the Board of Supervisors

By: _____

Dated: _____

Deputy Clerk

DEVELOPERS

**-- DONAHUE SCHRIBER REALTY GROUP, L.P. --
-- a Delaware Limited Partnership --**

By: Donahue Schriber Realty Group, Inc.
a Maryland Corporation
its General Partner

By: _____

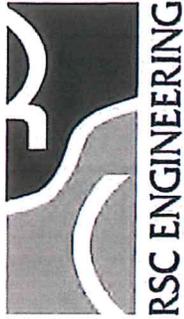
Dated: _____

Scott Lawrence
Senior Vice President Construction
"Developer"

-- SAFEWAY, INC. --
-- a Delaware Corporation --

By: _____
Natacha Epley
Sr. Counsel
“Developer”

Dated: _____



Date: 23-Apr-18
Project #: 001-033

Bass Lake Road - Off-Site Improvements Opinion of Probable Cost for Roadway Improvement Agreement

2250 Douglas Blvd.
Suite 150
Roseville CA 95661
Ph: 916-788-2884

Bass Lake Road Widening	Quantity	Unit	Unit Price	Total Price
4" PCC/ 6" AB sidewalk	5,176	SF	\$9.27	\$47,982
Multi use Concrete Path	8,954	SF	\$8.35	\$74,766
Commerical Driveway	2	EA	\$10,600.00	\$21,200
Curb and Gutter	452	LF	\$51.70	\$23,368
4.5" AC/ 16" AB	9,580	SF	\$7.46	\$71,467
Striping	1	LS	\$6,520.00	\$6,520
Connect to SDMH in Median (adjust to grade)	2	EA	\$2,800.00	\$5,600
Storm Drain 12" Off site	527	LF	\$108.00	\$56,916
Drain Inlet Offsite per EDC 115A	2	EA	\$4,400.00	\$8,800
Total Construction Cost:				\$316,619
Mobilization (5% of Estimated Direct Construction Cost):				\$15,831
Total Hard Cost:				\$332,450

Soft Costs

A	Bond Enforcement Costs	2% of Total Hard Cost	\$6,649
B	Construction Staking	4% of Total Hard Cost	\$13,298
C	Construction Management & Inspection	10% of Total Hard Cost	\$33,245
D	Contingency	10% of Total Hard Cost	\$33,245
Subtotal Soft Cost:			\$86,437
Total Estimated Cost:			\$418,887

RSC Engineering



Date

4/23/2018

EDC-CDA-TD: No Exceptions Taken

Date

4-25-18

DEVELOPER

ACKNOWLEDGMENT

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

State of California
County of _____

On _____ before me, _____,
(here insert name and title of the officer)

personally appeared _____,

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

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

WITNESS my hand and official seal.

Signature _____

DEVELOPER

ACKNOWLEDGMENT

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

State of California

County of _____

On _____ before me, _____,
(here insert name and title of the officer)

personally appeared _____,

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)