

VILLAGE OF LONG GROVE

RESOLUTION NO. 2021-R-____

**A RESOLUTION APPROVING AN ACCESS
EASEMENT FOR THE STEMPEL PARKING LOT
(Cigars & More)**

WHEREAS, the Village of Long Grove (the "**Village**") has maintained, repaired, reconstructed, and otherwise improved that certain public parking facility within the Village lying southwesterly of Old McHenry Road and Robert Parker Coffin Road commonly known as the Stempel parking lot (the "**Stempel Lot**"); and

WHEREAS, access to and from the Stempel Lot along Robert Parker Coffin Road has historically been upon portions of the parcels commonly identified as P.I.N. 15-30-105-002 and P.I.N. 15-30-105-003 (the "**Spartan Parcel**"); and

WHEREAS, Spartan L.P., the owner of the Spartan Parcel ("**Owner**"), is willing to grant formal easements to the Village for the portion of the access drive serving the Stempel Lot that is located on the Spartan Parcel (the "**Access Strip**") to the Village in substantially the form attached to this Resolution as **Exhibit 1** (the "**Easement Agreement**"); and

WHEREAS, the Village President and Board of Trustees (the "**Village Board**") have determined that it is in the best interests of the Village and its residents to accept the Easement Agreement to ensure improved access to the Stempel Lot for the considerations hereinafter set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, LAKE COUNTY, ILLINOIS, as follows:

SECTION ONE. **Recitals.** The foregoing recitals are incorporated herein as the findings of the Village Board.

SECTION TWO. Approval of and Authorizations Regarding the Easement

Agreement.

(a) The Village Board hereby approves the Easement Agreement in substantially the form attached to this Resolution as **Exhibit 1**; provided, however, that the Village President may, in consultation with the Village Manager and Village Attorney, approve modifications to the Easement Agreement as may be requested by Owner so long as such modifications do not materially alter the undertakings of the Village.

(b) The Village Board hereby approves the following as consideration to the Owner for granting the Easement Agreement:

- i. resurface the existing parking lot on the Spartan Parcel;
- ii. expand the parking lot on the Spartan Parcel five feet east and also southward toward the Stempel Parking Lot as shown on **Exhibit C** of the Easement Agreement;
- iii. relocate the dumpster enclosure on the Spartan Parcel as shown on **Exhibit C** of the Easement Agreement.

(c) The Village President is hereby authorized to sign the Easement Agreement on behalf of the Village upon receipt of the Easement Agreement executed by Spartan L.P.

SECTION THREE. Effective Date. This Resolution shall be in effect from and after its passage and approval in the manner provided by law.

PASSED this _____ day of September, 2021.

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED this _____ day of September, 2021.

Village President

ATTEST:

Village Clerk

EXHIBIT 1

EASEMENT AGREEMENT

**This instrument prepared for
and after recording return to:**

Greg Jackson
Village Manager
Village of Long Grove
3110 Old McHenry Road
Long Grove, IL 60047

This space reserved for Recorder's use only.

TEMPORARY CONSTRUCTION AND PERMANENT EASEMENT AGREEMENT

THIS AGREEMENT, dated as of this ____ day of _____, 2021, by and between **THE VILLAGE OF LONG GROVE**, an Illinois non-home rule municipality ("**Village**"), and **SPARTAN L.P.** whose address is 445 Robert Parker Coffin Road, Long Grove, Illinois 60047 ("**Owner**");

RECITALS:

A. Owner is the legal owner of record of certain real property situated in the Village of Long Grove, County of Lake, and State of Illinois, which real property is legally described in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof ("**Property**"). The Property is currently being operated by Cigars & More.

B. The Village desires to rehabilitate and reconfigure the existing access to the Stempel Municipal Parking Lot located partially on the westerly side of the Property as a two-way access upon Robert Parker Coffin Drive, which reconfigured access drive and related improvements (collectively, the "**Access Drive Improvements**") will occur in, upon, under, through, along, and across a portion of the Property.

C. In furtherance thereof, the Village has requested, and the Owner has agreed to grant a permanent easement for the Access Drive Improvements over that portion of the Property legally described as the "Permanent Access Easement" on Exhibit B attached hereto and by this reference incorporated herein and made a part hereof ("**Permanent Easement Premises**"), provided that the Village's use of the Permanent Easement Premises shall be subject to and in accordance with the terms and conditions hereinafter set forth.

D. Additionally, in order to facilitate the initial installation of such Access Drive Improvements, the Village has requested, and the Owner has agreed to grant a temporary staging and construction easement over a portion of the Property lying immediately east of the Permanent Easement, which temporary construction easement is legally described as the "Temporary Construction Easement" in Exhibit B attached hereto and by this reference incorporated herein and made a part hereof ("**Temporary Easement Premises**"), provided that the Village's use of the Temporary Easement Premises shall be subject to and in accordance with the terms and conditions hereinafter set forth.

E. The Permanent Easement Premises and the Temporary Easement Premises shall be referred to collectively herein as the "**Easement Premises.**"

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and the mutual covenants and agreements set forth herein and other good and valuable consideration paid by the Village to Owner, the receipt and sufficiency of which are hereby acknowledged, the parties thereto mutually agree as follows:

Section 1: Recitals. The foregoing recitals are hereby incorporated into and made a part of this Agreement as if fully set forth.

