

## REAL ESTATE PURCHASE AGREEMENT

**CASEY'S RETAIL COMPANY**  
**One Convenience Boulevard S.E.**  
**Ankeny, IA 50021**

***THIS IS A LEGALLY BINDING CONTRACT: IF NOT UNDERSTOOD, SEEK LEGAL ADVICE!***

Casey's Retail Company ("Buyer" or "Casey's"), hereby agrees to buy and City of Mountain Lake ("Seller"), of Mountain Lake, Minnesota, hereby agrees to sell that certain real estate (the "Real Estate") located in or near the Town or City of Mountain Lake, Cottonwood County, Minnesota, described on Exhibit "A" attached hereto and by this reference incorporated herein, the street address or location of which is North East Corner of MN Hwy 60 and 570<sup>th</sup> Avenue, Mountain Lake, Cottonwood County, Minnesota, and which has a lot size of approximately 171.38 feet x 138.46 feet x 317.57 feet x 261.94 feet x 437.25 feet **together with** any easements and appurtenant servient estates and free from all liens and encumbrances, **subject to** only the following: (a) zoning and other ordinances acceptable to Buyer; (b) covenants of record acceptable to Buyer; and (c) easements of record for public utilities, roads and highways acceptable to Buyer; **provided** Buyer, on possession, is permitted to use the Real Estate to build and operate a convenience store which sells motor fuel, groceries, and prepared carry-out foods and has a package beer license, in accordance with Buyer's plan for development of the Real Estate. The terms and conditions of sale are as follows:

1. **Purchase Price.** The purchase price shall be Ninety Thousand (\$90,000.00) ("Purchase Price"), payable at Cottonwood County, Minnesota, as follows:
  - A. The sum of Three Thousand Dollars (\$3,000.00) shall be paid as a down payment, which shall be refunded to Casey's in the event this business transaction does not close (the "Earnest Money"). The Earnest Money shall be made payable to Commercial Partners Title, LLC (hereinafter the "Title Company").
  - B. The entire balance of the Purchase Price remaining after the aforementioned payment has been made shall be paid in full at Closing, upon delivery of a warranty deed, duly executed and in proper form, conveying full marketable title to the Real Estate.
  
2. **Closing and Possession.** Provided all contingencies and conditions to which this Agreement is subject have then been satisfied in full or waived in writing by Buyer, the parties shall close this transaction on May 28, 2018 (the "Projected Date of Closing"), or on such earlier date as the parties may agree. In the event that all of said conditions and contingencies have not been so satisfied or waived as of the Projected Date of Closing, then, subject to the remaining terms of this Agreement, Buyer shall nevertheless continue to diligently pursue the satisfaction of such conditions and contingencies, and closing shall occur when all conditions and contingencies not waived have been met (the "Closing"). However, if any such condition or contingency remains materially unsatisfied as of 90 days after the Projected Date of Closing and has not been waived by Buyer, then in that event this Agreement shall be deemed terminated and of no further force or effect, unless the parties agree in writing to further extend this Agreement.

Possession of the Real Estate shall be delivered to Buyer on the actual date of Closing (the "Closing Date"). Any adjustments of rent, insurance, and interest shall be made as of such date. Seller agrees that it will make available to Buyer any payments, fees, disbursements, payoffs, etc. as set forth on Seller's portion of the closing statement.

3. **Real Estate Taxes.** Seller shall pay all real estate taxes assessed against the Real Estate which would be delinquent if not paid on or before the Closing Date and any unpaid real estate taxes payable in prior years. Unpaid taxes assessed but not delinquent as of the Closing Date shall be pro-rated between Seller and Buyer based on the prevailing practice in the state where the Real Estate is located. Any proration of taxes on the Real Estate shall be based upon such taxes for the year currently payable, unless the parties provide otherwise in this Agreement. Buyer shall pay all subsequent real estate taxes.

4. **Special Assessments.** Seller shall pay all special assessments which are a lien on the Real Estate as of the Closing Date. All other special assessments shall be paid by Buyer.

5. **Title Evidence.** Seller shall provide evidence of title to Buyer as follows:

**Title Insurance.** Buyer, upon receipt of the fully signed Purchase Agreement, will order a title commitment, at Seller's expense, from the Title Company for an owner's title insurance policy insuring title to the Real Estate for an amount equal to the Purchase Price and providing coverage which includes the Standard Exception Waiver Endorsement (ALTA Owner's Policy). Seller shall bear all other expenses associated therewith, including the cost of any necessary title services. Buyer shall provide a copy of the title commitment to Seller upon Buyer's receipt, and Buyer shall then have a reasonable time to submit written title objections to Seller. Seller shall have a further reasonable time to correct any title objections or deficiencies which may be found to exist and to satisfy all requirements of the commitment. Buyer will provide a suitable survey for underwriting purposes, at Buyer's expense.

