

ORDINANCE 23-2020

AN ORDINANCE CLOSING A PORTION OF A 10-FOOT WIDE ALLEY RIGHT-OF-WAY CONTAINING 0.153 ACRES WHICH IS OFF EAST 15TH STREET AND ADJACENT TO 1501 HAYNES AVENUE FROM 1527 JACKSON STREET TO 1719 JACKSON STREET, OWENSBORO, KENTUCKY, AT THE REQUEST OF SOUTHERN TANK & MANUFACTURING, INC.

WHEREAS, Southern Tank & Manufacturing, Inc. has petitioned the City of Owensboro, pursuant to KRS 82.405(2) for the closing of a 0.153-acre portion of the right-of-way alley which is off East 15th Street and adjacent to 1501 Haynes Avenue from 1527 Jackson Street to 1719 Jackson Street, Owensboro, Kentucky, a plat of which is attached hereto and incorporated by reference as Exhibit "A"; and

WHEREAS, all adjoining and/or abutting property owners have submitted notarized *Consent of Abutting Property Owners to Closure of Public Right-of-Way* forms; and,

WHEREAS, the Petitioners understand and agree to dedicate a public utility easement in favor of Owensboro Municipal Utilities (OMU) over a portion of the alley to be abandoned and closed; and said easement shall be for the purposes of allowing OMU access to their underground water lines that service 1623 and 1709 Jackson Street. Access shall be via a gate on a new fence to be constructed by Southern Tank & Manufacturing, Inc. Said access gate with an OMU padlock will allow OMU access to service underground water lines and to service overhead electrical wires for security lighting; and

WHEREAS, pursuant to KRS 82.405(2), the Board of Commissioners of the City of Owensboro, Kentucky, makes the following findings:

1. That the Petitioner, Southern Tank & Manufacturing, Inc. and all other property owners abutting and adjoining the portion of the public alley right-of-way sought to be closed and abandoned; have received written notice and given their written consent to the closing and abandonment of the public alley right-of-way described hereinabove, a copy of *Applicant's Request for Closure of Public Right-of-Way* is attached hereto with copies of said written, notarized consents to the closure.

2. That the closing of the public right-of-way to be abandoned herein would be in the best interest of the residents of the City of Owensboro, Kentucky, and will not create a hardship on any of the adjoining property owners or any person with any interest therein.

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

Section 1. That the findings of fact recited hereinabove are hereby adopted, affirmed and incorporated by reference herein.

Section 2. Pursuant to the provisions of KRS 82.405(2), the City of Owensboro does hereby abandon and close a 0.153-acre portion of the public alley right-of-way which is off East 15th Street and adjacent to 1501 Haynes Avenue from 1527 Jackson Street to 1719 Jackson Street, Owensboro, Kentucky as more particularly described:

The proposed alley right of way is described as commencing at the southeastern corner to Jackson Street and East 15th Street intersection, thence easterly with the south right of way line of East 15th Street approximately 120.5 feet to the northeast corner to 1308 east 15th Street and in the in the west right of way line of a 10.0 feet wide alley; thence with the west right of way line of the alley approximately 100 feet to the northeast corner to 1527 Jackson Street, said point being the TRUE POINT OF BEGINNING; thence in a southerly direction approximately 665.4 feet with the rear of 1527 Jackson Street, 1529 Jackson Street, 1601 Jackson Street, 1603 Jackson Street, 1615 Jackson Street, 1617 Jackson Street, 1619 Jackson Street, 1621 Jackson Street, 1623 Jackson Street, 1709

Jackson Street, 1711 Jackson Street, 1713 Jackson Street, 1715 Jackson Street, 1717 Jackson Street, 1719 Jackson Street and 1721 Jackson Street to the southeast corner to 1721 Jackson Street in the north line of Southern Tank and Manufacturing Company, Inc.; thence with the north line of Southern Tank and Manufacturing Company, Inc. easterly approximately 10.26 feet to a point; thence northerly approximately 665.4 feet with the west lines of Southern Tank and Manufacturing Company, Inc. and Keystops, Inc. to the southwest corner to 1314 East 15th Street; thence west with the south line of 1314 East 15th Street extended approximately 10 feet to the TRUE POINT OF BEGINNING containing approximately 0.153 acre, more or less.

Section 3. The Petitioners shall dedicate by Deed of Easement or Plat a public utility easement in favor of Owensboro Municipal Utilities to service underground water lines to 1623 and 1709 Jackson Street and overhead electrical wires for security lighting. This access easement relates only to the portion of the alley described herein.

