

ORDINANCE NO.: 2022- 40

FIRST READING May 9, 2022

SECOND READING Waived

INTRODUCED BY: Mark Porter

THIRD READING Waived

ORDINANCE AUTHORIZING A PREPAID EXPENSE OF \$69,769.00 TO THE CHAGRIN VALLEY FIRE DEPARTMENT, WHICH PREPAID EXPENSE SHALL BE USED TOWARD THE MODERNIZATION OF THE CHAGRIN VALLEY FIRE DEPARTMENT FIRE STATION AND ACCOUNTED FOR AND ZEROED OUT IN THE FIRE CONTRACT BETWEEN THE VILLAGE OF SOUTH RUSSELL AND THE CHAGRIN VALLEY FIRE DEPARTMENT FOR YEARS 2023, 2024, AND 2025, APPROVING THE COMMUNITY FUNDING AND ESCROW AGREEMENT FOR THE MODERNIZATION OF THE CHAGRIN VALLEY FIRE DEPARTMENT FIRE STATION, AUTHORIZING THE MAYOR TO EXECUTE THE COMMUNITY FUDING AND ESCROW AGREEMENT, AND DECLARING AN EMERGENCY.

WHEREAS, the Village of South Russell and the Chagrin Falls Suburban Volunteer Fireman’s Association, Inc., dba Chagrin Valley Fire Department (“CVFD”) have enjoyed a long-standing relationship whereby CVFD provides fire protection services to the Village of South Russell;

WHEREAS, the CVFD has approached the Village of South Russell, as well as the other five (5) member communities to which CVFD provides fire protection services, for a contribution toward its capital project of modernizing the CVFD Fire Station pursuant to certain terms and conditions expressly provided for in the Community Funding and Escrow Agreement for the Modernization of the Chagrin Valley Fire Department Fire Station (“Agreement”), which Agreement is hereby attached and incorporated herein by reference as Exhibit A; and

WHEREAS, the Village of South Russell desires to contribute toward the modernization of the CVFD Fire Station by providing the CVFD with a prepaid expense of \$69,769, which prepaid expense is accounted for and zeroed out in the fire protection services contract between the Village of South Russell and CVFD for the years 2023, 2024, and 2025, upon presentation of such acceptable contract to the Village of South Russell before July 1, 2022.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of South Russell, Geauga County, Ohio that:

SECTION 1. A prepaid expense of \$69,769 be made to the CVFD and/or the escrow agent pursuant to the terms of the Agreement, which prepaid expense shall be accounted for and zeroed out in the contract between the Village of South Russell and CVFD for CVFD’s provision of fire protection services the Village of South Russell for years 2023, 2024, and 2025, upon presentation of such acceptable contract to the Village of South Russell before July 1, 2022.

SECTION 2. The Agreement attached hereto and incorporated herein by reference as Exhibit A is hereby approved.

SECTION 3. The Mayor is hereby authorized to execute the Agreement on behalf of the Village of South Russell.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

SECTION 5. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the inhabitants of the Village and for the further reason to allow the CVFD to commence its capital project immediately and for the Village to retain CVFD's fire protection services for three years; 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 by this Council and approval by the Mayor.



Mayor - President of Council

ATTEST:



Fiscal Officer

I certify that Ordinance No. 2022-40 was duly enacted on the 9th day of May, 2022, by the Council of the Village of South Russell, and posted in accordance with the Codified Ordinances of the Village.



Fiscal Officer

**COMMUNITY FUNDING AND ESCROW AGREEMENT
FOR THE MODERNIZATION OF
THE CHAGRIN VALLEY FIRE DEPARTMENT FIRE STATION**

THIS AGREEMENT is entered into by and between the **Chagrin Falls Suburban Volunteer Fireman’s Association, Inc., dba Chagrin Valley Fire Department** (herein referred to as the Fire Department) 21 W. Washington Street, Chagrin Falls, Ohio 44022, a 501(c)(4) non-profit organization under the Internal Revenue Code, and **the Village of Chagrin Falls, the Village of Bentleyville, Chagrin Falls Township, the Village of Hunting Valley, the Village of Moreland Hills, and the Village of South Russell** (herein referred to as the Member Communities). The Fire Department and the Member Communities are herein referred to collectively as the Parties.

