



# City of Parma Heights Council Meeting

6281 Pearl Road

Tuesday, October 11, 2022 7 :00 PM

## ROLL CALL

## PLEDGE OF ALLEGIANCE

## ACTION ON MINUTES:

- September 26, 2022 – Parma Heights City Council Meeting

## REPORTS FROM MAYOR AND DIRECTORS

## COMMUNICATIONS:

- Planning Commission update by Council Representative Haase

## LEGISLATION

### Third Reading

1. **2022 – 35 A RESOLUTION AUTHORIZING THE ADMINISTRATION TO ENTER INTO AN AGREEMENT FOR THE MANAGEMENT OF THE CASSIDY THEATRE WITH CASSIDY THEATRE, INC. AN OHIO NOT FOR PROFIT CORPORATION.**
2. **2022 – 32 AN ORDINANCE AMENDING CHAPTER 933 ENTITLED “WATER” OF THE PARMA HEIGHTS CODIFIED ORDINANCES.**

### Second Reading

3. **2022 – 36 A RESOLUTION AUTHORIZING THE ADMINISTRATION TO DISPOSE OF OBSOLETE CITY VEHICLES AND EQUIPMENT AT A PUBLIC SALE THROUGH GOVPLANET/IRONPLANET.**

### First Reading

4. **2022 – 37 A RESOLUTION ENACTED BY THE CITY OF PARMA HEIGHTS OF CUYAHOGA COUNTY, OHIO, AND THE STATE OF OHIO [DEPARTMENT OF TRANSPORTATION] TO REPLACE THE INDEPENDENCE BOULEVARD BRIDGE, AND DECLARING AN EMERGENCY**

## PUBLIC SESSION

## ADJOURNMENT

**RESOLUTION NO. 2022 - 35**

**A RESOLUTION AUTHORIZING THE ADMINISTRATION TO ENTER INTO AN AGREEMENT FOR THE MANAGEMENT OF THE CASSIDY THEATRE WITH CASSIDY THEATRE, INC. AN OHIO NOT FOR PROFIT CORPORATION**

**WHEREAS**, the City of Parma Heights entered into an Agreement with Cassidy Theatre, Inc. for the management of the Cassidy Theatre on July 14, 2008; and

**WHEREAS**, the City has entered into multiple modifications and restatements of the Agreement for the management of the Cassidy Theatre; and

**WHEREAS**, the City and Cassidy Theatre, Inc. are desirous to continue their relationship and enter into a new Agreement for the management of the Cassidy Theatre in order to provide for revised terms and conditions.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Parma Heights, County of Cuyahoga and State of Ohio:

Section 1. In accordance with the Charter and Ordinances of the City of Parma Heights, the Administration is authorized and directed to enter into an Agreement between the City of Parma Heights and Cassidy Theatre, Inc., an Ohio Not for Profit Corporation, for the management of the Cassidy Theatre, in the form attached hereto as "Exhibit A" and made a part hereof by reference, as if fully rewritten.

Section 2. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 3. That this Resolution shall take effect and be in force from and after the earliest date provided for by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
APPROVED

FILED WITH  
THE MAYOR: \_\_\_\_\_

\_\_\_\_\_  
MAYOR MARIE GALLO

# **EXHIBIT A**

**AGREEMENT  
BETWEEN  
THE CITY OF PARMA HEIGHTS  
AND THE  
CASSIDY THEATRE, INC.  
FOR THE  
MANAGEMENT  
OF  
THE CASSIDY THEATRE**

**THIS AGREEMENT** ("Agreement") entered into between the CITY OF PARMA HEIGHTS, a Municipal Corporation ("City") and THE CASSIDY THEATRE INC., an Ohio Not for Profit Corporation ("Manager"), this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**WHEREAS**, the City and Manager desire to enter into a Management Agreement for the period beginning on January 1, 2023 and ending on December 31, 2023; and

**WHEREAS**, the City is desirous of promoting the use of its building formerly operated by the City as the Theatre ("Facility"); and

**WHEREAS**, the City is desirous of providing a theatre experience, educational programs, arts opportunities and rental opportunities for persons desiring to rent the community rooms in the facility.

**NOW, THEREFORE, IT IS AGREED** between the City and the Manager that the Agreement for Management of the Cassidy Theatre be entered into upon the following terms and conditions.

**Section 1. FACILITY.** Upon and subject to the terms and conditions of Agreement, City hereby grants to Manager the use of the facility located at 6200 Pearl Road, Parma Heights, Ohio formerly operated by the City as the Cassidy Theatre located in the Greenbrier Commons located in Parma Heights, Ohio. Manager hereby accepts the facility in its present, "AS IS" condition.

(a) **Theatre Name.** The name of the Theatre is to remain Cassidy Theatre.

(b) **Definition.** The Facility shall be defined as the Theatre Lobby, Theatre Offices, Theatre Costume Area, and the storage building at Nathan Hale Park as allotted by the City, and the storage container at Nathan Hale Park. The Facility shall not include Rooms A or B.

c) **General Use.** Either party is responsible for damage to the Facility that is due to their respective use of the Facility.