Section 4. A copy of this Ordinance shall be recorded in the Office of the Daviess County Court Clerk.

Section 5. That all ordinances or parts of ordinances in conflict herewith, are to the extent of such conflict, hereby repealed.

INTRODUCED AND PUBLICLY READ ON FIRST READING, this 1st day of December, 2020.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this ____ day of _____, 20____.

Thomas H. Watson, Mayor

ATTEST:

Beth Cecil, City Clerk

CERTIFICATION

I, Beth Cecil, City Clerk of the City of Owensboro, Kentucky, do hereby certify that the foregoing is a true and correct copy of Ordinance 23-2020 duly adopted by the Board of Commissioners of the City of Owensboro, Kentucky, on the ____ day of _____, 20____, the original of which is on file in the Office of the City Clerk, on this the _____ day of _____, 20____.

Beth Cecil, City Clerk

CITY OF OWENSBORO

COMMISSION MEETING DATE: 12/1/2020

**AGENDA REQUEST AND SUMMARY SUBMITTED BY: City Engineering Department
– Michael Hamilton**

TITLE: PROPOSED CLOSING OF A PORTION OF ALLEY RIGHT OF WAY ADJACENT TO 1501 HAYNES AVENUE FROM 1527 JACKSON STREET TO 1719 JACKSON STREET

Ordinance Prepared by: ☒ City Staff ☐ Other Preparer **Attachments:** Request for Closure of Public Right of Way Form, Consent of Abutting Property Owner to Closure of Public Right of Way Forms, Ordinance for Closure, Alley Description and Exhibit Plat

Summary & Background:

A request has been received from Southern Tank & Manufacturing Inc., for consideration to close a section of alley right of way adjacent to 1501 Haynes Avenue from 1527 Jackson Street to 1719 Jackson Street, being 10 foot wide and described below:

The proposed alley right of way is described as commencing at the southeastern corner to Jackson Street and East 15th Street intersection, thence easterly with the south right of way line, of East 15th Street approximately 120.5 feet to the northeast corner to 1308 East 15th Street and in the west right of way line of a 10.0 feet wide alley; thence with west right of way line of the alley approximately 100 feet to the northeast corner to 1527 Jackson Street, said point being the TRUE POINT OF BEGINNING; thence in a southerly direction approximately 665.4 feet with the rear of 1527 Jackson Street, 1529 Jackson Street, 1601 Jackson Street, 1603, Jackson Street, 1615 Jackson Street, 1617 Jackson Street, 1619 Jackson Street, 1621 Jackson Street, 1623 Jackson Street, 1709 Jackson Street, 1711 Jackson Street, and 1721 Jackson Street to the southeast corner to 1721 Jackson Street in the north line of Southern Tank and Manufacturing Company, Inc.; thence with the north line of Southern Tank and Manufacturing Company, Inc. easterly approximately 10.26 feet to a point; thence northerly approximately 665.4 feet with the west lines of Southern Tank and Manufacturing Company, Inc. and Keystop, Inc. to the southwest corner to 1314 East 15th Street; thence west with the south line of 1314 East 15th Street extended approximately 10 feet to the TRUE POINT OF BEGINNING containing approximately 0.153 acres, more or less.

Phil Higdon, Southern Tank & Manufacturing, Inc., representative of the owner of property at 1501 Haynes Avenue has signed and submitted a Request for Closure Form for the proposed closing. Bill Kennedy, representing Southern Tank & Manufacturing Inc., owners of abutting property to the proposed closing at 1623, 1709, 1711, 1713, 1715, 1717 and 1719 Jackson Street along with 1602, 1608, & 1610 Haynes Avenue has signed and submitted Consent of Abutting Property Owner forms for the proposed closing. Other abutting property owners that have signed and submitted Consent of Abutting Property Owner forms are as follows; Keystops, LLC at 1514 Haynes Avenue, Elvie & Shirley Roberson with Full Gospel Pentecostal Church at 1621 Jackson Street, Joe Boarman with TJB Investments, LLC at 1527, 1529, 1601, 1603, 1615, 1617, and 1619 Jackson Street.

The request has been forwarded to all City departments and City Utilities. No objections were noted to the closing of the public alley rights of way. An easement was requested and will be retained by OMU Electric and Water over the existing alley right of way behind 1623 and 1709 Jackson Street.

Ed Hodskins - DRAFTED THE ORDINANCE FOR CLOSURE



JOSEPH H. SIMMONS, JR.