Section 2: Grant of Easements.

A. Grant of Permanent Easement. Owner hereby grants to the Village, its successors and assigns, a perpetual non-exclusive easement ("**Permanent Easement**") to survey, construct, reconstruct, lay, use, own, operate, maintain, test, inspect, repair, replace, enlarge, renew, alter,

remove, or abandon in place (collectively, "**Installation**") the Access Drive Improvements of such size, material, and character, and with such attachments, equipment, and appurtenances thereto as the Village may deem necessary or desirable for its needs, all of which are subject to the terms and conditions herein set forth, in, upon, over, under, through, along, and across the Permanent Easement Premises, together with all reasonable rights of ingress and egress over, along, upon, and across the Permanent Easement Premises.

B. Grant of Temporary Easement. Owner hereby grants to the Village, its successors and assigns, a non-exclusive temporary easement ("**Temporary Easement**") to survey, construct, reconstruct, lay, test, inspect, maintain, and put into service the Access Drive Improvements, remove, replace, and install pavement, undertake other activities as shown on Exhibit C, and undertake related construction and staging activities (collectively, "**Installation-Related Activities**"), all of which are subject to the terms and conditions herein set forth, in, upon, over, under, through, along, and across the Temporary Easement Premises, together with all reasonable rights of ingress and egress over, along, upon, and across the Temporary Easement Premises.

Section 3: Installation. The Village agrees that the Installation of, and Installation-Related Activities for, the Access Drive Improvements shall be done and completed in a good, safe, and workmanlike manner, in accordance with all applicable statutes, ordinances, codes, rules and regulations applicable thereto, and subject to restoration of the Property as hereinafter set forth, all at the sole expense of the Village. Such Installation shall be conducted in the name of, or pursuant to contracts or agreements with, the Village pursuant to plans approved by the Village in accordance with applicable law. Except in the event of an emergency, the Village shall make reasonable efforts to notify Owner in advance of the commencement of any Installation or Installation-Related Activities on the Easement Premises. In addition, during any Installation or Installation-Related Activities, the Village shall maintain reasonable access to and from the Property for Owner, their successors and/or assigns, invitees, guests, licensees, employees,

servants, agents, and tenants and subtenants and their patients, customers, invitees, guests, employees, servants, licensees, contractors and agents, subject to the terms of this Agreement.

Section 4: Restoration. Upon completion of any Installation or Installation-Related Activities on the Easement Premises or the Property by the Village, its authorized agents, servants, employees, contractors, or persons acting pursuant to contracts or agreements with the Village, and except for such permanent grading and landscaping changes as may be required within the Permanent Easement Premises for Installation of the Access Drive Improvements in accordance with the approved plans, the Village agrees, without expense to the Owner, to (a) remove all excess soil and debris from the Property, including the Easement Premises; (b) replace and grade all topsoil removed in connection with such Installation, including restoration of the natural grade on the Property, including the Easement Premises; (c) restore all fences, roads, plantings, landscaping, and improvements as nearly as practicable to the condition immediately preceding the Installation if damaged or removed as a direct or indirect result of the Installation in connection with this Agreement; (d) replace any and all grass removed in connection with such Installation by seeding with a good quality natural seed of like quality and provide adequate water and other nutrients to the seed so that it can grow properly; (e) replace any and all natural grass removed in connection with such Installation on the Property, including the Easement Premises by seeding with a good quality natural seed and provide adequate water and other nutrients to the seed so that it can grow properly; (f) repair any damages to the Easement Premises or the Property, and (g) restore the Easement Premises to a safe condition.

Section 5: Maintenance. During the duration of this Agreement, the Village shall be responsible for all maintenance, upkeep and repair costs of the Easement Premises and the improvements thereon, and will keep the Easement Premises in good and sound operating condition suitable for vehicular, pedestrian and related use at all times. The Village will also be responsible for the maintenance and repair, including snow removal, pothole filling, and resurfacing; of the Access Drive Improvements located in the Permanent Easement.

Section 6: Hold Harmless. The Village, for itself, its successors and/or assigns, agrees to indemnify, defend, and save and hold harmless Owner, its officers, officials, employees, and Owner's successors and/or assigns, including their invitees and tenants, from all claims, causes of action, suits, damages, or demands (whether for death, bodily injury, personal injury, property injury, or other injury of any nature whatsoever) that arise from the negligence of the Village or its authorized agents, servants, employees, contractors, or persons acting pursuant to contracts or agreements with the Village in the Installation or Installation-Related Activities on, or the use of, the Easement Premises.

Section 7: Reservation of Rights. Except as otherwise provided in this Agreement, the Village agrees for itself and its successors and assigns not to interfere with the peaceable and quiet enjoyment of the Property by Owner, its successors and/or assigns, and its invitees, guests, occupants, and/or tenants, from time to time.

