

**AN ORDINANCE  
AUTHORIZING THE MAYOR TO ENTER INTO A LEASE  
AGREEMENT WITH CHAGRIN FALLS SHOPPING PLAZA,  
LTD., AND DECLARING AN EMERGENCY.**

WHEREAS, the Village desires to enter into a lease agreement with Chagrin Falls Shopping Plaza, Ltd., in order to continue to provide public access to the Chagrin Falls Shopping Plaza parking lot; and

WHEREAS, Council approves the lease as documented in "Exhibit A," which is appended hereto and incorporated herein by reference; and

WHEREAS, the Village Council desires to grant authority to the Mayor to execute the lease agreement, as drafted, and take any further actions to accomplish the purposes of the lease and make any amendments which are necessary and are not adverse to the Village's interests.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:**

SECTION 1. That the Mayor is authorized and directed to enter into a lease agreement with Chagrin Falls Shopping Plaza, Ltd., a draft of which is attached hereto and incorporated herein as "Exhibit A." The Mayor is further authorized to amend the agreement in any manner that is not adverse to the Village's interests, and execute such further documentation and perform such additional actions as may be necessary to accomplish the purpose of the agreement.

SECTION 2. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

SECTION 3. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 4. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of this Village and for the further reason that this Ordinance is necessary to authorize the leasing of certain parking facilities immediately and forthwith, so as to permit such parking to occur without interruption; wherefore, provided it receives the requisite number of affirmative votes of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage by this Council

**ORDINANCE NO.: 2015- 55**  
**INTRODUCED BY: MR. PATTON**

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and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: December 14, 2015

  
\_\_\_\_\_  
Council President

Submitted to the Mayor for  
his approval on this

15 day of December, 2015

Approved by the Mayor

December 15, 2015

  
\_\_\_\_\_  
Mayor

I hereby certify that Ordinance No. 2015- 55 was duly enacted on the 14 day of December, 2015, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.

  
\_\_\_\_\_  
Clerk of Council

# EXHIBIT "A"

## LEASE

THIS INDENTURE OF LEASE, executed on this 14 day of DEC., 2015, and effective as of \_\_\_\_\_, 2015, by and between CHAGRIN FALLS SHOPPING PLAZA, LTD., hereinafter known as LESSOR or PLAZA and the VILLAGE OF CHAGRIN FALLS, OHIO, a municipal corporation, hereinafter known as LESSEE or VILLAGE.

## WITNESSETH

### PREMISES:

LESSOR and LESSEE mutually agree to lease certain premises situated in the Village of Chagrin Falls, County of Cuyahoga, and State of Ohio, which are more particularly described in "Exhibit A", attached hereto, together with appurtenances, for the purpose of a shared parking lot for public parking and Plaza parking. As used herein, the term "Premises" refers to the real property above described and to the improvements located thereon from time to time and during the term of this Lease, but subject to the following terms, exclusions and conditions of use.

### TERM:

The initial term of this Lease shall be for ten (10) years, commencing on the \_\_\_\_\_, 2016 and ending on the \_\_\_\_\_, 2026. This Lease shall continue in full force and effect from year to year unless either party gives the other written notice of its desire to terminate the Lease at least one (1) year prior to any anniversary date thereof. The LESSEE agrees that it will not terminate the lease so long as the LESSOR has a major grocery as an anchor tenant.

### CONSIDERATION

In consideration for leasing the Premises, and in consideration of the mutual covenants herein contained, LESSEE agrees that it will:

- (a) Maintain a municipal parking lot on the Premises except that approximately one hundred ninety(190) spaces to be designated "Municipal 2 Hour Parking", one hundred (100) spaces to be designated "Plaza Employee Parking", and the remaining approximately twenty five (25) spaces designated as "Municipal All Day Parking" as identified in "Exhibit A";
- (b) Post signs as necessary to designate the parking zones, parking restrictions and time limits. Parking regulations shall be controlled by the Village for the twenty five spaces designated as "Municipal All Day Parking". Parking regulations shall be controlled by the Plaza for the remaining spaces;