LAND SURVEYING

1515 East 21st St.

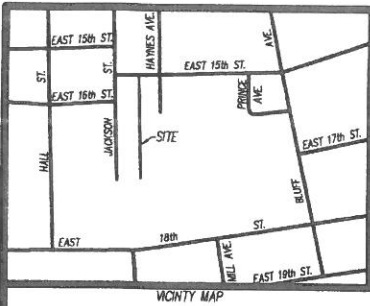
Owensboro, Kentucky 42303

Phone (270) 685-1146

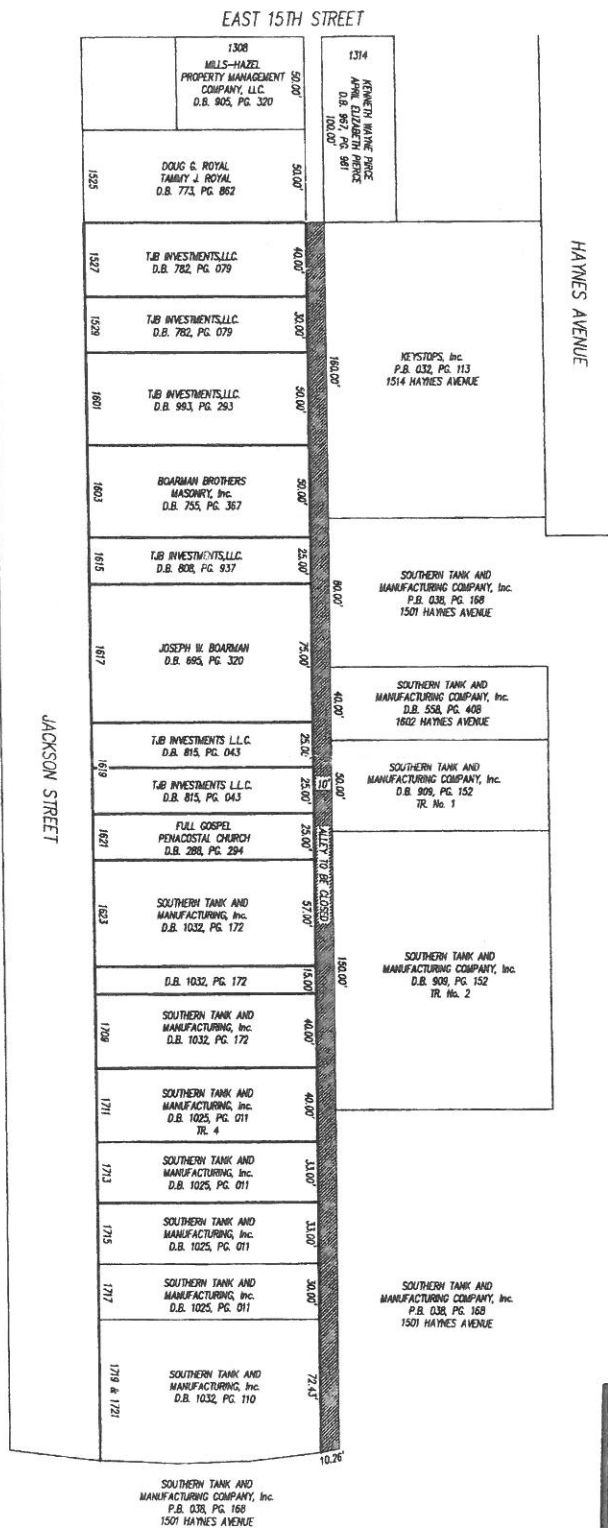
FAX (270) 685-5376

ALLEY CLOSING

The proposed alley right of way is described as commencing at the southeastern corner to Jackson Street and East 15th Street intersection, thence easterly with the south right of way line of East 15th Street approximately 120.5 feet to the northeast corner to 1308 East 15th Street and in the in the west right of way line of a 10.0 feet wide alley; thence with the west right of way line of the alley approximately 100 feet to the northeast corner to 1527 Jackson Street, said point being the TRUE POINT OF BEGINNING; thence in a southerly direction approximately 665.4 feet with the rear of 1527 Jackson Street, 1529 Jackson Street, 1601 Jackson Street, 1603 Jackson Street, 1615 Jackson Street, 1617 Jackson Street, 1619 Jackson Street, 1621 Jackson Street, 1623 Jackson Street, 1709 Jackson Street, 1711 Jackson Street, 1713 Jackson Street, 1715 Jackson Street, 1717 Jackson Street, 1719 Jackson Street and 1721 Jackson Street to the southeast corner to 1721 Jackson Street in the north line of Southern Tank and Manufacturing Company, Inc.; thence with the north line of Southern Tank and Manufacturing Company, Inc. easterly approximately 10.26 feet to a point; thence northerly approximately 665.4 feet with the west lines of Southern Tank and Manufacturing Company, Inc. and Keystops, Inc. to the southwest corner to 1314 East 15th Street; thence west with the south line of 1314 East 15th Street extended approximately 10 feet to the TRUE POINT OF BEGINNING containing approximately 0.153 acre, more or less.