If Seller is unable to produce marketable title in conformity with this Agreement within a reasonable period of time, then in addition to any other remedies available under applicable law, Buyer shall have the option to declare this Agreement null and void and shall be refunded the Earnest Money promptly upon demand. In the event Seller has provided suitable title evidence in compliance with this paragraph, and if this transaction thereafter fails to be consummated due to no fault or failure attributable to Seller, then in such event Buyer will reimburse Seller its actual reasonable costs of obtaining such title evidence.

6. **Risk of Loss and Insurance.** All risk of loss shall remain with Seller until possession of the Real Estate is delivered to Buyer. In the event Buyer allows Seller to retain possession of the Real Estate for any time period after Closing, Seller agrees to maintain liability insurance coverage on the Real Estate with such limits as Buyer may reasonably require, and shall provide Buyer, on demand, a certificate of insurance showing Buyer to be an additional or named insured as to such coverage; and Seller shall indemnify and hold Buyer, its agents, successors and assigns, harmless from any and all claims, liability or damages of whatever kind relating to, or

arising from, Seller's continued use and occupancy of the Real Estate. This provision shall survive Closing.

7. **Fixtures.** All property that integrally belongs to, or is part of, the Real Estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, windows, storm doors, screens, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment, wall-to-wall carpeting, built-in items and electrical service cable, outside television towers and antenna, fencing, gates and landscaping, shall be considered a part of the Real Estate and included in the sale except: none

8. **Deed.** Upon payment of the Purchase Price, Seller shall convey the Real Estate to Buyer or its assignees by warranty deed, free and clear of all liens, restrictions, and encumbrances except as otherwise provided in this Agreement. Any general warranties of title shall extend only to the time of acceptance of this offer, with special warranties as to acts of Seller continuing up to time of delivery of the warranty deed.

9. **Closing Costs.** The cost of the closing agent will be equally split between the parties and the remaining closing charges will be prorated pursuant to local real estate customs.

10. **Hazardous Materials.** Prior to Closing, Buyer shall have the right to conduct an investigation of the Real Estate to determine whether any structure or improvement contains asbestos or any other hazardous material. If any such material is found to be present, then Buyer shall have the right to rescind this Agreement and terminate its obligations hereunder at any time prior to Closing, unless Buyer has thereafter specifically waived this provision in writing.

11. **Contingencies.** The obligations of Buyer hereunder are contingent upon full satisfaction of each and every one of the following requirements prior to Closing:

- A. Buyer obtaining evidence satisfactory to Buyer, based on tests and other investigation conducted at Buyer's expense, that the Real Estate and the groundwater therein are not contaminated with any hazardous substance or material or pollutant of any kind, including gasoline or other fossil fuels, and require no cleanup or other corrective action under applicable Federal, State, or local environmental laws or regulations, but are free from pollution and environmentally safe for Buyer's proposed use of the Real Estate. If contamination is found to be present on the Real Estate, this Agreement shall be voidable at the option of Buyer.
- B. Buyer being assured that the land is stable, well drained, and otherwise suitable for the construction proposed and operation of a septic tank system, if necessary.
- C. Buyer being able to obtain from the appropriate authority or authorities a suitable building permit to construct such improvements as comprise a Casey's General Store in accordance with Buyer's plan for development of the Real Estate, permits for more than one suitable access to and from public highways as needed, authority or permits as needed for waste disposal and needed utility service, and

licenses and permits necessary to operate a convenience-type store which sells motor fuel, groceries, packaged beer and prepared carry-out foods.

