

RESOLUTION NO. 1549

RESOLUTION APPROVING AN AGREEMENT CONCERNING RIGHT OF FIRST REFUSAL.

WHEREAS, Casey's General Stores has heretofore submitted a proposed Site Plan to construct a gas and convenience store at 615 S. Downey Street in the City of West Branch, Iowa (the "Project"); and

WHEREAS, the City of West Branch Planning and Zoning Commission has reviewed the proposed Site Plan and recommended its approval to the West Branch City Council; and

WHEREAS, the Project requires public improvements for S. Downey Street and Tidewater Drive; and

WHEREAS, Casey's Marketing Company has agreed to cause these improvements to be constructed; and

WHEREAS, the City of West Branch has agreed to repay Casey's Marketing Company for the City's share of these costs through tax increment financing rebates; and

WHEREAS, the West Branch City Attorney has drafted a development agreement with Casey's Marketing Company for the consideration of the West Branch City Council; and

WHEREAS, Casey's Marketing Company has reviewed and is in agreement with the development agreement; and

WHEREAS, the City Council of the City of West Branch, Iowa approved the aforementioned development agreement with Casey's Marketing Company on May 18, 2015; and

WHEREAS, the Developer's obligations under the aforementioned development agreement includes the following:

8. The Developer shall maintain and operate the Casey's gas station and convenience store currently located at 311 E. Main Street for the duration of this Agreement. At such time that the Developer ceases to maintain and operate the Casey's gas station or convenience store at 311 E. Main Street, the City's obligation to make payments under this Agreement ceases, until Casey's Marketing Company provides the City with the right of first refusal on the property located at 311 E. Main Street.

9. In the case that the Developer ceases to maintain and operate the Casey's gas station or convenience store at 311 E. Main Street, and the City is provided with the right of first refusal on the property located at 311 E. Main Street, Casey's Marketing Company has 180 days to dispose of the Property at 311 E. Main Street. In the case that Casey's Marketing Company fails to dispose of the Property within 180 days of ceasing to maintain and operate the Casey's gas station or convenience store at 311 E. Main Street, the City's obligation to make payments under this Agreement ceases.

WHEREAS, the Developer ceased to maintain and operate the Casey's gas station and convenience store on November 30, 2016; and

WHEREAS, the City's obligation to make payments under the aforementioned development agreement have therefore ceased until such time as the developer provides the City of West Branch with right of first refusal on the property located at 311 E. Main Street; and

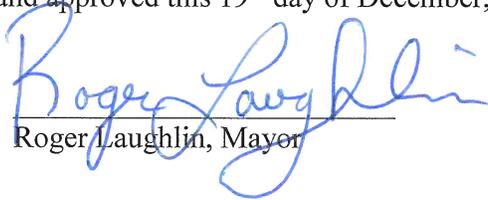
WHEREAS, Casey's Marketing Company now desires to grant a first right of refusal in the event that they decide to sell the property; and

WHEREAS, the city attorney has drafted an Agreement Concerning Rights of First Refusal and provided that agreement to Casey's Marketing Company for their review, and

WHEREAS, it is now necessary to approve said agreement concerning right of first refusal.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa, that the aforementioned agreement concerning right of first refusal with Casey's Marketing Company is hereby approved.

Passed and approved this 19<sup>th</sup> day of December, 2016.

  
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Roger Laughlin, Mayor

ATTEST:

  
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Matt Muckler, City Administrator/Clerk