WHEREAS, the Fire Department provides fire and emergency medical services to the Member Communities; and

WHEREAS, the Chagrin Valley Fire Department Fire Station located at 21 W. Washington Street, Chagrin Falls, Ohio 44022 (the “Fire Station”) is in need of capital improvements and upgrades for modernization of the Fire Station (the “Improvements”), including, but not limited to, the following:

- New gear storage area to prevent diesel particulate from landing on stored gear in the open apparatus bays;
- Expanded living quarters and locker room facilities for female members of the Fire Department;
- Reconfigured floor plan to allow for more streamlined response;
- Updated classroom space for community education and EMS training;
- Additional renovations and replacement of outdated systems and infrastructure; and

WHEREAS, the Fire Department, the Village of Chagrin Falls and Cuyahoga County have committed to design and construct the Improvements cooperatively, with monetary and in-kind participation from each, which will include cost-sharing funds from each of the Member Communities; and

WHEREAS, the Fire Department has currently raised over Eight Hundred Thousand Dollars (\$800,000.00) in donations for the Improvements, and the Member Communities are committed to participating by contributing to the Fire Department’s share of the Improvements under a cost-sharing formula based on the average squad billing totals to each community for the years 2017, 2018, and 2019; and

WHEREAS, the Parties desire to appoint an escrow agent (“Escrow Agent”) to establish an escrow account (“Escrow Account”) to receive proceeds of the cost shares contributed by the Member Communities (the “Escrow Funds”) for disbursement according to the terms set forth in this Agreement; and

WHEREAS, the Fire Department and the Member Communities have agreed that Don P. Brown, Esq. shall serve as the Escrow Agent to hold the Escrow Funds in an Escrow Account from which the Escrow Agent shall be authorized to make progress payments for professional design services, construction work and materials incorporated into the Improvements; and

WHEREAS, the Village of Chagrin Falls will enter into agreements with a design professional and construction contractor selected by the Village of Chagrin Falls, and acceptable to the Fire Department, for the design and construction of the Improvements; and

WHEREAS, the design and construction of the Improvements shall be made to the satisfaction of the Fire Department, which shall be responsible for approving each disbursement of Escrow Funds in payment for design services and construction of the Improvements performed under the design professional and construction contracts (the “Work”); and

WHEREAS, the Escrow Agent will make disbursements of progress payments from the Escrow Funds to the design professional and the construction contractor with the authorization of the Fire Department; and

NOW THEREFORE, in consideration of the provision of fire and emergency services by the Fire Department to the Member Communities and the enhancement of said services that will result from the Improvements, the Escrow Funds shall be contributed, held and disbursed as hereinafter provided, and the Fire Department and Member Communities agree and undertake as follows:

1. Prior to commencement of the Work, and no later than July 1, 2022, the Member Communities each shall deposit with the Escrow Agent, by check payable to the Chagrin Falls Suburban Volunteer Fireman’s Association, Inc., the contributions identified in paragraph 2, to be held in the Escrow Account as Escrow Funds.

2. The Member Community cost shares to be contributed to the Escrow Agent shall be as follows:

Village of Bentleyville	\$ 9,693.00
Village of Chagrin Falls	\$151,783.00
Chagrin Falls Township	\$ 5,000.00
Village of Hunting Valley	\$ 15,131.00
Village of Moreland Hills	\$ 47,722.00
Village of South Russell	\$ 69,769.00

3. The Escrow Agent will deposit the Escrow Funds in the Escrow Account and shall disburse the Escrow Funds pursuant to an escrow agreement between the Fire Department and the Escrow Agent in the form of the Agreement attached as Exhibit A. The Fire Department will be responsible for any costs and expenses of the Escrow Agent’s services in connection with carrying out its duties under said escrow agreement.