- D. Buyer obtaining a survey, at Buyer's expense, confirming the boundaries substantially as represented by Seller, without encroachments.
- E. Buyer being assured that each of the following is true:
  - 1. Access to the Real Estate as needed by Buyer is available at no additional cost to Buyer.
  - 2. An adequate and continuous supply of suitable water is available to the Real Estate at no additional cost to Buyer, except costs associated with the construction of a suitable water line from Buyer's building to the local water utility company's existing water line, hook-up charges and normal ongoing fees of the water utility company based on actual consumption.
  - 3. Adequate and continuing sanitary sewer service is available to the Real Estate or an adequate septic system serves, or can be constructed to serve, the Real Estate into the future at no additional cost to Buyer, except costs associated with the construction of the septic system or sanitary sewer line from Buyer's building to the sewer line of the local sanitary sewer utility or municipality, hook-up charges and normal ongoing fees of the utility company or municipality based on actual use.
- F. In the event a government agency requires the dedication or the granting of a portion of the Real Estate for road right-of-way or other purposes without paying just compensation to Buyer, then, in that event, the parties agree that the Purchase Price will be reduced in an amount equal to the square foot price of the Real Estate being lost to the government agency or by adding an equal amount of additional real estate from Seller at no cost.

Unless all of the above-stated contingencies have been satisfied in full or waived in writing by Buyer as of Closing, Buyer shall not be required to close this transaction, but shall have the option to thereupon terminate its obligations hereunder and rescind this Agreement, except as may be expressly provided otherwise herein. Said option to terminate may be exercised at any time Buyer determines it is impossible or impracticable to satisfy any of the above-stated contingencies.

12. **Impossibility/Impracticability of Development; Change of Conditions.** If Buyer, in its own judgment, shall determine that (i) for reasons of impossibility or impracticability, the Real Estate cannot be developed at reasonable cost into a successful convenience store/gasoline filling station in accordance with Buyer's plan for development; or, (ii) that it has or will become futile to attempt the same because of actual or expected changes in fundamental conditions on which the success of Buyer's proposed convenience store/gasoline filling station is predicated,

due to factors beyond the control of Buyer including, but not limited to, any or all of the following, to-wit:

- A. Physical conditions, including soil and/or groundwater conditions, topography, drainage, influences of adjoining properties and uses, the influence of streams, flood plains or bodies of water, excessive grading, fill or earth removal costs, the need for extraordinary retaining walls, footings or pilings, or the potential for damage to adjoining property or the value thereof; or
- B. Restrictions, conditions or limitations imposed by, or resulting from, the action, refusal to act, or posturing of a public body, council, board or official, as a result of which access, traffic flow, licensing, signage, or use of the Real Estate or adjacent properties has been, or is expected to be, adversely impacted including, by way of illustration only, proposals to relocate a highway in proximity to the Real Estate, installation of signal lights, raised medians or traffic blisters, institution of intersection set-backs or frontage roads, or rezoning of or approval of a development plan for adjoining property; or
- C. Changes in the local economy due to closure or curtailment of a local employer, financial institution, school, attraction, recreation area, or shopping center, or changes in expected traffic counts for any reason, including changes in highways or traffic patterns, or the closure of complementary businesses, or changes in the competitive environment, including, by way of illustration, actual or proposed opening of additional convenience stores or retailers of gasoline, pizza or sandwiches in proximity to the Real Estate, or material changes or improvements in any such existing business;

then Buyer shall have the right at any time prior to Closing to rescind this Agreement and terminate its obligations hereunder by personally delivering or mailing to Seller or Seller's representative by certified U.S. Mail a notice of election to rescind, setting forth the reasons on which such election is based.

13. **Assignment.** Seller shall not, prior to Closing, sell, assign, or transfer this Agreement or any interest herein or any interest in the subject Real Estate without the written consent of Buyer.

14. **Remedies of the Parties.**

- A. If Seller fails to timely perform this Agreement, all payments made hereunder shall be returned to Buyer, promptly upon demand.
- B. Buyer and Seller shall each be entitled to utilize any and all other remedies available at law or in equity for breach of this Agreement.

15. **Binding Effect.** This Agreement shall be binding upon the undersigned, their heirs, legal representatives, successors and assigns, according to the terms hereof.

16. **Time of the Essence.** Time is of the essence in this Agreement.
17. **Construction.** In the construction of this Agreement, use of the singular shall include the plural, use of the plural shall include the singular, and the use of the neuter or any gender identifying words and phrases shall be deemed to include either or both genders, according to context.
18. **Exclusive Agreement.** Buyer and Seller agree that all understandings and agreements hereto had between them are merged in this Agreement, which alone fully and completely expresses their agreement, and that this Agreement is entered into after full investigation, neither Buyer nor Seller relying upon any statement or representation not embodied in this Agreement by the other.
19. **Amendments.** This Agreement may not be changed orally, but only by agreement in writing, duly executed by or on behalf of the party(ies) against whom enforcement of any waiver, change, modification, consent or discharge is sought.
20. **Adjacent Property.** The obligations of Buyer under this Agreement are contingent upon Buyer's contemporaneous closing on contracts to acquire one or more properties owned by a third-party or parties adjoining the Real Estate and/or easement rights over one or more such properties adjoining the Real Estate.  YES  NO
21. **Additional Provisions.** The additional provisions set forth on the Addendum attached hereto (if any) are an integral part of this Agreement.

