

**ORDINANCE 2021-22
INTRODUCED BY: NEWELL**

4311

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A
PARKING LEASE WITH THE BOARD OF EDUCATION OF
CHAGRIN FALLS EXEMPTED VILLAGE SCHOOLS TO
PROVIDE ADDITIONAL PARKING WITHIN THE
BUSINESS DISTRICTS OF THE VILLAGE AND
DECLARING AN EMERGENCY.**

WHEREAS, the Villages desires to enter into a Lease with the Board of Education of the Chagrin Falls Exempted Village Schools to provide additional parking to reduce parking congestion within various Business Districts of the Village and for Central Business District employee parking; and

WHEREAS, the Board of Education of the Chagrin Falls Exempted Village Schools has now agreed to execute a Lease upon terms acceptable to the Law Director and Mayor.

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

Section 1. The Mayor is authorized and directed to enter into a Lease with the Board of Education of the Chagrin Falls Exempted Village Schools pursuant to the terms and conditions as set forth in the Lease Agreement which is attached hereto and incorporated herein as **Exhibit "A"**.

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. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the Village and for the further reason this Ordinance is necessary to authorize the leasing of parking

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spaces as soon as possible in order to reduce parking congestion with the Business Districts of the Village and to provide for parking for Central Business District Employees; wherefore, provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force after the earliest period allowed by law.

PASSED: May 24, 2021

Erinn W Grube

Erinn Grube, Council President

Submitted to the Mayor for
his approval on this

25th day of May, 2021

Approved by the Mayor
May 25

_____, 2021

William A. Tomko

Mayor William Tomko

I hereby certify that Ordinance No. 2021-22 was duly enacted on the 24th day of May, 2021, 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.

David B. Bloom

David Bloom, Clerk of Council

LEASE

THIS INDENTURE OF LEASE, executed on _____, 2021, and effective as of May 28, 2021, by and between the Board of Education of the Chagrin Falls Exempted Village School District, a public school district, hereinafter known as LESSOR 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 a portion of certain premises owned by LESSOR and 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 permit parking in order to reduce parking congestion within various business districts of the Village and (Central Business District employee parking). As used herein, the term "Premises" refers to the following, subject to the following terms, exclusions and conditions of use:

- (a) Thirty-three (33) parking spaces along the north property line of Parcel Numbers 932-07-014, and 932-08-013, and as depicted on **Exhibit "B"**, attached hereto and made a part hereof.

TERM:

The term of this Lease shall begin on May 28, 2021 and end on August 15, 2021. This Lease shall automatically terminate without renewal at the conclusion of the term. From Monday through Sunday, parking spaces will be made available from 3:00 p.m. to 11:59 p.m.

CONSIDERATION:

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

- (a) Establish and maintain a permit parking system, whereby each car permitted to park, during the hours hereinafter set forth, shall obtain a permit issued by the Village. All the referenced parking spaces shall be located as depicted on **Exhibit "B"** attached hereto and made a part hereof.
- (b) LESSEE shall provide for enforcement of parking by permit only, removing and/or citing violators.
- (c) Suspension or termination of parking, including, if required, termination of this Lease in part or in whole may be invoked at the option of LESSOR in the event LESSOR determines that the leased space is required for use by LESSOR's construction contractor relative to repair or new construction activities at the Philomethian School.

Notice of any such termination must be provided in writing at least ten (10) days to LESSEE, except in the case of an emergency. Temporary suspension of this Lease also may occur due to special and infrequent events such as school conferences or special events and school performances by students or staff. LESSOR hereby reserves the right to close the parking area depicted on **Exhibit "B"**, attached hereto and made a part hereof, to permit holders, in the case of a planned event at the Intermediate School contiguous to the leased area. The LESSOR will notify the Chagrin Falls Police Department, in writing, of any upcoming planned event sufficiently in advance of any such event so that the LESSEE can take steps to post signage indicating the parking lot depicted on **Exhibit "B"** is for school event parking only during such events.

- (d) Post signs as necessary to designate the parking zones, parking restrictions and time limits. Parking regulations shall be controlled by the Village for the thirty-three (33) parking spaces, spaces to be designated as "VILLAGE Permit Parking Only" during the term of this Lease.
- (e) The VILLAGE shall be solely responsible to regulate and police the issuance of permits to park and actual use, and access to the thirty-three (33) parking spots depicted in **Exhibit "B"**.
- (f) Make all minor repairs to the Premises, which shall include all areas of the LESSOR'S parking lot limited to crack filling and patching, and maintain such portions of the Premises adjacent to the LESSOR'S parking lot area as depicted on **Exhibit "B"**, such as driveways, which would otherwise be required to be maintained by LESSOR, including minor maintenance and cleaning, and cleaning of catch basins. Any major patching or resurfacing or other capital expenditure for the Premises shall be at the sole and complete expense of the LESSOR who shall maintain the Premises in good condition to the extent LESSEE is not so required.
- (g) Provide parking enforcement patrols for the Premises on a daily basis.