4. During the performance of the Work, the Village of Chagrin Falls will transmit to the Fire Department invoices for the Work for payment of the Fire Department's share of the Improvements, which will be paid directly from the Escrow Account to the design professional and the construction contractor. The Village of Chagrin Falls will certify to the Fire Department that Work invoiced for payment has been fully performed. Payments from the Escrow Account shall be issued for Work performed to the satisfaction of the Fire Department, as indicated by the written approval of the President of the Chagrin Falls Suburban Volunteer Fireman's Association, Inc., which shall not be unreasonably withheld.

5. Upon submittal of authorization to pay each invoice for the Work by the Fire Department to the Escrow Agent, the Escrow Agent will disburse payments in the amount of one hundred percent (100%) of the amount authorized to be paid by the Fire Department to the design professional and the construction contractor, respectively, less any retainage as set forth in the construction contract. No disbursements of any kind will be made from the Escrow Funds by the Escrow Agent without authorization by the Fire Department.

6. The Fire Department, upon final completion of the Improvements, shall transfer ownership of the Fire Station to the Village of Chagrin Falls. The Village of Chagrin Falls, upon acceptance of the Fire Station, shall maintain the Fire Station at its sole expense for the life of the building, including all maintenance and operating costs.

7. Upon final completion of the Improvements, any funds remaining in the Escrow Account will be remitted to the Village of Chagrin Falls for the maintenance and operating costs of the Fire Station.

8. Nothing in this Agreement shall establish an obligation of the Member Communities to the Fire Department, to the design professional or to the construction contractor for the cost of the Work to complete the Improvements. The Member Communities' obligations pursuant to this Agreement shall be limited to the cost share contributions in the amounts forth in paragraph 2, above.

9. The Escrow Funds will be utilized first, before the donations raised by the Fire Department, for the payments for the Work, provided that, in the event the Village of Chagrin Falls does not enter into contracts for the Improvements on or before December 31, 2023, the Member Communities' cost share contributions in the amounts set forth in paragraph 2, above, shall be reimbursed to the Member Communities. Upon commencement of the Work, the Member Communities shall not be entitled to reimbursement of their cost share contributions in the amounts set forth in paragraph 2, above.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers on the dates noted below. This document may be executed by counterparts and said counter parted signatures shall be considered as a whole.

**CHAGRIN FALLS SUBURBAN VOLUNTEER
FIREMAN'S ASSOCIATION, INC., DBA
CHAGRIN VALLEY FIRE DEPARTMENT**

By: _____
John Catani, President

Date: _____

VILLAGE OF CHAGRIN FALLS

By: _____
Mayor William Tomko

Date: _____

Approved:

Dale H. Markowitz, Law Director

VILLAGE OF BENTLEYVILLE

By: _____
Mayor Leonard A. Spremulli

Date: _____

Approved:

Charles Nemer, Law Director

CHAGRIN FALLS TOWNSHIP

By: _____
John Finley, Trustee

Date: _____

By: _____
Jen McKee, Trustee

Date: _____

By: _____
Tom Florkiewicz, Trustee

Date: _____

Approved:

Cuyahoga County Prosecutor

VILLAGE OF HUNTING VALLEY

By: _____
Mayor Bruce V. Mavec

Date: _____

Approved:

Stephen L. Byron, Law Director

VILLAGE OF MORELAND HILLS

By: _____
Mayor Daniel Fritz

Date: _____

Approved:

William R. Hanna, Law Director

VILLAGE OF SOUTH RUSSELL

By: William H. Koons
Mayor William Koons

Date: 5-19-2022

Approved:

Bridey Matheney, Solicitor

ACCEPTANCE BY THE ESCROW AGENT:

The undersigned hereby agrees to hold and disburse funds placed in escrow by the Member Communities and held in the Escrow Account in accordance with the terms and provisions of the foregoing Agreement. Further, the undersigned certifies that from the date of this Agreement the undersigned will fulfill his duties hereunder, ensuring that the Escrow Account is and shall remain available in the amount specified until disbursements are directed by the Fire Department in accordance herewith.

ESCROW AGENT

Date: _____

By: _____
Don P. Brown, Esq.