**Section 2. USE BY MANAGER.** Manager shall use the Facility for the operation of a community theatre, as recited in the preambles to this Agreement. Manager shall operate and maintain the facility in a neat, clean, safe, and healthy condition according to City Ordinances and direction of the proper public officers. The Manager will be responsible for the following:

- a. The production expenses for all theatrical shows.
- b. All staff are to be the exclusive employees of the Manager.
- c. The Manager may propose to sublease the facilities, subject to the prior written approval of the City, after providing all lease agreements to the Law Department at least fourteen (14) business days prior to the event. The lease shall be approved by the City prior to the event and shall contain provisions for security, traffic control, if necessary, liability insurance and a release and hold harmless clause signed in favor of the City.
- d. The Manager shall submit a proposed list of shows, dates, camps, and pre-arranged events to the Mayor for the following year by September 15<sup>th</sup> for approval prior to finalizing a season schedule by October 15<sup>th</sup>.
- e. The Manager may have the use of Rooms A and B by giving reasonable notice to the City whilst the City does not have plans for Rooms A and B on the requested date(s), subject to approval by the City.
- f. The Manager shall have use of the adjacent kitchen facility, costume shop, and, while available, the storage building at Nathan Hale Park as allotted by the City, and the storage container at Nathan Hale Park. Should the storage building and storage container at Nathan Hale Park become unavailable, the City shall give the Manager a ninety (90) day notice, at a minimum, prior to requiring relocation.
- g. The Manager may, subject to written permission from the City, permit liquor, whether spirituous, vinic or fermented, to be sold on said premises. The City may provide written consent after a timely request, a demonstration of appropriate insurance, a demonstration of appropriate indemnification of the City, and appropriate licensure from the State of Ohio, Department of Liquor Control, maintained at the Manager's expense. (See Section 961.01 of the Codified Ordinances, attached).
- h. The Manager shall have access to Room B during the month of July, for the purpose of staging a theatre camp. The theatre camp shall not hinder the City's ability to host its own summer camp or weekend events.
- i. The Manager may petition the City for permission to stage outdoor productions on City grounds subject to the City's written consent.
- j. The Manager shall maintain appropriate licensure by the Cuyahoga County Board of Health for any food concessions at the Manager's expense.

**Section 3. USE BY CITY.** The City shall have the use of Rooms A and B, and the adjacent kitchen, and reserves the right to rent and permit the use of Rooms A and B to outside parties.

- a. The City reserves use of the facility for official City events on an as

needed basis, on dates to be determined, with reasonable notice to the Manager. Reasonable notice shall be at least two (2) weeks in advance of any event planned for the facility.

- b. There shall be no charge to the City for its use of the facility.
- c. The City will provide the maintenance personnel when it uses the facility.

Section 4. TERM. This Agreement shall be from January 1, 2023 to December 31, 2023. The City and Manager shall have the option to extend the Agreement beyond the expiration date. Should the parties mutually elect to extend the Agreement, they shall confirm in writing to extend for a fixed period of time. Either the City or Manager shall have the right to terminate this agreement upon thirty (30) days prior written notice.

Section 5. FEES. Fees of \$1,000.00 (One Thousand Dollars) shall be payable for each month of the Term of this Agreement. Each installment payment shall be due in advance on the first day of each calendar month during the lease term, subject to the terms of Section 17. All fees, and all other payments due to the City under this Agreement, shall be made to the City at 6281 Pearl Road, Parma Heights, Ohio 44130 or at such other address as the City may designate.

The rental payment amount for any partial calendar months included in the lease term shall be prorated on a daily basis.

Section 6. TAXES. During the Term hereof; Manager shall, be responsible for all personal property taxes and real estate taxes directly attributable to Manager's use. Manager shall have the right to contest all taxes, assessments, charges and impositions, and City agrees to join in such contest, if required by law, and to permit the Manager to proceed with the contest in City's name, provided the expense of the contest is borne by the Manager.

Section 7. REVENUES. All revenues ("Revenues") generated from the operation of the Theatre from events conducted by the Manager shall be and remains the sole property of the Manager.

Revenues generated from events conducted by the City shall be retained by the City.

If Manager and City agree in writing prior to the date of an event conducted by the City, then participation fees may be paid to the Manager based upon the involvement of the Manager in the event. If there is no agreement, in writing, then the City shall retain said revenues.

Section 8. MAINTENANCE AND REPAIRS. The Manager shall, at its sole cost and expense, maintain and repair the interior of the facility, including the lobby, stage, theatre seating area, office area, and dressing rooms.

The Manager shall provide evidence of maintenance and repairs to the Director of Public Service on or before the 1<sup>st</sup> day of each month of this Agreement.

The Manager and the Director of Public Service shall meet prior to the beginning of the lease term to inspect the facility and establish a procedure for maintenance and repair.

The City shall maintain and repair mechanical (including HVAC), plumbing, and electrical systems, and maintain the roof.