**An Addendum is Attached:  YES  NO**

*If Seller is unsure of the effect the subject transaction may have, Seller should seek the advice of an attorney before signing.*

SELLER:

CITY OF MOUNTAIN LAKE

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_ (date) \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_ (date) \_\_\_\_\_  
Title: \_\_\_\_\_

BUYER:

CASEY'S RETAIL COMPANY

By: \_\_\_\_\_  
Richardt T. Schappert, Vice President (date) \_\_\_\_\_

## **EXHIBIT "A"**

to the Purchase Agreement between Casey's Retail Company, Buyer, and City of Mountain Lake, Minnesota, Seller, dated \_\_\_\_\_, 2017, with respect to the property known as North East Corner, MN Hwy 60 and 570<sup>th</sup> Avenue, Mountain Lake, Cottonwood County, Minnesota.

### **Legal Description**

Being a parcel of property located at the northeast intersection of MN Hwy 60 and 570<sup>th</sup> Avenue, measuring 171.38' x 138.46' x 317.57' x 261.94' x 437.25' and being part of the larger parcel described below:

That portion of the NW<sup>1</sup>/<sub>4</sub> of Section 4, Township 105 North, Range 34 West of the Fifth Principal Meridian, in Cottonwood County, Minnesota, described as follows: Commencing at the Southwest corner of the NW <sup>1</sup>/<sub>4</sub> of Section 4, Township 105, Range 34; thence North along the West section line of said NW<sup>1</sup>/<sub>4</sub> a distance of 958 feet; thence East parallel with the South section line of said NW <sup>1</sup>/<sub>4</sub> a distance of 133 feet; thence North parallel with the West section line of said NW<sup>1</sup>/<sub>4</sub> a distance of 75 feet; thence East parallel with the South section line of said NW <sup>1</sup>/<sub>4</sub> a distance of 1,305.5 feet, thence south a distance of 1,033 feet to the south line of said NW <sup>1</sup>/<sub>4</sub> to a point which is 1,450.5 feet East of the Southwest corner of said NW<sup>1</sup>/<sub>4</sub>; thence West along the South line of said NW <sup>1</sup>/<sub>4</sub> to the point of beginning, containing 34.02 acres, more or less. EXCEPTING those parts thereof shown as Parcel 10 on Minnesota Department of Transportation Right-of-Way Plat Numbered 17-6 as the same is on file and of record in the office of the County Recorder in and for Cottonwood County, Minnesota. (Parcel No. 12-004-0500).

Legal Description Subject to Refinement. The parties acknowledge that the legal description and approximate dimensions of the Real Estate herein set forth may contain minor inaccuracies, may not be complete, or may lack definition which can only be provided through a survey. The parties agree that such legal description and dimensions of the Real Estate shall be subject to refinement, correction or completion, based on a plat or plat of survey made subsequent to the date of this Agreement, and/or further investigation of the title, before as well as after Closing of this transaction. This provision shall survive Closing.



**ADDENDUM TO PURCHASE AGREEMENT**

This Addendum, consisting of 1 page, is an integral part of the Purchase Agreement between Casey's Retail Company, Buyer, and City of Mountain Lake, Seller, dated \_\_\_\_\_, 2017, with respect to the property known as North East Corner, MN Hwy 60 and 570<sup>th</sup> Avenue, Mountain Lake, Cottonwood County, Minnesota.

**ADDITIONAL PROVISIONS:**

22. **Tax Abatement.** Subject to the Buyer and seller entering into a mutually acceptable agreement for a tax abatement equal to the special assessments related to new infrastructure.

23. **Construction by Buyer.** Buyer agrees to commence construction of a Casey's General Stores convenience store on the Real Estate within one year of closing. Buyer's construction shall include a diesel island providing diesel fuel to tractor trailer vehicles.

