

## FOURTH AMENDMENT TO LEASE AND AGREEMENT

This Fourth Amendment to Lease and Agreement (this "**Fourth Amendment**") is made and entered into as of the Effective Date (defined later), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, for the use and benefit of the Denver Motor Vehicle Division of the Department of Revenue (the "**City**"), and **SAFEWAY INC.**, a Delaware corporation ("**Lessor**"). The City and Lessor are sometimes collectively referred to herein as the "**Parties**" or individually as a "**Party**."

### WITNESSETH:

**WHEREAS**, by Lease and Agreement dated March 24, 1994, as amended by that certain First Amendment to Lease and Agreement dated November 15, 2001; that certain Second Amendment to Lease and Agreement dated August 8, 2006; and that certain Third Amendment to Lease and Agreement (the "**Third Amendment**") dated February 25, 2019 (collectively, the "**Lease**"), Lessor subleases to the City a portion of that certain real property and improvements known as the Safeway Center (the "**Shopping Center**"), located at 3698 West 44<sup>th</sup> Avenue, Denver, Colorado for the use of the Denver Motor Vehicle Division of the Department of Revenue (the "**Leased Premises**"); and

**WHEREAS**, in connection with the terms and conditions of the Third Amendment, the Lease is a triple-net (NNN) lease arrangement between the Parties; and

**WHEREAS**, the Parties wish to amend the Lease, all on the terms and conditions set forth in this Fourth Amendment.

**NOW, THEREFORE**, in consideration of the Leased Premises and the mutual covenants and obligations herein set forth, the Parties agree as follows:

1. **Replacement of Existing HVAC Systems for the Leased Premises:** As of the Effective Date, there are three (3) existing heating and air conditioning systems exclusively serving the Leased Premises (the "**HVAC Systems**"). Following the execution and delivery of this Fourth Amendment, Lessor shall replace the HVAC Systems with new HVAC systems in accordance with the criteria described in Exhibit A attached hereto and made a part hereof (the "**HVAC Work**"). Lessor shall promptly commence and diligently prosecute HVAC Work until completed, weather permitting and subject to extension by the period of any event of force majeure.

The total cost of the HVAC Work as described on Exhibit A attached hereto is Thirty-two Thousand Six Hundred Ten and 00/100 Dollars (\$32,610.00) (the "**HVAC Work Total**"). The Parties agree that the cost for the HVAC Work shall be shared as follows:

Lessor's Share of the HVAC Work:	\$24,457.50
City's Share of the HVAC Work (" <b>City's Share</b> "):	\$ 8,152.50
HVAC Work Total:	\$32,610.00

Upon completion of the HVAC Work, (i) Lessor shall notify the City that the HVAC Work is completed; (ii) if required by Law, Lessor shall obtain a city permit or equivalent evidencing that the HVAC Work meets the then current code requirements for the HVAC Work only; (iii) Lessor shall pay the HVAC Work Total to the contractor performing the HVAC Work; and (iv) the City shall reimburse Lessor for the City's Share within thirty (30) days after the City's receipt of a billing statement from Lessor.

2. **Services Furnished by Lessor:** Section 6 and Exhibit D of the Lease are hereby deleted in their entirety and the following new Section 6 is hereby inserted in the Lease:

“6. **Services Furnished by Lessor:** Lessor shall, during the term of this Lease, furnish or cause to be furnished the water necessary to serve the Leased Premises. Lessor further agrees to furnish the City, while the City is occupying the Leased Premises, central heat and air conditioning in season, at such times as Lessor normally furnishes those services to tenants in the Safeway Center; electrical facilities at standard outlets for sufficient power to operate data processing machines, photocopy machines, and similar machines; security for the parking lot adjacent to the Safeway Center; mechanical and exterior maintenance services including plumbing; removal of snow, ice, and any debris that tend to give the exterior of the Leased Premises an untidy appearance; and telephone outlets currently existing in the Leased Premises.”

3. **Repairs and Maintenance:** Notwithstanding anything to the contrary contained in the Lease, the Parties agree to repair and maintain the Leased Premises and Building as follows:

3.1 **Repairs and Maintenance by Lessor:** Subject to damage or destruction or condemnation governed by the Lease, Lessor shall keep in good order, condition and repair, the structural portions, foundations, exterior walls, canopy, roof (including the roof membrane), downspouts and gutters of the Building and any other Shopping Center buildings owned or leased by Lessor (excluding therefrom all windows, doors, plate glass, show cases and storefronts), reasonable wear and tear excepted. Such maintenance and repair of the structural portions, foundations, exterior walls, canopy, roof (including the roof membrane), downspouts and gutters of the Building and other Shopping Center buildings shall be at Lessor’s sole cost and expense. Lessor shall have no obligation to make any repairs or replacements hereunder until the expiration of ten (10) days following Notice from the City to Lessor of the need therefor. The City waives any right now or hereafter granted by law to make any repairs under this Section 3.1 upon Lessor’s failure to do so hereunder or otherwise.