**A) SUBCONTRACTOR'S INSURANCE.** Manager shall require that all subcontractors brought onto the property have insurance coverage at the subcontractor's expense, or be listed as insured on the Manager's insurance policy (as documented in a Certificate of Insurance if requested) in the following minimum amounts:

- a) Workers' compensation - statutory amount
- b) Employer's liability
- c) Comprehensive general liability
  - 1. \$100,000 bodily injury per person - \$300,000 per occurrence
  - 2. \$100,000 property damage

Higher amounts may be required if the work to be performed is sufficiently hazardous. The Manager shall obtain and keep on file a certificate of insurance which shows that the subcontractor is so insured. In addition, where required by law, subcontractors must obtain building permits from the City.

#### Section 9. FIXTURES AND ALTERATIONS.

**A) INSTALLATION BY MANAGER.** The Manager and Director of Public Service shall meet within two (2) weeks of the execution of the Agreement to inventory the installation(s) made by the Manager during the Term of the prior Agreement between the parties.

The Manager shall throughout the Term of the Agreement, at its own expense, maintain and clean the Facility and all improvements thereon and shall deliver up the Facility in a clean and sanitary condition at the expiration or termination of this Agreement or the termination of the Manager's right to occupy the facility, in a good repair and condition, reasonable wear and tear excepted. Upon the expiration or termination of this Agreement or the termination of Manager's right to occupy the leased premises, Manager shall surrender all keys for the facility to the City at the place then fixed for the payment of rent and City shall have the right to reenter and resume possession of the Facility. No act done by Manager or any of Manager's agents (hereinafter defined) during the term of the lease shall be deemed an acceptance of a surrender of Facility, and no agreement to accept a surrender of Facility shall be valid unless the same be made in writing and executed by Manager.

**B) REMOVAL BY MANAGER.** Upon the expiration or earlier termination of this Agreement, the Manager shall remove all trade fixtures and other equipment owned by the Manager and located within Facility, in which event Manager shall repair

damage to Facility caused by such removal. The City may, failing removal by the Manager, at Manager's expense, perform such removal.

**Section 10. LIENS.** Manager shall have no ownership rights in the facility and shall not suffer or permit any mechanic's lien or other lien to attach to the Facility or any building or improvement thereon in connection with any work performed by Manager, its agents or contractors, and whenever and as often as any such lien or liens shall be filed or shall attach. Manager shall, within thirty (30) days thereafter, pay such lien or liens or procure their removal from the Facility.

**Section 11. REPRESENTATION.** Manager represents and warrants to the City that it is an independent contractor and is not an employee of the City and none of its employees, if there be any, shall be employees of the City but shall, at all times, be the sole and exclusive employees of Manager. Manager agrees to indemnify and make the City whole in the event that there are claims made by its employees against the City.

**Section 12. ADDITIONAL INSURANCE.** Manager must furnish a certificate evidencing workers' compensation.

**Section 13. GENERAL INDEMNIFICATION.** Manager hereby indemnifies and agrees to defend and hold City and its employees, agents, and contractors harmless from and against any and all loss, cost, damage, claim or expense, including attorney fees, caused by Manager or any person or party for whom Manager is legally responsible.

**Section 14. INSURANCE.**

- A) **PROPERTY INSURANCE.** City shall obtain and keep in force during the Term, at City's cost and expense, commercial property insurance covering loss or damage to Facility in an amount not less than the replacement value thereof, as the same may be increased from time to time, and providing protection against all perils covered under a standard "special for" or "all risk" policy of commercial property insurance.
- B) **LIABILITY INSURANCE.** Manager shall obtain and keep in force, at its sole cost and expense, commercial general liability insurance insuring against any and all claims for damages resulting from injury or death to persons or injury to property occurring in and about the Facility and arising out of Manager's negligent acts or omissions in connection with its use or occupancy of the Facility, or the negligent acts or omissions of any person using the Facility in connection with Manager's business. The amount of liability coverage shall be not less than \$2,000,000.00 per occurrence and \$2,000,000.00 general aggregate for property damage and injury or death to persons. The City shall be named as an additional insured on said policy of insurance.

Manager is solely responsible for obtaining insurance at its sole expense to cover its personal property.

- C) **CERTIFICATES.** Manager shall deliver to City certificates evidencing the

existence and amount of the insurance required above. The Manager shall obtain a Certificate of Additional Insurance from its Insurer, which Certificate shall name the City as an Additional Insured by the Manager's Insurance Carrier. The Manager shall present the Certificate to the City, with a copy to the Law and Finance Departments.

**Section 15. FIRE OR OTHER CASUALTY.** If at any time during the Term of this Agreement or any improvements now or hereafter erected on the Facility shall be destroyed or damaged by fire or any other insured casualty, then, subject to and conditioned upon the amount of insurance proceeds recovered by City, City shall repair, reconstruct and restore the Facility. If the Facility, or any substantial part thereof, are damaged or destroyed to such an extent that it is impractical to repair or restore the Facility to the approximate condition it was in prior to being damaged within one hundred eighty (180) days of the date of the damage or destruction, City shall have the right to terminate this Agreement upon notice to Manager. The fees shall abate during any period of restoration.

