

ORDINANCE NO. 2021- 036

AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO AN AGREEMENT WITH CITY OF KENT, OHIO (CITY) AND MAIN STREET KENT (MSK) FOR NEEDED MAINTENANCE SERVICES TO KEEP THE "OUTDOOR SEATING AREA" SANITARY AND ORDERLY, AND DECLARING AN EMERGENCY.

WHEREAS, the City is planning to establish an "Outdoor Seating Area" on Franklin Avenue, to be situated between East Main Street and West Erie Street beginning on or around May 7, 2021 and keeping the area open daily through and including October 3, 2021; and

WHEREAS, MSK will assist the City to manage the provision of services for the "Outdoor Seating Area" and other outdoor areas in the City of Kent downtown central business district in order to keep said areas sanitary and orderly; and

WHEREAS, MSK agrees to facilitate dialogue and coordinate volunteer efforts for the "Outdoor Seating Area". The City will reimburse MSK in a timely manner for any and all costs associated with the payment of person(s) selected to maintain the "Outdoor Seating Area" on Franklin Avenue, as well as other outdoor areas in the City of Kent. The City can reimburse MSK in an amount not to exceed \$7,500.00.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, that:

SECTION 1. The City Manager, or his designee, is hereby authorized to enter into an agreement with the City and MSK for needed maintenance services to keep the "Outdoor Seating Area" sanitary and orderly an in substantial compliance with the terms of Exhibit "A", attached hereto.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption 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 that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: April 21, 2021
Date

Jerry T. Fiala
Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: April 21, 2021
Date

ATTEST: Amy Wilkens
Amy Wilkens
Clerk of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE No. 2021-036 ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON April 21, 2021.

Amy Wilkens
AMY WILKENS
CLERK OF COUNCIL
(SEAL)

**MEMORANDUM OF AGREEMENT
BETWEEN
CITY OF KENT
AND
MAIN STREET KENT**

This Memorandum of Agreement is by and between the CITY OF KENT, with offices located at 930 Overholt Road, Kent, OH, hereinafter referred to as the “CITY,” and MAIN STREET KENT, with offices located at 138 E. Main Street #201b, Kent OH, hereinafter referred to as “MSK.”

SECTION 1: BACKGROUND

WHEREAS, the CITY has an “Order of Emergency due to the Coronavirus (COVID-19)” that went into effect on March 17, 2020 with the signing of Executive Order 2020-01 in response to the pandemic; and

WHEREAS, Executive Order 2020-01 will remain in effect until such time as State of Ohio Governor Mike DeWine issues a declaration lifting all Ohio Department of Health orders utilized since March of 2020 to safeguard the public health of all Ohioans; and

WHEREAS, some of the Ohio Department of Health orders specify reduced limits on allowed occupancy requirements inside restaurants, bars, and retail establishments; and

WHEREAS, these health order reduction limits on occupancy are necessary to address the ongoing pandemic, the reductions in the number of allowed patrons inside establishments has adversely affected operations for many of the restaurants, bars, and retail establishments in the City of Kent downtown central business district; and

WHEREAS, the CITY has been committed to implementing programming that can facilitate increased sales activity in order to support the small businesses operating in the City of Kent downtown central business district; and

WHEREAS, the CITY is planning to establish an “Outdoor Seating Area” on Franklin Avenue, to be situated between E. Main Street and W. Erie Street, beginning on or around May 7, 2021 and keeping the area open daily through and including October 3, 2021, or such time as Ohio Governor DeWine lifts all health orders, or any other such event occurs that necessitates removing the “Outdoor Seating Area,” and

WHEREAS, the CITY will need assistance from MSK to manage the provision of services for the “Outdoor Seating Area,” and other outdoor areas in the City of Kent downtown central business district, during weekly peak periods in order to keep said areas sanitary and orderly;”

NOW, THEREFORE, by mutual agreement, the CITY and MSK enter into this Memorandum of Agreement with the terms as follows:

1. MSK, in support of its mission to support the small businesses operating in the City of Kent downtown central business district, agrees to supervise the management and payment of person(s) selected to maintain the "Outdoor Seating Area" on Franklin Avenue, as well as other outdoor areas in the City of Kent, in a sanitary and orderly manner, while the "Outdoor Seating Area" on Franklin Avenue is operational, and during the following weekly peak periods:
 - Friday evening (5:00-10:00 p.m.)
 - Saturday evening (5:00-10:00 p.m.)
 - Sunday afternoon-early evening (2:00-7:00 p.m.)
2. MSK agrees to facilitate dialogue and coordinate volunteer efforts with area small businesses operating near the "Outdoor Seating Area" to assist with maintaining the area in a sanitary and orderly manner for periods of the week not specified above in "Item 1."
3. The City agrees to reimburse MSK in a timely manner for any and all costs associated with the payment of person(s) selected to maintain the "Outdoor Seating Area" on Franklin Avenue, as well as other outdoor areas in the City of Kent in a sanitary and orderly manner, for the weekly peak periods listed above in "Item 1" at an agreed upon hourly rate not to exceed twelve dollars and no cents (\$12.00) per hour. Documentation needed for such reimbursement will be in a format mutually agreed upon by the CITY and MSK.
4. At no time is any selected person(s) to be considered an employee of the CITY or MSK, but rather, must be paid as independent contractor(s) by MSK. MSK is solely responsible for the issuance of any IRS 1099 form(s) as is required by law.
5. The CITY agrees to reimburse MSK in a timely manner for any other reasonable and customary purchase(s) of necessary supplies or materials as long as both the CITY and MSK agree to such purchase(s) prior to acquisition and the request for reimbursement includes proof of invoice and payment by MSK.
6. The amount the CITY can reimburse MSK under this Memorandum of Agreement will not exceed seven thousand five hundred dollars and no cents (\$7,500.00).
7. This Agreement shall be binding upon the parties, their successors and assigns.

CITY OF KENT, OHIO

David Ruller, City Manager, City of Kent

Date

Approved as to Form:

Hope Jones, Law Director, City of Kent

Date

MAIN STREET KENT

Eric Decker, President,
Main Street Kent Board of Directors

Date

CERTIFICATE OF DIRECTOR OF BUDGET AND FINANCE

It is hereby certified that the required amount of \$7,500.00 to meet the contract, agreement, obligation, payment or expenditure for the above has been lawfully appropriated or authorized or directed for such purposes in the 2021 City of Kent operating budget and is in the City Treasury or in the process of collection to the credit of the General Fund, free from any obligation or certificates now outstanding.

Rhonda Hall,

Director of Budget & Finance, City of Kent

Date

DRAFT