

MUNICIPAL ORDER 5-2019

A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT WITH THE OWENSBORO-DAVIESS COUNTY INDUSTRIAL FOUNDATION WHEREBY THE CITY WILL PURCHASE THE FOUNDATION'S INTEREST IN THREE (3) PROPERTIES IN ORDER TO PROVIDE CAPITAL TO THE FOUNDATION FOR USE IN FUTURE ECONOMIC DEVELOPMENT EFFORTS.

WHEREAS, the Owensboro-Daviess County Industrial Foundation (Foundation) is a corporation organized under the laws of the Commonwealth of Kentucky and has been instrumental in economic development and job creation in Owensboro-Daviess County for decades; and

WHEREAS, the Foundation is the owner or shared owner of properties in the downtown area of the City of Owensboro located at 700 W. Second Street, 711 W. Third Street, and 614 W. Third Street, that were acquired to facilitate an economic development project; and

WHEREAS, the Foundation operates on a cost-recovery basis, with proceeds from the sale of property for the purpose of economic development used to acquire property for future economic development; and

WHEREAS, to provide capital to the Foundation for use in future economic development efforts, the City will purchase the Foundation's interest in the above referenced properties. Daviess County Fiscal Court will retain an ownership interest in 711 W. Third Street.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:

Section 1. That the Mayor of the City of Owensboro, Kentucky, be, and he hereby is, authorized and directed to execute a Memorandum of Agreement, which shall authorize the City to purchase the Foundation's interest in 700 W. Second Street, 711 W. Third Street, and 614 W. Third Street under the terms of the Memorandum of Agreement between the Parties, which is attached hereto and incorporated by reference. Daviess County Fiscal Court will retain an ownership interest in 711 W. Third Street.

Section 2. That the Mayor, City Manager, and other city staff be, and they hereby are authorized to execute any and all other deeds, agreements, instruments or documents necessary and appropriate to effectuate and implement this Memorandum of Agreement and/or documents related thereto.

INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE READING, this the 16th day of April, 2019.

Thomas H. Watson, Mayor

ATTEST:

Beth Cecil, City Clerk

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT made and entered into this _____ day of April, 2019, by and between CITY OF OWENSBORO, KENTUCKY, a municipality of the Home Rule class, 101 East Fourth Street, P. O. Box 10003, Owensboro, Kentucky 42302-9003, (hereinafter referred to as “City”), and OWENSBORO-DAVIESS COUNTY INDUSTRIAL FOUNDATION, INC., 2900 Veach Road, Suite 2, Owensboro, Kentucky 42302-1000, (hereinafter referred to as “Foundation”). Collectively, the City and Foundation shall be referred to as the “Parties.”

RECITALS

WHEREAS, the Foundation is a corporation organized under the laws of the Commonwealth of Kentucky and has been instrumental in economic development and job creation in Owensboro-Daviess County for decades; and

WHEREAS, the Foundation is the owner or shared owner of properties in the downtown area of the City of Owensboro, (hereinafter referred to as “Properties”) located at 700 W. Second Street, 711 W. Third Street, and 614 W. Third Street, that were acquired to facilitate an economic development project; and

WHEREAS, the Foundation operates on a cost-recovery basis, with proceeds from the sale of property for the purpose of economic development used to acquire property for future economic development.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants and conditions contained herein, the Parties agree as follows:

1. To provide capital to the Foundation for use in future economic development efforts, the City will purchase Foundation's interests in said Properties in a series of payments to commence in the City's 2019-2020 Fiscal Year Budget.
2. Proceeds from City's interest in any sales of Airpark property after June 1, 2019 will be assigned to Foundation to buy-out Foundation's interests in said Properties until the time City has acquired all of Foundations' interests in said Properties.
3. Foundation's interests in said Properties will transfer to City upon receipt of first payment per Section 1 of this Agreement. Parties acknowledge Daviess County Fiscal Court will retain an ownership interest in 711 W. Third Street.
4. This Agreement shall commence upon its execution by both Parties and in the absence of a default by either party, shall remain in full force and effect for three (3) years, or until such time as all terms and conditions set forth herein have been satisfied.
5. Notwithstanding any other provision of this Agreement, either party may terminate this Agreement for cause, or for no reason at all, by giving the other party thirty (30) days written notice. Said notice shall be given to the following:

CITY: Nate Pagan, City Manager
City of Owensboro
P. O. Box 10003
101 East Fourth Street
Owensboro, Kentucky 42302-9003

FOUNDATION: Owensboro-Daviess County Industrial Foundation, Inc.
Joe Hancock
2900 Veach Road, Suite 2
Owensboro, KY 42303-8800

6. The Parties agree and acknowledge that this Agreement contains the entire Agreement between the Parties and that this Agreement may be amended only in writing and signed by both parties.

7. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any disputes shall be heard in the state and federal courts located in Daviess County, Kentucky.

8. If any provision of this Agreement is found unconstitutional or in conflict with any applicable statute or rule of law, or is otherwise held unenforceable, the invalidity of any such provision shall not affect any or all of the remaining provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Agreement as of the day and year first hereinabove written.

CITY OF OWENSBORO, KENTUCKY

By _____
Thomas H. Watson, Mayor

ATTEST:

Beth Cecil, City Clerk

OWENSBORO-DAVIESS COUNTY
INDUSTRIAL FOUNDATION, INC.

By _____
Dean Stanley, President

THIS INSTRUMENT PREPARED BY:

Stephen D. Lynn
City Attorney
City of Owensboro
101 E. Fourth Street
P.O. Box 10003
Owensboro, KY 42302-9003
(270) 687-8556