- (c) Remove all snow from, and apply deicing chemicals as necessary to the Premises, which shall include all areas of the Lessor's parking lot, including all areas reserved for the customers and employees of the tenants of the Lessor as shown on Exhibit "A", and further; and;
- (d) Provide annually, and maintain, all striping for parking spaces on the surface of the parking lot, which areas shall include all areas not leased to the Lessee, and including those parking spaces reserved for the customers and employees of the tenants of the Lessor, as shown on Exhibit "A", and further;
- (e) Make all minor repairs to the Premises, which shall include all areas of the Lessor's parking lot (excluding buildings), and maintain, in good condition, such portions of the Premises adjacent to the Lessor's areas of the parking lot, such as driveways, which would otherwise be required to be maintained by Lessor, including minor maintenance and cleaning, the emptying of trash in approximately seven(7)40-gallon containers located for public deposit of litter in and about the sidewalk area surrounding the public parking area, minor repair and cleaning of catch basins, minor pot hole patching (any major patching or resurfacing of the property LESSOR'S property shall be the sole and complete expense of the LESSOR);
- (f) Enforce all mutually agreed Plaza parking regulations as noticed by appropriate signage provided by the Lessor. Parking regulations including time limits may be modified from time to time by mutual agreement.
- (g) Provide parking enforcement patrols for the Premises in an amount and at a frequency of not less than fifty-four (54) hours per week at the Premises.
- (h) Cause resurfacing and major repairs to the LESSEE'S parking lot surface when mutually determined to be necessary at the LESSEE'S sole cost and complete expense.

LESSOR agrees that it will:

- (a) Pay to the LESSEE, the Village of Chagrin Falls, Ohio, Eleven Thousand, Four Eight Hundred and no/100 Dollars (\$11,400) per annum, payable in equal monthly installments of Nine Hundred Fifty and no/100 Dollars (\$950.00 )per month, in advance on the first day of each month, said amount being paid to the Lessee for maintenance services, trash pickup and waste disposal, lot striping, snow removal and police patrols on the Premises provided by the Lessee hereunder (the "Maintenance Fee"); Further, the Lessee agrees to provide to the Lessor One Thousand and no/100 Dollars (\$1,000.00) per year credit for each renewal year under this Lease, providing that the LESSOR provides lighting as required in the following paragraph (b);
- (b) Provide electricity used in lighting the Premises, as reasonably requested by the Village, until not later than 11:59 p.m. every evening at LESSOR's sole cost and expense;
- (c) Provide, regulate and issue all permits to Plaza employees for parking in the "Permit Only" portions of the parking lot at LESSOR'S sole cost and expense. LESSOR agrees to establish the number per store and the regulations for applying for permits for said parking spaces, and to keep the Village of Chagrin Falls Police Department apprised of the permit procedure, the number granted, where said permits will be

- located on the vehicles and a sample of their appearance and manner by which to determine authenticity.
- (d) Cause resurfacing and major repairs to the LESSOR'S parking lot surface when mutually determined to be necessary at the LESSOR'S sole cost and complete expense.

#### ASSIGNMENT AND SUBLETTING BY THE LESSEE

Lessee shall not assign this Lease or sublet any portion of the Premises without the express and prior written consent of the Lessor. Any such assignment or subletting without the express written consent of the Lessor shall be void and, at the sole option of the Lessor, may cause a termination of this Lease.

#### WARRANTIES OF TITLE AND QUIET POSSESSION

LESSOR covenants that it is well seized of the Premises in fee simple and has full right to enter into this Lease and that LESSEE shall have quiet and peaceful possession of the Premises during the term hereof.

#### INSURANCE:

Lessee, at Lessee's sole cost and expense, shall provide general public liability insurance, including coverage for medical bills, bodily injury and property damage, insuring the Lessee against accidents which occur on Lessee's property, with minimum coverage amounts, as follows: \$ 1,000,000.00 for each occurrence and \$ 3,000,000.00 in the aggregate.

Lessor, at Lessor's sole cost and expense, shall provide general liability insurance, including coverage for medical bills, bodily injury and property damage, insuring the Lessor against incidents which occur on Lessor's property, with minimum coverage amounts, as follows: \$ 1,000,000.00 for each occurrence and \$ 3,000,000.00 in the aggregate.