**Section 16. CONDEMNATION.**

A) **ENTIRE TAKING.** If the Facility shall be taken, appropriated or condemned for any public or quasi-public use or purpose, then this Agreement shall automatically cease and terminate as of the date Manager must relinquish possession of the Facility or when title to the Facility vests in the taking authority, whichever occurs latest, and all fees and other charges paid under this Agreement shall be apportioned as of the date of termination. The City will advise the Manager of any plan to appropriate or condemn the property as soon as such information becomes available to the City.

B) **PARTIAL TAKING.** If less than all of the Facility shall be taken, appropriated or condemned for any public or quasi-public use or purpose, and the remaining portion not so taken is, in the opinion of Manager, sufficient for the operation of Manager's business as it is then being conducted, Manager shall continue to use the portion not so taken and there shall be an equitable and proportionate reduction in the fees hereunder.

**Section 17. DEFAULT.** Manager shall be in default hereunder if any one or more of the following events (hereinafter referred to individually as an "Event of Default") shall occur (i) Manager shall fail to pay any monthly installment of fees or any other amounts or charges payable by Manager under this Agreement and such failure shall continue for more than five (5) days after the date such payment was due, (ii) Manager shall neglect or fail to perform or observe any of the other terms, covenants or conditions contained in the Agreement and such failure shall continue for more than thirty (30) days after City's notice to Manager of such failure (or such longer period that is reasonable if the obligation is incapable of cure within such 30-day period and Manager has commenced such cure and diligently prosecutes the same to completion). (iii) Manager shall become bankrupt or insolvent or make a general assignment for the benefit of creditors, (iv) Manager's business and use hereunder shall be taken upon an execution, attachment or other process of laws, or (v) a receiver or trustee shall be appointed to take charge of all or any substantial part of City's property and such appointment shall not be vacated or otherwise nullified within ninety (90) days thereafter. Upon the occurrence of an Event of Default and while such



Event of Default continues, City shall have the right, at its option, to terminate this Agreement upon specified date not less than fifteen (15) days after the date of the notice of termination and this Agreement shall then automatically expire on the date so specified unless Manager's default is cured or waived prior thereto.

Section 18. **COMPLIANCE WITH LAW.** Manager shall comply with all governmental laws, ordinances, rules, regulations, orders or other requirements of all governmental bodies having jurisdiction over the Facility and/or Manager's business at the Facility.

Section 19. **ASSIGNMENT.** Manager shall have no right to assign this Agreement, or any part thereof, without the express prior written consent of the City.

Section 20. **RIGHT TO ENTER THE FACILITY.** City and its agents shall have the right to enter the Facility at any time to examine it.

Section 21. **SURRENDER OF THE FACILITY.** At the expiration of the term, or upon any earlier termination of this Agreement for any reason, Manager shall surrender the Facility in broom-clean condition and in good condition and repair. In the event that the Manager should hold over and fail to surrender, for any reason, the City may exercise self-help to assert possession of the Facilities, change the locks, if necessary, take such further action, as necessary, to secure and control the Facilities. In the event that the Manager or its personnel remain on or refuse to surrender and vacate the Facilities, the City may proceed against them in Trespass. In the event that legal action is necessary or appropriate, the Manager shall be responsible for damages and costs, including attorney fees, should the City prevail in such action.

Section 22. **WAIVER.** The waiver by either party of any breach of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant, or condition of this Agreement. City's acceptance of fees and charges and other amounts hereunder shall not deem to be a waiver of any preceding breach by Manager of any term, covenant or condition of this Agreement. No term, covenant, or condition of this Agreement shall be deemed to have been waived by a party hereto unless such waiver is in writing signed by such party.

Section 23. **ENTIRE AGREEMENT.** This Agreement contains the entire Agreement of the parties in regard to the Facility. There are no oral agreements existing between the parties hereto.

Section 24. **MODIFICATION OF AGREEMENT.** This Agreement shall not be modified except in writing signed by both the Manager and the City.

Section 25. **GOVERNING LAW; SEVERABILITY.** This Agreement and its performance shall be governed, interpreted and regulated by and in accordance with the laws of the State of Ohio. If any portion of this Agreement should be invalid or held invalid, the remainder of it shall be unaffected and remain in full force and effect.

Section 26. NOTICE. Any notice, demand, or request required to be given by City or Manager under this Agreement shall be in writing signed by the party giving it, and sent by certified mail, return receipt requested, to the party to be notified as follows:

TO CITY:  
City of Parma Heights  
Attention: MAYOR MARIE GALLO  
6281 Pearl Road  
Parma Heights, Ohio 44130

TO MANAGER:  
The Cassidy Theatre, Inc.  
Attention: MICHAEL CARAFFI, President  
6200 Pearl Road  
Parma Heights, Ohio 44130

Or such other address as City or Manager, respectively, may designate by such a notice. Service shall be complete upon three (3) business days after mailing as set forth above, except in the case of a notice to change an address in which case service shall be complete when notice is received by the addressee. Notice sent by any means other than certified mail, return receipt requested, shall be deemed delivered when such notice is received by the addressee.

