

CONSTRUCTION COST SHARING AGREEMENT

This Construction Cost Sharing Agreement (“Agreement”) is made as of the date of last signature below between the **CITY OF MARSHALLTOWN, IOWA**, an Iowa municipal corporation (“CITY”), and **CASEY’S MARKETING COMPANY**, an Iowa corporation (“CASEY’S”).

RECITALS

WHEREAS, CASEY’S owns and operates a convenience store (“Convenience Store”) situated upon real property locally known as 111 N. 3rd Avenue in the City of Marshalltown, and legally described as follows:

The North Half (N 1/2) of Lots Six (6) and Seven (7) in Block Four (4), Town of Marshalltown, Marshall County, Iowa, EXCEPTING therefrom that part conveyed to the State of Iowa by Warranty Deed dated January 30, 1957, and filed of record on March 12, 1957, in Book A-8, Page 329, more particularly described as follows: A right triangle in the Northwest corner of Lot Seven (7) Block Four (4), Town of Marshalltown, Marshall County, Iowa; with five (5) foot legs along the North and West thereof.

AND ALSO the North Forty-five (45) feet of the South Ninety (90) feet of Lots Six (6) and Seven (7) in Block Four (4), Town of Marshalltown, Marshall County, Iowa; and

WHEREAS, CASEY’S has acquired additional parcels of real property situated adjacent to the Convenience Store (“Additional Parcels”) locally known as 303^{1/2} Bromley Street and 305 Bromley Street, respectively, and legally described as follows:

303^{1/2} Bromley Street:

The South 50 feet of Lot 5, Block 4, Town of Marshalltown, Marshall County, Iowa; and

305 Bromley Street:

Lot 4, Block 4, Town of Marshalltown, Marshall County, Iowa, subject to easements and restrictions of record; and

WHEREAS, CASEY’S desires to develop the Additional Parcels in conjunction with the reconstructing and enhancement of the Convenience Store (“Redevelopment”); and

WHEREAS, constructing underground detention cells to handle additional storm water runoff generated by the Redevelopment (“Additional Runoff”) is economically infeasible for CASEY’S; and

WHEREAS, the CITY maintains a municipal storm sewer pipe (“Storm Sewer”) in the general vicinity of the Convenience Store and the Additional Parcels; and

WHEREAS, the cost of extending the Storm Sewer to provide drainage for Additional Runoff as provided for in the plans and specifications (“Plans and Specifications”) attached to this Agreement as “Exhibit A” and incorporated by this reference, is estimated to be \$103,984.00; and

WHEREAS, the CITY and CASEY’S desire to share the cost of extending the Storm Sewer.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the CITY and CASEY’S agree as follows:

1. **REDEVELOPMENT.** CASEY’S Redevelopment of the Convenience Store and Adjacent Parcels is ongoing as of the execution of this Agreement. CASEY’S agrees to complete all Redevelopment work within ninety (90) days of signing this Agreement in accordance with applicable local, state, and/or federal laws and regulations.

2. **EXTENSION OF STORM SEWER.** Provided CASEY’S completes Redevelopment of the Convenience Store and Adjacent Parcels in accordance with the terms of this Agreement, the CITY agrees to extend its Storm Sewer to provide drainage for Additional Runoff as provided for in the Plans and Specifications.

3. **PAYMENT.** CASEY’S agrees to pay the CITY twenty-five percent (25%) of the total cost incurred by the CITY to extend its Storm Sewer as provided in this Agreement, with 25% of the estimated total costs of \$103,984.00 (or \$25,996.00) being due and payable to the CITY upon CASEY’S execution of this Agreement to be held by the CITY in trust pending final completion of construction, at which point payment shall be applied with any overage returned to CASEY’S by the CITY or any shortfall paid to the CITY by CASEY’S, but in no event more than Thirty-Five Thousand Dollars (\$35,000). For purposes of this Agreement, total costs include the dollar amount actually paid contractors by the CITY in connection with extension of the Storm Sewer including contract change orders and claims related to such work as approved by the CITY.

4. **OWNERSHIP; MAINTENANCE.** Upon completion of construction, the CITY shall own all portions and components of the Storm Sewer, as extended, which shall become part of the CITY’S municipal storm sewer system and be maintained by the CITY as such without further contribution from CASEY’S.