3.2. **Repairs and Maintenance by the City:** Except for those portions of the Leased Premises and the Building for which Lessor is responsible under Section 3.1 above, and subject to damage or destruction or condemnation governed by the Lease, the City, at the City’s sole cost and expense, shall keep all portions of the Leased Premises in good order, condition and repair (including replacements, as and when necessary), including all plate glass, show cases, storefront parts and moldings, doors, door jams, door closers, door hardware, fixtures, equipment and appurtenances thereof, floors, partitions, all electrical, lighting, heating, plumbing and sprinkler systems, fixtures and equipment, and the new HVAC Systems exclusively serving the Leased Premises (the “**New HVAC Systems**”), and all janitorial services for the interior of the Leased Premises. Such obligation shall include the obligation to make all necessary repairs to eliminate leaks around ducts, pipes, vents or other parts of the air conditioning, heating or plumbing systems which protrude through the roof or floor. The City agrees to be responsible for any damage to person or property as explicitly set forth in Section 11 of the Lease. The City shall maintain in force at the City’s expense a service and preventative maintenance contract with an authorized air-conditioning service company covering the New HVAC Systems and shall provide Lessor with a copy thereof. Lessor agrees to assist the City in enforcing the manufacturer’s warranty(ies) of the New HVAC Systems.

4. **Ratification:** Except as modified by this Fourth Amendment, the Lease is hereby ratified and affirmed and remains in full force and effect.

5. **Binding Effect:** The terms, covenants and conditions set forth in this Fourth Amendment shall be binding upon an inure to the benefit of the City, Lessor and their respective permitted successor and

assigns. In this Fourth Amendment, the singular includes the plural and one gender includes all others. This Fourth Amendment will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver and, if required by Charter, approved by the City Council.

6. **Counterparts:** This Fourth Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument.
7. **Definitions:** Any capitalized terms not defined herein shall be given the meanings assigned to them in the Lease.
8. **Effective Date:** The Effective Date of this Fourth Amendment shall be the date of the last signature affixed hereto.

IN WITNESS WHEREOF, the Parties have executed, through their respective lawfully empowered representatives, this Fourth Amendment to Lease and Agreement as of the Effective Date.

**LESSOR:**

**SAFEWAY INC.,**  
a Delaware corporation  
Taxpayer (IRS) Identification No. 94-3019135

By: \_\_\_\_\_  
Authorized Signer

Date: March \_\_\_\_, 2021

FORM APPROVED: \_\_\_\_\_

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**LESSOR:**

**SAFeway INC.,**  
a Delaware corporation  
Taxpayer (IRS) Identification No. 94-3019135

DocuSigned by:  
By: MARILYN K BEARDSLEY  
AB23CA6411 Authorized Signer

Date: March 9, 2021

FORM APPROVED: LA

**Contract Control Number:** FINAN-202158044-04/Alfresco CE45018-04  
**Contractor Name:** SAFEWAY INC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

FINAN-202158044-04/Alfresco CE45018-04  
SAFEWAY INC

By: *Please see preceding pages for Safeway signature*

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

# EXHIBIT A

**Project Services Proposal #:** 20805  
**Project Services Proposal Date:** 11/20/2020

**By and Between**

AMI Mechanical Systems  
12141 Pennsylvania Street  
Thornton, CO 80241  
(hereinafter "AMI")

Albertsons Companies.  
250 E Parkcenter Blvd.  
Boise, ID 83706  
(hereinafter "Customer")

**Project Info: 3698 44th Avenue Denver DMV 3 Packaged RTU Replacement Project.**

**Project Services Description:**

AMI Mechanical is pleased to present this project proposal and will provide the necessary labor & materials for the following scope of work: Remove and dispose of three existing 1982 Carrier Rooftop Units. Provide and install three new Carrier 3.5 Ton Packaged RTU's. AMI will reuse the existing power, controls and gas piping and connect to new units. Provide crane and rigging for entire scope of work. Provide full start up reports for all three new units along with factory warranty start up paperwork.

**Our Project Proposal Includes:**

1. Remove and dispose of three existing 1982 Carrier Rooftop Units.
2. Provide and install three new Carrier 3.5 Ton Packaged RTU's.
3. AMI will reuse the existing power, controls and gas piping and connect to new units.
4. Provide crane and rigging for entire scope of work.
5. Provide full start up reports for all three new units along with factory warranty start up paperwork.
6. Provide permits and inspections with City and County of Denver.
7. Provide necessary miscellaneous materials to complete project.
8. All labor to perform project.
9. All tools, equipment and instrumentation necessary to perform project.
10. Manufacturer's warranty.

**Project Exclusions:**

1. Providing equipment, materials and labor for work not detailed in this project's scope of work.
2. Providing labor after or before our normal business hours of 7:00 AM to 3:30 PM Monday through Friday.
3. Any existing electrical disconnects that are found to be faulty and do not pass inspection.

**Other Considerations:**

None at this time.



**Our Price for this scope of work is \$**

**32,610.00**

Thank you for allowing us to provide you with this project proposal. Please sign and return to authorize the above work and we will schedule this work at the mutually agreed to date.

**AMI Mechanical Systems**

  
\_\_\_\_\_  
**Brian Adamson**

**Account Manager**

\_\_\_\_\_  
**Title**

**11/20/2020**

\_\_\_\_\_  
**Date**

**Albertsons Companies.**

\_\_\_\_\_  
**Authorized Signature**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**

This proposal is the property of AMI and is provided to the Customer for their use only and may be withdrawn by AMI if not accepted within 30 days.

CONFIDENTIALITY NOTICE: This proposal, including all attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. All information contained herein is the property of AMI Mechanical Systems, Inc. The information is not to be used in any manner except as authorized by AMI Mechanical Systems, Inc. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient(s) you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited. If you are not the intended recipient, please contact the sender and destroy all copies of the original message. Thank you.