Section 27. SUCCESSORS. The provisions of this Agreement shall apply to and be binding upon the successors and assigns of both Manager and City.

Section 28. SURVIVABILITY. The terms, conditions, agreements and indemnifications contained in the Agreement shall survive the expiration of this Agreement or of any extension(s) of it.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**FOR THE CITY OF PARMA HEIGHTS:**

\_\_\_\_\_  
MARIE GALLO  
Mayor

Date: \_\_\_\_\_

**FOR THE CASSIDY THEATRE INC.:**

\_\_\_\_\_  
MICHAEL CARAFFI

President

Date: \_\_\_\_\_

**ORDINANCE NO. 2022 - 32**

**AN ORDINANCE AMENDING CHAPTER 933 ENTITLED "WATER" OF THE  
PARMA HEIGHTS CODIFIED ORDINANCES**

**WHEREAS**, the Administration is recommending that Chapter 933 of the Parma Heights Codified Ordinances be amended; and

**WHEREAS**, this Council desires to adopt the recommendation of the Administration.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Parma Heights, County of Cuyahoga, and State of Ohio:

Section 1: That Chapter 933 of the Codified Ordinances as it previously existed is amended, and as amended, shall henceforth read as shown by edits set forth in Exhibit A, which is attached hereto and incorporated by reference.

Section 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 3: That this Ordinance shall take effect and be in force from and after the earliest date provided for by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

\_\_\_\_\_  
APPROVED

FILED WITH  
THE MAYOR: \_\_\_\_\_

\_\_\_\_\_  
MAYOR MARIE S. GALLO

## EXHIBIT A

### CHAPTER 933

#### Water

EDITOR'S NOTE: Ordinance 2003-5, passed January 27, 2003, authorized the City's membership in the Suburban Water Regional Council of Governments. Copies of this ordinance and of the agreement may be obtained, at cost, from the Clerk of Council.

933.01 Permit required for use of hydrants; fee.

~~933.02 Fire hydrant wrench.~~

933.03 Use of City of Cleveland facilities.

933.99 Penalty.

#### CROSS REFERENCES

Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01

Compulsory water connections - see Ohio R.C. 729.06

Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R.C. 4933.22

Prosecutions for theft of utilities - see GEN. OFF. 642.26

Utility right-of-way permits - see S. & P.S. Ch. 911

Tampering with hydrants - see FIRE PREV. 1503.01

#### 933.01 PERMIT REQUIRED FOR USE OF HYDRANTS; FEE.

No person shall take or use water from any fire hydrant located within the Municipality unless the taking or using of water from such hydrant has been authorized by issuance of a permit from this Municipality and unless proper authorization has been first procured from the City of Cleveland.

Such permit from the Municipality shall be obtained by filing with the Director of Service Finance ~~an application in writing therefor on the forms available in the office of the Director and paying to the Director a fee of one hundred dollars (\$100.00) or a deposit of five hundred dollars (\$500.00) for a blanket permit ten dollars (\$10.00)~~ to compensate the Municipality for the inspection of the hydrant and in payment of the water used. No permit shall be required when the hydrants are used or water taken therefrom by employees of the Municipality performing a municipal function.

(Ord. 1960-62. Passed 7-11-60.)

~~933.02 FIRE HYDRANT WRENCH.~~

~~No fire hydrant within this Municipality shall, at any time, be opened or turned on nor shall any water be made to flow therefrom, except by use of a fire hydrant wrench of the Fire Department. Such wrench may be obtained from the Fire Chief on payment of a deposit of ten dollars (\$10.00) for each wrench, which deposit shall be repaid when the wrench is returned to the Fire Chief.~~

~~(Ord. 1958-9. Passed 3-10-58.)~~

933.03 USE OF CITY OF CLEVELAND FACILITIES.

No person shall operate or manipulate any valve or tamper with or alter any water line or appurtenance thereto operated by the City of Cleveland without first securing proper authorization therefor from the City of Cleveland.

(Ord. 1960-62. Passed 7-11-60.)

933.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both. ~~The taking or using of water from a fire hydrant in violation of Section 933.01 and any opening or turning on of a hydrant without the wrench required by Section 933.02 shall be deemed to be separate violations.~~

**RESOLUTION 2022 - 36**

**A RESOLUTION AUTHORIZING THE ADMINISTRATION TO DISPOSE OF  
OBSOLETE CITY VEHICLES AND EQUIPMENT AT A PUBLIC SALE  
THROUGH GOVPLANET/IRONPLANET**

**WHEREAS**, the Council authorized membership in the National Joint Power Alliance [now known as Sourcewell], a purchasing cooperative in Ordinance No. 2017-3; and

**WHEREAS**, GovPlanet/IronPlanet is a vendor of the National Joint Power Alliance [now known as Sourcewell]; and

**WHEREAS**, GovPlanet/IronPlanet will provide the City of Parma Heights with auction services for the disposal of obsolete city vehicles and equipment; and

**WHEREAS**, the Director of Public Service recommends that the vehicles and equipment listed on Exhibit A be removed from service as a result of their age and mechanical condition.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Parma Heights, County of Cuyahoga, and State of Ohio:

Section 1: The Administration is authorized and directed to dispose of obsolete city vehicles at a public sale through GovPlanet/IronPlanet, a list of which is attached hereto and incorporated herein as Exhibit A at a public sale.