24. **Restrictive Covenant.** In further consideration hereof, Seller covenants and agrees for itself, its successors and assigns that, for a period of fifteen (15) years from and after Closing, Mountain Lake Commercial park (excluding the Real Estate) will not be used for, or in conjunction with, any business that includes the sale of gasoline or other motor fuels; cigarettes, including all electronic cigarettes and other tobacco products; or the off premises sale of alcoholic beverages. This covenant shall run with the land and shall be binding upon all assignees, transferees, and successors-in-interest to Mountain Lake Commercial park (excluding the Real Estate) for the said term of fifteen (15) years. This provision shall survive Closing hereunder and shall be included in a restrictive covenant document to be recorded at Closing.

SELLER:

CITY OF MOUNTAIN LAKE

By: \_\_\_\_\_ (date)  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_ (date)  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BUYER:

CASEY'S RETAIL COMPANY

By: \_\_\_\_\_ (date)  
Richardt T. Schappert, Vice President

## **AUTHORIZATION TO CONDUCT ENVIRONMENTAL AUDIT**

**TO:** Whom it may concern:

The undersigned, City of Mountain Lake ("Seller/Owner"), being the owner of the property identified on Exhibit "A" attached hereto and by this reference incorporated herein, including all real estate described in said Exhibit "A" (the "Premises"), hereby authorizes Casey's General Stores, Inc. ("Casey's"), its subsidiaries, employees, agents, consultants and contractors to conduct at Casey's expense a pre-purchase/lease environmental audit of the Premises, to include, but not be limited to, any or all of the following:

1. To enter upon the Premises for the purpose of physically inspecting the land and any improvements to determine whether any improvements contain asbestos, lead, poisons, or other hazardous substances; to ascertain whether the Premises have been subject to any use or uses that may have caused hazardous substances or other contaminants to be kept, used or transported on the Premises; and, to obtain samples from any buildings, improvements, or personal property found on the Premises for purposes of analysis.
2. To review all records of the Seller/Owner relative to past uses and ownership of the Premises or containing any evidence concerning the environmental history of the same, including evidence of previous environmental audits, tests, monitoring, or cleanup or remedial work performed at any time on the Premises.
3. To enter upon the Premises at any time or times within a 60-day period commencing immediately for the purpose of obtaining samples from the land, including residual materials thereon, and to cause tests of the soil and/or groundwater to be conducted to determine:
  - a) Whether there is contamination from gasoline or other hydrocarbons, hazardous substances, or contaminants of any other kind on the Premises;
  - b) Whether the Premises have at any time been used as a dump site or landfill and/or contain waste or other fill material that is hazardous, unlawful, inappropriate to Casey's proposed development of the Premises, or requires removal or remediation of any kind.
  - c) Whether the land is safe, stable, well-drained and otherwise suitable for construction and operation of a convenience store with gasoline sale facilities, whether the soil will satisfactorily percolate (if a septic system is in use), and whether there are wells, septic tanks, drainage tiles or structures, cisterns, underground utility lines, or other underground structures on the Premises.

4. To cause tests to be conducted of any and all fuel storage tanks, lines, equipment and related facilities to determine if the same are tight and do not leak and are functioning properly.

Casey's shall have the right to select the testing agency or firm to conduct any such tests, and the laboratory or laboratories to analyze any samples taken. If such tests result in the discovery of contamination by gasoline or other hydrocarbons, contaminants or hazardous substances in excess of acceptable levels under applicable Federal or State laws and regulations or local ordinances or rules, then the undersigned Seller/Owner will hold Casey's harmless from any responsibility for cleanup, monitoring, remediation, further testing, reporting or other procedures which may be indicated as necessary or required under such laws, regulations and ordinances. All boreholes from drilling operations will be appropriately filled unless requested otherwise by the Seller/Owner.

Any person, firm, agency, laboratory, consultant or expert conducting such tests or analyzing test results shall be authorized to provide to Casey's written copies of any and all reports of test findings, including recommendations for correction or remediation, and to discuss with the employees, representatives, consultants and contractors of Casey's any test results and the impressions and opinions of the person, firm, agency or other professional concerning the nature and seriousness of any contamination or other problems indicated, and the probable cost and effectiveness of alternative corrective or remedial procedures. This authorization is given with the understanding that the undersigned Seller/Owner will be entitled to a copy of any reports of findings or test results, upon request.

SELLER/OWNER:

CITY OF MOUNTAIN LAKE

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone Number

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone Number

Property Address: North East Corner / MN Hwy 60 and 570<sup>th</sup> Avenue, Mountain Lake, Cottonwood County, Minnesota