

ORDINANCE 10-2021

AN ORDINANCE CLOSING ALLEY RIGHTS-OF-WAY LOCATED BEHIND 714 SYCAMORE STREET AND 1013 WEST 8TH STREET AND BETWEEN 1010 AND 1014 WEST 7TH STREETS IN THE CITY OF OWENSBORO, KENTUCKY, AT THE REQUEST OF HABITAT FOR HUMANITY OF OWENSBORO-DAVIESS COUNTY, INC.

WHEREAS, Habitat for Humanity of Owensboro-Daviess County, Inc. has petitioned the City of Owensboro, pursuant to KRS 82.405(2) to close the alley rights-of-way located behind 714 Sycamore Street and 1013 West 8th Street and between 1010 and 1014 West 7th Streets, Owensboro, Kentucky, plat of which is attached hereto and incorporated by reference as Exhibit “A”; and

WHEREAS, adjoining and abutting property owners, Charalambos & Androniki Pavlas, Ada Thames and Monzita Williams have given their written notarized consents to the closing of said alley rights-of-way as evidenced in the *Consent of Abutting Property Owner to Closure of Public Right-of-Way* heretofore filed, copies of which are attached and incorporated by reference as Exhibit “B”; 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, Habitat for Humanity of Owensboro-Daviess County, Inc. has given written, notarized consent to the closing and abandonment of the public alley rights-of-way described hereinabove, a copy of Applicant’s *Request for Closure of Public Right-of-Way* is attached hereto.
2. That Habitat for Humanity of Owensboro-Daviess County, Inc., the Petitioner herein, Charalambos & Androniki Pavlas, Ada Thames and Monzita Williams

are the only property owners abutting and adjoining the portion of the public alley rights-of-way located behind 714 Sycamore Street and 1013 West 8th Street and between 1010 and 1014 West 7th Streets sought to be closed, and have given written, notarized consent to the closure.

3. That the closing of the public alley rights-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. The hereinafter described public rights-of-way be, and are hereby ordered to be officially closed and abandoned pursuant to the provisions of KRS 82.405(2):

An alley right of way to be closed located between Plum Street and Sycamore Street, West 7th Street and West 8th Street on the west side of Owensboro, Kentucky more particularly described as follows:

Unless stated otherwise, a monument referred to herein as an "Iron Pin Set" is a 5/8 inch rebar, 18 inches in length with an orange cap stamped "Kevin Simmons, PLS 3635".

Beginning at an "Iron Pin Set" in the south right of way line of West 7th Street, said point being in the east right of way line of a 10.00 foot wide alley and being the northwest corner of Monzita Williams (D.B. 756, Pg. 558) and also being 135.2 feet from the west right of way line of Sycamore Street; thence following the west line of Williams and the east right of way line of the 10.00 foot wide alley S 03°00'45" E, 149.82 feet to an "Iron Pin Set", said point being the southwest corner to Williams in the north right of way line of a 18 foot wide alley; thence following the south line of Williams and the north right of way line of the 18 foot wide alley N 86°49'59" E, 34.91 feet to an "Iron Pin Set" in the

west line of Charalambos Pavlas (D.B. 1005, Pg. 598); thence following the west line of Pavlas and the east right of way line of the 18.00 foot alley S 03°00'45" E, 18.00 feet to an "Iron Pin Set" in the south right of way line of the 18.00 wide alley, said point also being the northeast corner to Habitat for Humanity of Owensboro-Daviess County, Inc. (D.B. 1029, Pg. 608); thence following the south right of way line of the 18.00 foot alley and the north line of Habitat for Humanity S 86°49'59" W, 69.91 feet to an "Iron Pin Set" in the west right of way line of the 18.00 foot alley, said point also being a corner to Habitat for Humanity; thence following the west right of way line of the 18.00 foot wide alley and the line of Habitat for Humanity N 03°00'45" W, 18.00 feet to an "Iron Pin Set" in the north right of way line of the 18.00 foot wide alley, said point also being the southwest corner to Ada Thames (D.B. 691, Pg. 284); thence following the north right of way line of the 18.00 foot wide alley and the south line of Thames N 86°49'59" E, 25.00 feet to a point being the southeast corner to Thames and the intersection of the north right of way line of a 18.00 foot wide alley and the west right of way line of a 10.00 foot wide alley; thence following the east line of Thames and the west right of way line of the 10.00 foot wide alley N 03°00'45" W, 149.78 feet to an "Iron Pin Set" in the south right of way line of West 7th Street; thence following the south right of way line of West 7th Street being 25.00 feet from and parallel with the centerline of said road N 86°35'19" E, 10.00 feet to the point of beginning containing 0.063 Acres according to a field survey performed by Kevin M. Simmons, PLS with the City of Owensboro Engineering Department dated 07/05/2021.