Section 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meeting open to the public, in compliance with the law.

Section 3. That this Resolution shall take effect and be in force from and after the earliest date provided for by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

\_\_\_\_\_  
APPROVED

FILED WITH  
THE MAYOR: \_\_\_\_\_

\_\_\_\_\_  
MAYOR MARIE GALLO

## Exhibit A

1998 Ford Truck F750 #3	1FDYF80E9WVA14370
2008 Chevy Impala #6182	2G1WB58K589170565
2008 Chevy Impala #6181	2G1WB58K489170699
2016 Ford Police Cruiser #6195	1FAHP2MK2GG154834
2008 Chevy Uplander #46	1GNDV23W08D134288
2008 Chevy Uplander #53	1GNDV23W58D132987
2001 Ford Truck #52	1FTRW08L41KE36148
1997 John Deere End Loader	DW4444KZ624468



**RESOLUTION NO. 2022 – 37**

**A RESOLUTION ENACTED BY THE CITY OF PARMA HEIGHTS OF CUYAHOGA COUNTY, OHIO, AND THE STATE OF OHIO [DEPARTMENT OF TRANSPORTATION] TO REPLACE THE INDEPENDENCE BOULEVARD BRIDGE, AND DECLARING AN EMERGENCY**

**WHEREAS**, the following Final Resolution enacted by the City of Parma Heights, Ohio, hereinafter referred to as the Legislative Authority/Local Public Agency or “LPA”, in the matter of the stated described project.

**WHEREAS**, on the 22nd of December, 2021, the LPA enacted legislation proposing cooperation with the Director of Transportation for the described project:

*The project consists of replacing Bridge No. CUY-INDEP-0053 (SFN 1880411) located on Independence Boulevard over Brandywine Creek (Big Creek), including approach work, sidewalks, and traffic control, lying within the City of Parma Heights; and*

**WHEREAS**, the LPA shall cooperate with the Director of Transportation in the above-described project as follows:

*The City agrees to assume and bear one hundred percent (100%) of the entire cost of the Improvement within the city limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U.S. Department of Transportation.*

The share of the cost of the LPA is now estimated in the amount of One Hundred Six Thousand Seven Hundred Ninety-Three Dollars (\$106,793.00), but said estimated amount is to be adjusted in order that the LPA’s ultimate share of said improvement shall correspond with said percentages of actual costs when said actual costs are determined; and

**WHEREAS**, the Director of Transportation has approved said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above-described highway and has transmitted copies of the same to this legislative authority; and

**WHEREAS**, the LPA desires the Director of Transportation to proceed with the aforesaid highway improvement.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Parma Heights, County of Cuyahoga and State of Ohio:

Section 1. That the estimated sum of One Hundred Six Thousand Seven Hundred Ninety-Three Dollars (\$106,793.00), as demonstrated in the invoice attached hereto as “Exhibit A” and made a part hereof by reference, as if fully rewritten, is hereby appropriated for the improvement described above and the fiscal officer is hereby authorized and directed to issue an order on the treasurer for said sum upon the requisition of the Director of Transportation to pay the cost and expense of said improvement. We hereby agree to assume in the first instance, the share of the cost and expense over and above the amount to be paid from Federal funds.

Section 2. That the LPA hereby requests the Director of Transportation to proceed with the aforesaid highway improvement.

Section 3. That the LPA enter into a contract with the State, as demonstrated in form attached hereto as “Exhibit B” and made a part hereof by reference, as if fully rewritten, and that the Mayor be, and is hereby authorized to execute said contract, providing for the payment of the LPA the sum of money set forth herein above for improving the described project.

Section 4. That the LPA transmit to the Director of Transportation a fully executed copy of this Resolution.

Section 5. This Council finds and determines that all formal action of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 6. This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of said City, and for the further reason it is necessary to submit the ODOT Independence Boulevard Bridge Project documents by the October 18, 2022 deadline; wherefore, this Resolution shall be in full force and effect from and immediately after its passage by Council and approval by the Mayor.

PASSED: \_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL APPROVED

FILED WITH  
THE MAYOR: \_\_\_\_\_  
MAYOR MARIE GALLO

This is to certify that we have compared the foregoing copy of Resolution with the original record thereof, found in the record of the proceedings of the LPA, and which Resolution was duly passed by the LPA on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, and that the same is a true and correct copy of the record of said Resolution and the action of said LPA thereon.

We further certify that said Resolution and the action of said LPA thereon is recorded in the journal of said LPA in Volume \_\_\_\_\_, at Page \_\_\_\_\_, and under date of \_\_\_\_\_, 2022.