LESSOR agrees that it will:

- (a) Cause resurfacing and major repairs to the Premises as 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 the Premises, with minimum coverage amounts, as follows: \$1,000,000.00 for each occurrence and \$3,000,000.00 in the aggregate. LESSEE shall name LESSOR as an additional insured on its general public liability policy of insurance, and provide LESSOR with evidence of LESSEE having named LESSOR as an additional insured on or before May 28, 2021. Failure by LESSEE to name or maintain LESSOR as an additional insured on LESSEE's general public liability policy of insurance shall be a material breach of this Lease and result in the immediate termination of this Lease.

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 Exempted Village School District Board of Education
Attn: Director of Operations and Strategic Initiatives
400 East Washington Street
Chagrin Falls, Ohio 44022
E-mail: Christopher.woofter@chagrinschools.org

TO LESSEE:

VILLAGE OF CHAGRIN FALLS
Attn: Chief Administrative Officer
21 W. Washington St.
Chagrin Falls OH 44022
E-mail: rjamieson@chagrin-falls.org
Phone Number: (440) 247-5050

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.

TAXES:

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 may install control measures upon LESSOR'S approval of same, which shall not be unreasonably withheld. Upon the termination of this Lease, LESSEE shall remove such control measures at its own expense, and restore those areas where control measures were installed to their original condition as of the commencement of this Lease. LESSEE may also enforce the parking limitations by ordinances governing the same, including the amount of penalties.

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 LESSEE'S 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.

QUIET ENJOYMENT:

LESSOR represents that it has the full right and power to execute this Lease and to grant the estate leased herein and that LESSEE, upon the performance of all other terms, conditions and

covenants herein contained, shall have, hold and peaceably enjoy the Premises during the lease term subject to all of the terms, covenants and conditions of this Lease.

DEFAULT CLAUSE:

In the event LESSEE is in default of any of the terms or obligations of the Lease, including timely payment of the considerations set forth in this Lease, LESSOR shall first give LESSEE notice with a period of at least thirty (30) days to cure such breach or violation, failing which the LESSOR may then pursue all rights and remedies available at law and in equity, including rights to terminate this Lease or retake possession of the Premises without termination. LESSOR may, in its sole discretion terminate the Lease without penalty, giving LESSEE at least ten (10) days written notice, if it determines the continuation of this Lease is creating unreasonable interference with the use or management of the Premises or has a material adverse effect on carrying out its mission to provide school related services.

GOVERNING LAW:

This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Ohio in which the property is located. The venue and jurisdiction for any legal proceeding to enforce this Lease shall be brought in the state and federal courts for Cuyahoga County, Ohio.

Approval of the terms and conditions contained in this Lease are subject to approval by the Village Council and the Board of Education.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____, 2021.

LESSOR:

CHAGRIN FALLS EXEMPTED
VILLAGE SCHOOL DISTRICT BOARD
OF EDUCATION

By: _____
Its: _____

LESSEE:

VILLAGE OF CHAGRIN FALLS

By: _____
Mayor William Tomko

APPROVED AS TO FORM:

Dale H. Markowitz, Director of Law

State of _____

SS:

County of _____

Before me, a Notary Public, in and for said County and State, personally appeared _____ by _____, its _____, who acknowledged that he/she did sign the foregoing instrument and the same is his/her free act and deed on behalf of the Chagrin Falls Exempted Village School District Board of Education.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2021.

NOTARY PUBLIC

State of _____

SS:

County of _____

Before me, a Notary Public, in and for said County and State, personally appeared the Village of Chagrin Falls by William Tomko, its Mayor, who acknowledged that he did sign the foregoing instrument and the same is his free act and deed on behalf of the Village of Chagrin Falls and personally.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2021.

NOTARY PUBLIC

EXHIBIT "A"

The existing parking spaces available on Parcel Nos. 932-07-014(B) and 932-08-013.

EXHIBIT "B"

CFIS – Parking Agreement with Village – Proposed for Summer 2021 Usage Agreement