Section 8: Title Matters. Owner represents that this Agreement is subject to one or more mortgage interests (the "***Mortgages***"). Owner hereby agrees to make all reasonable efforts to secure the consent from the holder(s) of all Mortgages in a form reasonably satisfactory to the Village and to do all things reasonably necessary to perfect the easements herein granted to the Village.

Section 9: Remedies. It is agreed that the parties hereto may, in law or in equity, by suit, action, mandamus, or any other proceeding, including specific performance, enforce or compel the performance of this Agreement. The prevailing party in any such enforcement action shall be entitled to recover its costs and reasonable attorneys' fees.

Section 10: Duration; Covenants Running with the Land.

(a) **Temporary Easement.** The Temporary Easement granted pursuant to this Agreement shall be of limited duration and shall only continue during the time of the initial Installation of the Access Drive Improvements and all related restoration work (the "***Temporary Easement Term***"). In no case shall the Temporary Easement Term extend more than six-months

from the time of commencement of construction of the Access Drive Improvements without written approval by the Owner. The Village shall provide written notice to the Owner upon completion of the initial Installation of the Access Drive Improvements and restoration work, at which time the Temporary Easement Term shall expire. Upon the expiration of the Temporary Easement Term, the Village agrees to execute a release of the Temporary Easement upon request of the Owner.

(b) Permanent Easement. The Permanent Easement granted pursuant to this Agreement shall be of perpetual duration. If any of the rights, restrictions, agreements, or covenants of the Permanent Easement created by this Agreement would otherwise be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing time limits, then such easements, rights, restrictions, agreements, or covenants shall continue only until 21 years after the death of the last survivor of the now living lawful descendants of any now living current or former President of the United States.

(c) Covenants. The easements and rights granted in this Agreement, the restrictions imposed by this Agreement, and the agreements and covenants contained in this Agreement shall be easements, rights, restrictions, agreements, and covenants running with the land, shall be recorded against the Easement Premises and shall be binding upon and inure to the benefit of Owner and the Village and their respective heirs, executors, administrators, grantees, successors, assigns, agents, licensees, tenants, invitees, and representatives, including, without limitation, all subsequent owners of the Easement Premises, or any portion thereof, and all persons claiming under them. Upon transfer of Ownership of the Property, all rights and responsibilities of the Owner or the Owner's successors and assigns (the "**Transferor**") shall be transferred to the transferee, and liability of the Transferor for breach of covenant occurring thereafter automatically terminates.

Section 11: Notices. All notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof (a) when

delivered in person and receipted for on a business day at the address set forth below: (b) on the fifth business day after being deposited in any main or branch United States post office, for delivery by properly addressed, postage prepaid, certified or registered mail, return receipt requested, at the address listed below; or (c) when delivered to the address listed below by any courier service to the address listed below:

To Owner:

SPARTAN L.P.

To the Village:

Village of Long Grove
3110 Old McHenry Road
Long Grove, Illinois 60047
Attention: Greg Jackson, Village Manager

with a copy to:

Filippini Law Firm LLP
990 Grove Street, Suite 220
Evanston, Illinois 60201
Attention: Victor P. Filippini, Jr.

By notice complying with the requirements of this Section, each party shall have the right to change the addressee, the address of the addressee, or both for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

Section 12: Assignment of Rights. The Village may assign its rights or delegate its duties under this Agreement, in whole or in part, to another governmental entity having jurisdiction over the Property, subject to the consent of Owner, its successors and/or assigns, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, no such assignment will

release the Village from its duties hereunder unless the Owner, its successors and/or assigns, expressly agrees in writing.

Section 13: Amendment; Interpretation. This Agreement may be modified, amended, or annulled only by the written agreement of Owner and the Village, and such amendment (as well as this Agreement) may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute a single instrument. This Agreement shall be governed and construed in accordance with the laws of the State of Illinois.

Section 15: Survival. All representations contained herein shall survive the execution of this Agreement and the recordation thereof and shall not be merged.

[Signature pages to follow.]

IN WITNESS WHEREOF, the parties hereto have executed or have caused this instrument to be executed by their proper officers duly authorized to execute same.

VILLAGE OF LONG GROVE

By: _____

Its: _____

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the _____ of the Village of Long Grove, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day and acknowledged that as the _____ of the Village of Long Grove, he signed and delivered said instrument as his free and voluntary act and as the free and voluntary act of the Village of Long Grove for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of _____, 2021.

Notary Public

My commission expires: _____ (SEAL)

SPARTAN L.P.

By: _____

Its _____

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day and acknowledged that he/she signed and delivered said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of _____, 2021.

Notary Public

My commission expires: _____(SEAL)

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOT 7 OF THE W.F. GOSSWILLER'S SUBDIVISION, BEING PART OF SECTION 30,
TOWNSHIP 43, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY,
ILLINOIS.

COMMONLY KNOWN AS: CIGARS AND MORE

445 ROBERT PARKER COFFIN ROAD
LONG GROVE, ILLINOIS 60047

PIN 15-30-105-003

EXHIBIT B

LEGAL DESCRIPTION AND PLAT OF PERMANENT AND TEMPORARY EASEMENTS

EXHIBIT C

PLAN OF IMPROVMENTS WITHIN THE TEMPORARY EASEMENT