Legislative Authority of the  
City of Parma Heights, Ohio

\_\_\_\_\_  
Mayor Marie Gallo

\_\_\_\_\_  
Clerk (Secretary Ex-Officio)

# EXHIBIT A

## OHIO DEPARTMENT OF TRANSPORTATION ACCOUNT RECEIVABLE

Make check payable to: Treasurer of State

Mail to: Katie Beth Jackson  
Senior Financial Analyst  
Ohio Department of Transportation  
Office of Contract Sales & Estimating - #4110  
1980 West Broad Street, 1st Floor  
Columbus, Ohio 43223

PID No. 111489  
Invoice No. 11545

To: **City of Parma Heights**  
**6281 Pearl Road**  
**Parma Heights, Ohio**  
**44130**

**Federal Project No. E200411**  
**Cuyahoga County**  
**City of Parma Heights**  
**Independence Boulevard**

**PLEASE ENCLOSE A COPY OF THIS INVOICE TO IDENTIFY YOUR REMITTANCE**

Proposal of Participation	Type of Agreement	Amount
		\$106,793.00

Contract amount . . . . . \$46,350.00  
ODOT Engineering amount. . . . . \$60,443.00

For the improvement of that portion of **Independence Boulevard**, more particularly described as follows:

**The project consists of replacing Bridge No. CUY-INDEP-0053 (SFN 1880411) located on Independence Boulevard over Brandywine Creek (Big Creek), including approach work, sidewalks, and traffic control, lying within the City of Parma Heights.**

**Total Amount Due \$106,793.00**

Ohio Department of Transportation

E-SIGNED by Nathan Fling  
on 2022-09-08 17:14:19 GMT  
By: \_\_\_\_\_  
Administrator, Office of Contract  
Sales & Estimating

# EXHIBIT B

PID No. 111489

## CONTRACT (Chapter 5521, Ohio Revised Code)

This contract is made by and between the State of Ohio, Department of Transportation, acting through its director (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223, and the City of **Parma Heights**, (hereinafter referred to as the legislative authority/Local Public Agency or "LPA").

### WITNESSTH:

**WHEREAS**, Chapter 5521 of the Ohio Revised Code provides that the legislative authority may cooperate with the STATE in a highway project made by and under the supervision of the Director of Transportation; and

**WHEREAS**, through the enactment of preliminary legislation, the LPA and the STATE have agreed to cooperate in the highway project described below; and

**WHEREAS**, through the enactment of final legislation, the LPA has committed to pay an estimated amount of money as its share of the total estimated cost and expense of the highway project described below; and

**WHEREAS**, the fiscal officer of the LPA has filed with the LPA a certificate stating that sufficient moneys are available, as required by Chapter 5521 and Section 5705.41 of the Ohio Revised Code. A duplicate certificate is attached hereto; and

**WHEREAS**, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment of the agreed portion of the cost of the highway project and any additional obligations for the highway project described below.

**NOW, THEREFORE**, in consideration of the premises and the performances of mutual covenants hereinafter set forth, it is agreed by parties hereto as follows:

### SECTION I:        RECITALS

The foregoing recitals are hereby incorporated as a material part of this contract.

### SECTION II:      PURPOSE

The purpose of this contract is to set forth requirements associated with the highway project described below (hereinafter referred to as the "PROJECT") and to establish the responsibilities for the administration of the PROJECT by the LPA and the STATE.

**SECTION III: LEGAL REFERENCES**

This contract is established pursuant to Chapter 5521 of the Ohio Revised Code.

**SECTION IV: SCOPE OF WORK**

The work to be performed under this contract shall consist of the following:

**The project consists of replacing Bridge No. CUY-INDEP-0053 (SFN 1880411) located on Independence Boulevard over Brandywine Creek (Big Creek), including approach work, sidewalks, and traffic control, lying within the City of Parma Heights.**

**SECTION V: FINANCIAL PARTICIPATION**

1. The STATE agrees to provide the necessary funds as enumerated in this section and allowed by law for the financing of this project.
2. The STATE may allocate the money contributed by the LPA in whatever manner it deems necessary in financing the cost of construction, right-of-way, engineering, and incidental expenses, notwithstanding the percentage basis of contribution by the LPA.
3. The total cost and expenses for the project are only an estimate and the total cost and expenses may be adjusted by the STATE. If any adjustments are required, payment of additional funds shall correspond with the percentages of actual costs when said actual costs are determined, and as requested, by the Director of Transportation.
4. The LPA agrees to pay to the STATE its share of the total estimated cost expense for the above highway project in the amount of **One Hundred Six Thousand Seven Hundred Ninety-Three and - - - 00/100 Dollars, (\$106,793.00).**
5. **The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the city limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.**
6. The LPA agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items required by the LPA on the entire project, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.

7. The LPA agrees that change orders and extra work contracts required fulfilling the construction contracts shall be processed as needed. The STATE shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

**SECTION VI: RIGHT-OF-WAY AND UTILITIES**

1. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
2. The LPA agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual, including that:
  - A. Arrangements have been or will be made with all utilities where facilities are affected by the described PROJECT, that the utilities have agreed to make all necessary removals and/or relocations to clear any construction called for by the plans of this PROJECT, and that the utilities have agreed to make the necessary removals and/or relocations after notification by the LPA or STATE.
  - B. The LPA shall, at its own expense, make all removals and/or relocations of publicly-owned utilities which do not comply with the reimbursement provisions of the ODOT Utilities Manual. Publicly-owned facilities which do comply with the reimbursement provisions of the ODOT Utilities Manual will be removed and/or relocated at project expense, exclusive of betterments.
  - C. The removals and/or relocation of all utilities shall be done in such a manner as not to interfere with the operation of the contractor constructing the PROJECT and that the utility removals and/or relocations shall be approved by the STATE and performed in accordance with the provisions of the ODOT Construction and Materials Specifications.