5. **GENERAL PROVISIONS.** In the performance of each part of this Agreement, time shall be of the essence. Failure to promptly assert rights herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default. This Agreement shall

apply to and bind the successors in interest of the parties. This Agreement contains the entire agreement of the parties and shall not be amended, except by a written instrument duly signed by the CITY and CASEY'S. Paragraph headings are for convenience of reference and shall not limit or affect the meaning of this Agreement. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine, or neuter gender according to the context.

6. **NOTICE.** Any notice under this Agreement shall be in writing and be deemed served when it is delivered by personal delivery, email, or mailed by certified mail, addressed to the parties at the addresses given below.

7. **THIRD PARTY BENEFICIARIES.** The parties agree no third-party beneficiaries shall be created by this Agreement.

8. **JOINTLY DRAFTED.** This Agreement has been drafted jointly and shall not be construed against any party. The language shall be considered as a whole according to its fair meaning and not strictly for or against any party.

9. **APPROVAL; AUTHORITY.** This Agreement is expressly contingent upon approval by the City Council of Marshalltown, Iowa. In the performance of this Agreement, CITY, as a municipal corporation, shall take all action legally required of a municipal corporation.

10. **SEVERABILITY.** If any provision of this Agreement or any portion hereof, is rendered invalid by operation of law, judgment, or court order, the remaining provisions and/or portions of provisions shall remain valid and enforceable and shall be construed to so remain.

11. **COUNTERPARTS.** This Agreement may be executed in several counterparts, each of which, when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all parties are not signatories to the original or the same counterpart. Furthermore, the parties may execute and deliver this Agreement by electronic means, such as .pdf or a similar format. The CITY and CASEY'S agree delivery of the Agreement by electronic means shall have the same force and effect as delivery of original signatures and that each of the parties may use such electronic signatures as evidence of the execution and delivery of the Agreement by all parties to the same extent as an original signature.

12. **EXECUTION.** When and if executed by both the CITY and CASEY'S, this Agreement shall become a binding contract.

CASEY'S MARKETING COMPANY,
an Iowa corporation

CITY OF MARSHALLTOWN, IOWA,
an Iowa municipal corporation

Dated this _____ day of _____,
2019.

Dated this ____ day of _____,
2019.

By: _____
Michael R. Richardson, President

By: _____
Joel Greer, Mayor

Attest:

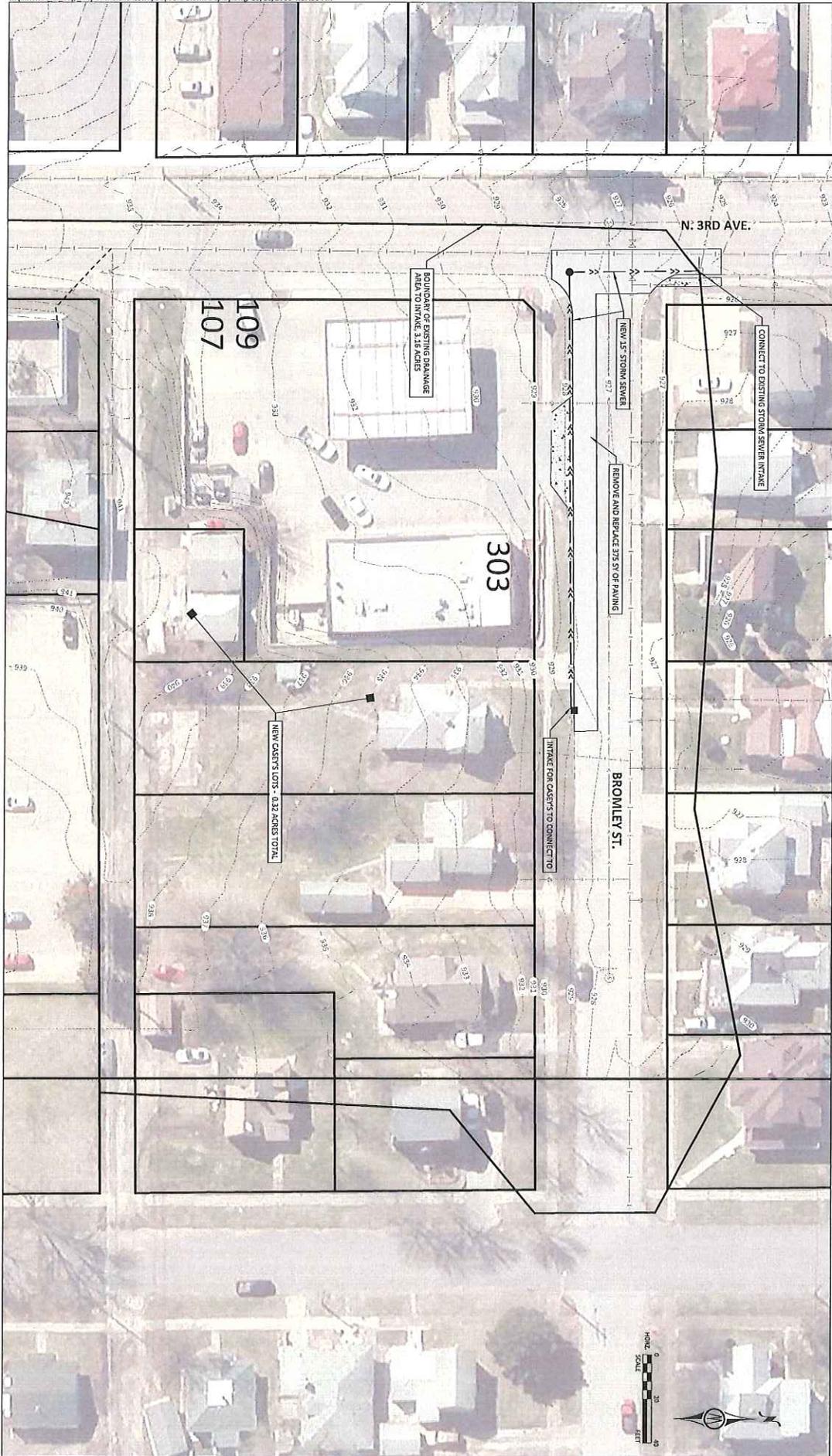
Shari Coughenour, City Clerk

Address : One SE Convenience Blvd.
Ankeny, IA 50021

Address: Marshalltown City Hall
24 N Center Street
Marshalltown, IA 50158

Telephone: (____) _____-_____

Telephone: (319) 646-2154



N. 3rd Storm Sewer Extension
 City of Marshalltown

Exhibit
 October 2018



CITY OF MARSHALLTOWN
MARSHALLTOWN, IA



**BOLTON
& MENK**

N. 3RD STORM SEWER EXTENSION FOR CASEY'S
10/18/2018

Real People. Real Solutions.

Item No.	Description	Unit	Quantity	Price	Extension
1	Mobilization	LS	1	\$ 6,878.00	\$ 6,878.00
2	Pavement removal	SY	375	\$ 20.00	\$ 7,500.00
3	Unclassified excavation	CY	125	\$ 18.00	\$ 2,250.00
4	Subgrade Preparation	SY	375	\$ 4.00	\$ 1,500.00
5	Aggregate Base	SY	375	\$ 12.00	\$ 4,500.00
6	Storm Sewer - 15 Inch	LF	260	\$ 55.00	\$ 14,300.00
7	Storm Sewer Intake	EA	1	\$ 3,500.00	\$ 3,500.00
8	Storm Sewer Manhole	EA	1	\$ 2,500.00	\$ 2,500.00
9	10" PCC Pavement	SY	375	\$ 65.00	\$ 24,375.00
10	5" Sidewalk	SY	12	\$ 50.00	\$ 600.00
11	7" PCC Driveway	SY	50	\$ 55.00	\$ 2,750.00
12	Erosion Control	LS	1	\$ 5,000.00	\$ 5,000.00
13					\$ -
14					\$ -
15					\$ -

Subtotal Construction	\$ 75,653.00
Construction Contingencies 20%	\$ 15,131.00
Opinion of estimated Construction Cost	\$ 90,784.00
Design, Plans and Specifications	\$ 6,400.00
Construction Contract Administration	\$ 900.00
Construction Staking	\$ 1,400.00
Resident Project Representative - Part Time	\$ 4,500.00
Subtotal Engineering	\$ 13,200.00
TOTAL OPINION OF IMPROVEMENT COST	\$ 103,984.00