VICINITY MAP



JOE SIMMONS SURVEYING
1515 EAST TWENTY-FIRST STREET
OWENSBORO, KENTUCKY 42303
PH. (270)685-1146 FAX: (270)685-5376

SOUTHERN TANK & MANUFACTURING, Inc.
ALLEY CLOSING
OFF OF EAST 15TH STREET
OWENSBORO

DAVIES COUNTY KENTUCKY
DATE: OCTOBER 29, 2020 DWG No. 20-126
SCALE: 1" = 50' DWG BY: M.J.J. CKD. BY: J.H.S.

REQUEST FOR CLOSURE OF PUBLIC RIGHT-OF-WAY

CITY ENGINEER:

The undersigned hereby requests that the right-of-way described below be closed and that the City Engineer's office make inquiry of all necessary City departments and utilities to determine if there are any reasons why the right-of-way located at: THE ALLEY RUNNING NORTH TO SOUTH BEHIND 1527 Jackson Street to 1719 Jackson Street

should not be closed.

I understand that if I do not own all the land abutting the right-of-way proposed to be closed, I will obtain the consent of all other adjoining landowners on the appropriate form provided by the City. I also agree to provide the City with the names and addresses of all abutting or otherwise affected landowners by the proposed closure.

Once the appropriate consent forms have been executed by all fee simple property owners abutting the right-of-way proposed to be closed, and have been filed with the City, I understand and agree that it shall be my responsibility to obtain and pay for the services of a licensed attorney to prepare the legal documents necessary to close public right-of-way in accordance with KRS 82.405, subject to the approval of the City Attorney.

SIGNED BY: Phil Higdon

(PRINTED NAME) Phil Higdon / Southern Tank & Mfg. Inc

DATE: Sept 8, 2020

ADDRESS: 1501 Haynes Ave Owensboro, Ky 42303

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was duly signed and acknowledged before me in my said County and State by

Phil Higdon Southern Tank & Mfg Inc., on this the 8th day of September, 2020.

Victoria L. Pruden KYNP4117
Notary Public, State of Kentucky at Large
My commission expires: 3-18-24

CONSENT OF ABUTTING PROPERTY OWNER (S)
TO CLOSURE OF PUBLIC RIGHT-OF-WAY

I (We), BILL KENNEDY

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1501 HAYNES AVE. OWENSBORO KY 42303 * / SOUTHERN TANK & MFG INC part or all of which property abuts a part or all of public right-of-way that the City of Owensboro, Kentucky, proposes to abandon and close in conformity with KRS 82.405, which right-of-way is more particularly described as follows:

THE ALLEY RUNNING NORTH TO SOUTH BEHIND 1527 JACKSON STREET TO
1719 JACKSON STREET

I (We), as fee simple owner (s) of property in or abutting the portion of public right-of-way to proposed to be closed, do knowingly, voluntarily, and expressly waive my (our) right to written notice of the proposed closing otherwise required by KRS 82.405 (2) (b), and hereby consent to, and join in the request for, the closure of said public right-of-way as proposed herein. I (We) further understand that I (we) are not required to consent to the closure of public right-of-way and may object to same. However, I (we) expressly waive any and all rights to object to the proposed closure.

I (We) further understand and acknowledge, that upon the enactment and publication of an ordinance by the Owensboro Board of Commissioners closing subject right-of-way, unless otherwise agreed, I (we) as abutting landowner (s), will receive by operation of law as my (our) own property, that portion of the right-of-way abutting my (our) property up to the center line of said right-of-way.

I further understand and acknowledge that if other fee simple owner (s) of property in or abutting the public right-of-way proposed to be closed does (do) not approve of the proposed

* Also 1623, 1709, 1711, 1713, 1715, And 1719 Jackson Street
AS Well AS 1602, 1608, & 1610 Haynes Avenue All in Owensboro, KY 42303

closure, the City reserves the right to withdraw from consideration any ordinance, or dismiss any lawsuit prosecuted herein, unless any one or all of the fee simple owner (s) of property in or abutting the right-of-way proposed to be closed, agrees (agree) to indemnify and hold the city of Owensboro harmless from any and all damages assessed against it by virtue of the initiation of eminent domain proceedings pursuant to KRS 82.405 (3) and (4).