**SECTION VII: ADDITIONAL PROJECT OBLIGATIONS**

1. The STATE shall initiate the competitive bid letting process and award the PROJECT in accordance with ODOT's policies and procedures.
2. The LPA agrees:
  - A. To keep said highway open to traffic at all times;
  - B. To maintain the PROJECT in accordance with the provisions of the statutes relating thereto,

- C. To make ample financial and other provisions for such maintenance of the PROJECT after its completion;
- D. To maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the STATE and hold said right-of-way inviolate for public highway purposes;
- E. To place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the project in compliance with the provisions of Section 4511.11 of the Ohio Revised Code;
- F. To regulate parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

**SECTION VIII: DISPUTES**

In the event that any disputes arise between the STATE and LPA concerning interruption of or performance pursuant to this contract, such disputes shall be resolved solely and finally by the Director of Transportation.

**SECTION IX: NOTICE**

Notice under this contract shall be directed as follows:

**City of Parma Heights**  
**6281 Pearl Road**  
**Parma Heights, Ohio**  
**44130**

Ohio Department of Transportation  
Office of Contract Sales & Estimating  
1980 West Broad Street, 1st Floor  
Columbus, Ohio 43223

**SECTION X: FEDERAL REQUIREMENTS**

1. In carrying out this contract, LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, or age. LPA will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin (ancestry), disability, genetic information, or age (40 years or older), sexual orientation, or military status (past, present, future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.



2. To the extent necessary under Ohio law, LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. LPA will, in all solicitations or advertisements for employees placed by or on behalf of LPA, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, future). If applicable, the LPA shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.
3. LPA agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. LPA shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.

**SECTION XI: GENERAL PROVISIONS**

1. This contract constitutes the entire contract between the parties. All prior discussions and understandings between the parties are superseded by this contract.
2. Neither this contract nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
3. Any change to the provisions of this contract must be made in a written amendment executed by both parties.
4. This contract and any claims arising out of this contract shall be governed by the laws of the State of Ohio. Any provision of this contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this contract or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that the STATE is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
5. All financial obligations of the State of Ohio, as provided in this contract, are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by the STATE. Additionally, it is understood that this financial obligation of the LPA shall not be valid and enforceable unless funds are appropriated by the LPA's legislative body.

- 6. This contract shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.
- 7. LPA agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

**SECTION XII: SIGNATURES**

Any person executing this contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this contract on such principal behalf.

Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

**IN WITNESS THEREOF**, the parties hereto have caused this contract to be duly executed in duplicate.

**SEAL**  
(If Applicable)

**OHIO DEPARTMENT OF  
TRANSPORTATION**

**LOCAL PUBLIC AGENCY  
City of Parma Heights**

\_\_\_\_\_  
Director of Transportation

\_\_\_\_\_  
**Mayor**

\_\_\_\_\_  
Date

Approved:  
Dave Yost  
Attorney General of Ohio

By: \_\_\_\_\_  
Corinna Efke  
Unit Coordinator, Transportation  
Executive Agencies Section

**FISCAL OFFICER'S CERTIFICATE**  
(Chapter 5521 and Section 5705.41, Ohio Revised Code)

I hereby certify to that the money, to wit: **\$106,793.00** required for the payment of the cost other than that thereof assumed by the **Federal** Government, for the improvement of that portion of **Independence Boulevard**, lying within the corporate limits of the City of **Parma Heights**, more particularly described as follows:

**The project consists of replacing Bridge No. CUY-INDEP-0053 (SFN 1880411) located on Independence Boulevard over Brandywine Creek (Big Creek), including approach work, sidewalks, and traffic control, lying within the City of Parma Heights; and**

has been lawfully appropriated for such purpose and is in the treasury to the credit of, or has been levied placed on the duplicate and in process of collection for the appropriate fund, and not appropriated for any other purpose; or is being obtained by sale of bonds issued on account of said improvement, which bonds are sold and in process of delivery.

I further certify that this certificate was made, sealed and filed with the legislative authority of the City of **Parma Heights**, Ohio, after said legislative authority passed the final resolution in connection with the within described project; and that this certificate was forthwith recorded in the record of the proceedings of said legislative authority, namely:

Legislative Authority's Journal, Volume \_\_\_\_\_, at Page \_\_\_\_\_,

IN WITNESS WHEREOF, I have hereunto set my hand and official seal as said fiscal officer, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Fiscal Officer's Seal)  
(If Applicable)

\_\_\_\_\_  
Fiscal Officer of the City of  
**Parma Heights, Ohio**