

ORDINANCE NO. 117-14

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH MEDINA UNITED METHODIST CHURCH AND MARK KLAUS, LLC FOR THE LEASE OF PARKING LOT AREAS LOCATED ON SOUTH COURT STREET.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor is hereby authorized and directed to enter into an Agreement with Medina United Methodist Church and Mark Klaus, LLC for the lease of parking lot areas located on South Court Street; Permanent Parcel Nos. 028-19B-20-103, 028-19B-20-100, and 028-19B-20-101.
- SEC. 2:** That a copy of the Agreement is marked Exhibit A, attached hereto and incorporated herein.
- SEC. 3:** That it is 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 any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 4:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: July 14, 2014

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: July 15, 2014

SIGNED: Dennis Hanwell
Mayor

AGREEMENT

This Agreement is hereby entered into this 15th day of July, 2014, by and between the CITY OF MEDINA, an Ohio Municipal Corporation, located at 132 North Elmwood Avenue, Medina, Ohio 44256, (hereinafter referred to as "the City") and the MEDINA UNITED METHODIST CHURCH, located at 4747 Foote Road, Medina, Ohio 44256, (hereinafter referred to as "Church"), and MARK KLAUS, LLC, 260 Wakefield Run, Hinckley, Ohio 44233.

WITNESSETH:

WHEREAS, the Medina United Methodist Church is the owner of property located on South Court Street, Medina, Ohio, known as Permanent Parcel No. 028-19B-20-103 and on South Broadway Street, Medina, Ohio, known as Permanent Parcel Nos. 028-19B-20-100 and 028-19B-20-101; and

WHEREAS, the Medina United Methodist Church is selling the subject property to Mark Klaus, LLC, 260 Wakefield Run, Hinckley, Ohio 44233 pursuant to a Land Installment Contract dated December 22, 2013, which contract has been recorded with the Medina County Recorder at Official Record 2014OR001052; and

WHEREAS, the City of Medina desires to use the parking lot areas located on Permanent Parcel Nos. 028-19B-20-103, 028-19B-20-100, and 028-19B-20-101, including the sidewalks located thereon ("Parking Lots"); and

WHEREAS, the City agrees to maintain the Parking Lots for the term of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements herein contained, the parties, City, Church, and Mark Klaus, LLC, their successors and assigns, hereby covenant, promise, and agree as follows:

I. PREMISES

The Church and Mark Klaus, LLC hereby jointly grant to the City the nonexclusive use and occupancy of the parking lot areas located on South Court Street, Medina, Ohio, known as Permanent Parcel No. 028-19B-20-103 and on South Broadway Street, Medina, Ohio, known as Permanent Parcel Nos. 028-19B-20-100 and 028-19B-20-101. The City's use of the Parking Lots shall not be exclusive as Mark Klaus, LLC, retains use of the parking lot areas. The parties agree and understand that the City may permit use of the Parking Lots by individuals associated with the Medina City Schools.

II. MAINTENANCE

The City of Medina hereby agrees to be solely responsible for all maintenance of the Parking Lots, including adjacent sidewalk areas, so as to keep the property in good condition during the term of this Agreement. The Church and Mark Klaus, LLC, shall not be responsible for any maintenance needs with respect to the Parking Lots if they should occur. No alterations shall be made to the property except as required for purposes of maintenance. The City's obligation to maintain the Parking Lots includes, but is not limited to, snow removal, deicing, crack repair, resurfacing, and striping of parking spaces.

III. TERM

The term of this Agreement shall be for a period of one (1) year commencing on the date of the signing of this Agreement. The foregoing term notwithstanding, this Agreement shall automatically terminate upon the completion of the Church's and Mark Klaus, LLC's land installment contract

IV. UTILITIES

The City of Medina shall be responsible for all utility costs with respect to the Parking Lots.

V. REAL ESTATE TAXES

Mark Klaus, LLC, agrees to remain solely responsible for the payment of real estate taxes on the subject property pursuant to the terms of the Land Installment Contract.

VI. RISK OF LOSS AND INSURANCE

The City of Medina agrees to primary responsibility for damage and/or injury to person or property proximately caused by use of the subject parking lot property during the term of this Agreement. The City of Medina shall maintain, during the entire term of this Agreement, liability insurance coverage covering the City's use of the subject property in the amount of One Million Dollars (\$1,000,000). To the extent permissible under Ohio law and to the extent of the City's insurance liability coverage, the City agrees to indemnify, hold harmless, and defend the Church and Mark Klaus, LLC, from and against any and all liability, losses, damages, costs, and expenses, including reasonable attorneys' fees, incurred in connection with any claim, suit, proceeding, inquiry, or investigation based upon or relating to any use of the Parking Lots after the commencement date of this Lease and while the City is in possession of or has the right to possession of the Parking Lots pursuant to this Lease.

VII. TERMINATION

This Agreement may be terminated by any party for any reason upon thirty (30) days' written notice to the other parties.

VIII. NOTICES

All notices which may be proper and necessary to be served hereunder shall be in writing and shall be served by personal delivery or by certified mail. Any such correspondence shall be sent to the following addresses:

To the City:

Office of the Mayor
City of Medina
132 North Elmwood Avenue
Medina, OH 44256

To the Church:

ATTN: Trustees
Medina United Methodist Church
4747 Foote Road
Medina, OH 44256

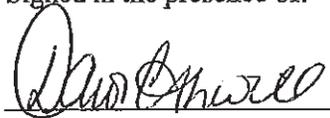
To Mark Klaus, LLC:

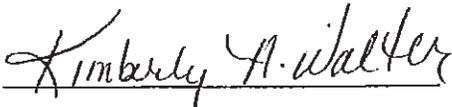
Mark Klaus, Member
Mark Klaus, LLC
260 Wakefield Run
Hinckley, Ohio 44233

IX. FORCE MAJUERE

Neither City nor Church nor Mark Klaus, LLC, shall be deemed to be in breach of this Agreement by reason of failure to perform any of its obligations hereunder if, while and to the extent that such failure is due to strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of government authority, weather conditions, floods, riots, rebellion, sabotage, or any other circumstance for which it is not responsible and which are not within its control; provided that this provision shall not prevent either party from exercising its right of termination under this agreement.

Signed in the presence of:





**CITY OF MEDINA,
an Ohio Municipal Corporation**

By: 

DENNIS HANWELL, Mayor

Signed in the presence of:

MARK KLAUS, LLC,
an Ohio Limited Liability Company

By: _____
MARK KLAUS, Member

STATE OF OHIO)
)
COUNTY OF MEDINA)ss:

Before me, a Notary Public in and for said County and State, personally appeared the above-named Mark Klaus, LLC, by Mark Klaus, its Member, who executed the foregoing instrument in my presence and acknowledged the same to be the voluntary act of said company and his voluntary act individually and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal at Medina, Ohio, this _____ day of _____, 2014.

NOTARY PUBLIC

Document & Form Approved by:

GREGORY A. HUBER, Law Director
City of Medina