I (We) further understand and acknowledge that the City of Owensboro reserves the right to deny or qualify any request for closure of public right-of-way, if upon inquiry from all necessary City departments, utilities, and all abutting or affected property owners, it is determined that it is not in the best interest of the city to close public right-of-way or the retention of public or private utility easements or required to accommodate municipal services.

In testimony whereof, witness my (our) signature (s) on this 11th Day of September, 2020

PROPERTY OWNER (S) :

x Bill Kennedy

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Bill Kennedy
On this the 11th day of September, 2020.

Victoria J. Pruden KYNP4117

NOTARY PUBLIC, State at Large

My Commission expires: 3-18-24

**CONSENT OF ABUTTING PROPERTY OWNER (S)
TO CLOSURE OF PUBLIC RIGHT-OF-WAY**

I (We), JOE BOARMAN

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1527, 1529, 1601, 1603, 1615, 1617, 1619 Jackson St And Known As X

, part or all of which property abuts a part or all of public right-of-way that the City of Owensboro, Kentucky, proposes to abandon and close in conformity with **KRS 82.405**, which right-of-way is more particularly described as follows:

THE ALLEY RUNNING NORTH TO SOUTH BEHIND 1527 JACKSON STREET TO
1719 JACKSON STREET

I (We), as fee simple owner (s) of property in or abutting the portion of public right-of-way to proposed to be closed, do knowingly, voluntarily, and expressly waive my (our) right to written notice of the proposed closing otherwise required by **KRS 82.405 (2) (b)**, and hereby consent to, and join in the request for, the closure of said public right-of-way as proposed herein. I (We) further understand that I (we) are not required to consent to the closure of public right-of-way and may object to same. However, I (we) expressly waive any and all rights to object to the proposed closure.

I (We) further understand and acknowledge, that upon the enactment and publication of an ordinance by the Owensboro Board of Commissioners closing subject right-of-way, unless otherwise agreed, I (we) as abutting landowner (s), will receive by operation of law as my (our) own property, that portion of the right-of-way abutting my (our) property up to the center line of said right-of-way.

I further understand and acknowledge that if other fee simple owner (s) of property in or abutting the public right-of-way proposed to be closed does (do) not approve of the proposed

* TJB Investments LLC,
BOARMAN BROTHERS MASONRY, INC
JOSEPH W. BOARMAN

closure, the City reserves the right to withdraw from consideration any ordinance, or dismiss any lawsuit prosecuted herein, unless any one or all of the fee simple owner (s) of property in or abutting the right-of-way proposed to be closed, agrees (agree) to indemnify and hold the city of Owensboro harmless from any and all damages assessed against it by virtue of the initiation of eminent domain proceedings pursuant to **KRS 82.405 (3) and (4)**.

I (We) further understand and acknowledge that the City of Owensboro reserves the right to deny or qualify any request for closure of public right-of-way, if upon inquiry from all necessary City departments, utilities, and all abutting or affected property owners, it is determined that it is not in the best interest of the city to close public right-of-way or the retention of public or private utility easements or required to accommodate municipal services.

In testimony whereof, witness my (our) signature (s) on this 11th Day of September, 2020

PROPERTY OWNER (S) :

Joseph W. Boorman

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Joseph Boorman
On this the 11th day of September, 2020.

Victoria Pruden KYNP4117

NOTARY PUBLIC, State at Large

My Commission expires: 3-18-24

CONSENT OF ABUTTING PROPERTY OWNER (S)
TO CLOSURE OF PUBLIC RIGHT-OF-WAY

I (We),

KEYSTARS, LLC

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1514 HAYNES AVE., OWENSBORO, KY 42303, part or all of which property abuts a part or all of public right-of-way that the City of Owensboro, Kentucky, proposes to abandon and close in conformity with **KRS 82.405**, which right-of-way is more particularly described as follows:

THE ALLEY RUNNING NORTH TO SOUTH BEHIND 1527 JACKSON STREET TO
1719 JACKSON STREET

I (We), as fee simple owner (s) of property in or abutting the portion of public right-of-way to proposed to be closed, do knowingly, voluntarily, and expressly waive my (our) right to written notice of the proposed closing otherwise required by **KRS 82.405 (2) (b)**, and hereby consent to, and join in the request for, the closure of said public right-of-way as proposed herein. I (We) further understand that I (we) are not required to consent to the closure of public right-of-way and may object to same. However, I (we) expressly waive any and all rights to object to the proposed closure.