#### IMPROVEMENTS:

On delivery of possession of the Premises to LESSEE pursuant to the terms of this Lease, LESSEE shall have the right, subject to the terms of this Lease, to install and maintain on the Premises a municipal parking lot to be operated without charging for the use thereof, and other improvements, and to make alterations additions there to such as striping and signs and reinstall the same. During the term of this Lease, all such improvements installed by LESSEE shall be and remain LESSEE'S property, with the exception of signage installed by LESSEE, which shall be returned to the LESSOR by LESSEE if the LESSOR so desired.

#### UTILITIES:

LESSOR represents that the only utility expense for the subject Premises is electricity, which shall be the LESSOR'S responsibility, to the extent set forth herein.

## NOTICES:

All notices, demands or other writings in this Lease provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other shall be deemed to have been fully given or made or sent when made in writing and deposited in the U.S. mail, registered and postage prepaid and addressed as follows:

TO LESSOR:

CHAGRIN FALLS SHOPPING PLAZA, LTD.  
14470 Bass Lake Road, Newbury, Ohio 44065

TO LESSEE:

VILLAGE OF CHAGRIN FALLS  
21 W. Washington St.  
Chagrin Falls OH 44022

The address to which any notice, demand or other writing will be given may be changed by written notice given by such party as above provided.

## ZONING CHANGES AND PERMITS:

LESSEE will obtain at its sole cost all necessary variances or zoning changes, construction permits and licenses for the installation of any improvements or alterations to the property.

## TAXES:

LESSOR shall pay all taxes assessed and levied against the Premises by the state, village and county or other municipal taxing authorities. LESSOR shall pay all taxes that may be assessed and levied on the currently existing and future improvements by the state, village and county or other municipal corporation during the entire term of this Lease. Furthermore, during the entire term of this Lease, LESSOR shall pay all special or local assessments that may be levied against the property by reason of improvements made thereon or on the Street or sidewalks surrounding the property. LESSOR reserves the right to contest any taxes or assessments or the amount thereof.

## EMINENT DOMAIN

If the Premises, or any part thereof which materially affects Lessee's use of same, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking. The rent, and any additional rent, shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be refunded to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof.

## ENFORCEMENT

LESSEE shall not meter the Premises or make any other charge for the privilege of parking thereon except for the spaces reserved for Municipal All Day Parking. LESSEE may install

other control measures at its discretion and enforce the parking limitations by ordinances governing the same, including the amount of penalties. LESSEE shall provide a uniformed officer for enforcement of parking limitations for a minimum of 54 hours per week.

#### ARRANGEMENT OF PARKING AND RESERVATION OF LOADING/UNLOADING

LESSEE shall maintain a municipal parking lot on the Premises and shall arrange parking thereon as mutually agreed and illustrated in Exhibit "A". It is recognized by the parties the unobstructed loading and unloading for the buildings is of the essence and LESSEE shall indicate reservation of the loading/unloading zone through appropriate signs and enforcement.

#### HEIRS, SUCCESSORS AND ASSIGNS

This Lease is binding upon, and inures to the benefit of, the respective heirs, assigns and successors in interest of the parties.

#### MODIFICATION

This Lease, together with any written agreements which shall have been executed simultaneously herewith, contains the entire agreement and understanding between the parties. There are no oral understandings, terms or conditions and neither party has relied upon any representations expressed or implied not contained in this Lease or the simultaneous writings heretofore referred to. All prior understandings, terms or conditions are deemed merged in this Lease. This Lease cannot be changed or supplemented orally, but only by agreement in writing and signed by the party against whom enforcement of any waiver or change, modification or discharge is sought.

#### MEMORANDUM OF LEASE:

The parties hereto agree that a memorandum of this Lease may be executed and recorded at LESSEES expense in lieu of recording the entire Lease.

CAPTIONS

The captions appearing under the section designation of this Lease are for the convenience and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

IN WITNESS WHEREOF, the parties hereto have set their hands this 15 day of December, 2015.

Signed, sealed and acknowledged in the presence of:

Bob DeBaggis

Paul P. DeL...

LESSOR:

By: Donna Murphy

Donna Murphy, Managing Partner, Chagrin Falls Shopping Plaza, Ltd.

Signed, sealed and acknowledged in the presence of:

Bob DeBaggis

Paul P. DeL...

LESSEE:

By: Thomas Brick

Mayor Thomas Brick

APPROVED AS TO FORM:

Stephen L. Byron

Stephen L. Byron, Director of Law