I (We) further understand and acknowledge, that upon the enactment and publication of an ordinance by the Owensboro Board of Commissioners closing subject right-of-way, unless otherwise agreed, I (we) as abutting landowner (s), will receive by operation of law as my (our) own property, that portion of the right-of-way abutting my (our) property up to the center line of said right-of-way.

I further understand and acknowledge that if other fee simple owner (s) of property in or abutting the public right-of-way proposed to be closed does (do) not approve of the proposed

closure, the City reserves the right to withdraw from consideration any ordinance, or dismiss any lawsuit prosecuted herein, unless any one or all of the fee simple owner (s) of property in or abutting the right-of-way proposed to be closed, agrees (agree) to indemnify and hold the city of Owensboro harmless from any and all damages assessed against it by virtue of the initiation of eminent domain proceedings pursuant to KRS 82.405 (3) and (4).

I (We) further understand and acknowledge that the City of Owensboro reserves the right to deny or qualify any request for closure of public right-of-way, if upon inquiry from all necessary City departments, utilities, and all abutting or affected property owners, it is determined that it is not in the best interest of the city to close public right-of-way or the retention of public or private utility easements or required to accommodate municipal services.

In testimony whereof, witness my (our) signature (s) on this 16th Day of September, 2020

PROPERTY OWNER (S) :

[Signature] - See ITADS

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Kent Pyle
On this the 16th day of September, 2020.

[Signature] ID 573867
NOTARY PUBLIC, State at Large
My Commission expires: 03-05-2021

**CONSENT OF ABUTTING PROPERTY OWNER (S)
TO CLOSURE OF PUBLIC RIGHT-OF-WAY**

I (We). ELVIE and SHIRLEY ROBERSON

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1621 JACKSON ST Owensboro Ky 42303 / Full Gospel Pentecostal Church, part or all of which property abuts a part or all of public right-of-way that the City of Owensboro, Kentucky, proposes to abandon and close in conformity with **KRS 82.405**, which right-of-way is more particularly described as follows:

THE ALLEY RUNNING NORTH TO SOUTH BEHIND 1527 JACKSON STREET TO
1719 JACKSON STREET

I (We), as fee simple owner (s) of property in or abutting the portion of public right-of-way to proposed to be closed, do knowingly, voluntarily, and expressly waive my (our) right to written notice of the proposed closing otherwise required by **KRS 82.405 (2) (b)**, and hereby consent to, and join in the request for, the closure of said public right-of-way as proposed herein. I (We) further understand that I (we) are not required to consent to the closure of public right-of-way and may object to same. However, I (we) expressly waive any and all rights to object to the proposed closure.

I (We) further understand and acknowledge, that upon the enactment and publication of an ordinance by the Owensboro Board of Commissioners closing subject right-of-way, unless otherwise agreed, I (we) as abutting landowner (s), will receive by operation of law as my (our) own property, that portion of the right-of-way abutting my (our) property up to the center line of said right-of-way.

I further understand and acknowledge that if other fee simple owner (s) of property in or abutting the public right-of-way proposed to be closed does (do) not approve of the proposed

closure, the City reserves the right to withdraw from consideration any ordinance, or dismiss any lawsuit prosecuted herein, unless any one or all of the fee simple owner (s) of property in or abutting the right-of-way proposed to be closed, agrees (agree) to indemnify and hold the city of Owensboro harmless from any and all damages assessed against it by virtue of the initiation of eminent domain proceedings pursuant to **KRS 82.405 (3) and (4)**.

I (We) further understand and acknowledge that the City of Owensboro reserves the right to deny or qualify any request for closure of public right-of-way, if upon inquiry from all necessary City departments, utilities, and all abutting or affected property owners, it is determined that it is not in the best interest of the city to close public right-of-way or the retention of public or private utility easements or required to accommodate municipal services.

In testimony whereof, witness my (our) signature (s) on this 11th Day of September, 2020

PROPERTY OWNER (S) :

Elvie Roberson - L.R.
Shirley Roberson

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Elvie & Shirley Roberson
On this the 11th day of September, 2020.

Victoria J. Rinden KYNP4117

NOTARY PUBLIC, State at Large

My Commission expires: 3-18-24