Section 3. A copy of this Ordinance shall be recorded in the Office of the Daviess County Court Clerk.

Section 4. 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 20th day of July, 2021.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this 10th day of August, 2021.

Thomas H. Watson, Mayor

ATTEST:

Kim Tignor, Acting City Clerk

CERTIFICATION

I, Kim Tignor, Acting City Clerk of the City of Owensboro, Kentucky, do hereby certify that the foregoing is a true and correct copy of Ordinance 10-2021 duly adopted by the Board of Commissioners of the City of Owensboro, Kentucky, on the 10th day of August, 2021, the original of which is on file in the Office of the City Clerk, on this the 10th day of August, 2021.

Kim Tignor, Acting City Clerk

EXHIBIT "A"

CITY OF OWENSBORO

COMMISSION MEETING DATE: 7/20/2021

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

TITLE: PROPOSED CLOSING OF ALLEY RIGHTS OF WAY BEHIND 714 SYCAMORE STREET AND 1013 WEST 8TH STREET AND BETWEEN 1010 & 1014 WEST 7TH 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 Habitat for Humanity of Owensboro, for consideration to close alley rights of way behind 714 Sycamore Street and 1013 W. 8th Street, being 18 foot wide and between 1010 & 1014 W. 7th Street, being 10 foot wide and described below:

The proposed alley right of way of various in widths being a north/south running 10 feet wide alley section from 7th Street between 1010 & 1014 W. 7th Street to an east/west running 18 feet wide alley at the rear of 1013 W. 8th Street. Commencing at the northeast corner of the 1014 W. 7th Street being in the south right of way of West 7th St., thence southward along the west alley right-of-way approximately 149.78 feet to the southeastern corner of 1014 W. 7th Street, then west approximately 25 feet along the south property line of 1014 W. 7th Street; thence southward 18 feet across alley right of way; thence eastwardly 69.91 feet with the north property lines of 1013 W. 8th St. to a point in the west property line of 714 Sycamore Street; thence moving north along the west property line of 714 Sycamore Street 18 feet to the southeast corner of 1010 W. 7th St.; thence east approximately 34.91 feet to the southwest corner of 1010 W. 7th St.; thence north 149.82 feet to the northwest corner of 1010 W. 7th St. and being in the south right of way of West 7th St., thence along the south right of way of West 7th St. 10 feet to close at the beginning being the northeast corner of 1014 W. 7th St., containing approximately 0.063 of an acres, more or less. (See attached legal description by Kevin Simmons, PLS 3635)

Virginia Braswell, Habitat for Humanity of Owensboro, representative of the owner of property at 1013 W. 8th Street, has submitted a Request for Closure Form and Consent of Abutting Property Owner form to initiate the proposed closing. Andres Pavalas, owner of 714 Sycamore Street, Ada Thames, owner of 1014 W. 7th Street, and Monzita Williams, owner of 1010 W. 7th Street have all signed and submitted Consent of Abutting Property Owners forms.

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. No easement will need to be retained for the alley right of way.

MARK PFEIFER, CITY ATTORNEY - DRAFTED THE ORDINANCE FOR CLOSURE

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 rear of 1013 & 1017 West 8th Street (18ft. wide public alley right-of-way) then between 1010 & 1014 West 7th Street (10ft. wide public alley right-of-way)

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: Virginia Braswell
(PRINTED NAME) Virginia Braswell
DATE: 7/28/2020
ADDRESS: 1702 Mosley St.
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

Virginia Braswell, on this the 28th day of July, 2020.

Jane A. Cox
Notary Public, State of Kentucky at Large
My commission expires: August 22, 2021

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

I (We), Habitat for Humanity of Owensboro – Daviess County, Inc.
, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property
located at and known as 1013 West 8th Street Owensboro, KY
, 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:

SEE ATTACHED DESCRIPTION FOR ALLEY CLOSING

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 27th Day of

July, 2020

PROPERTY OWNER (S) :

Rita Kamuf Jacobs, President
Habitat for Humanity

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by
Rita Kamuf Jacobs, President
On this the 27th day of July, 2020.

Jane A. Cox

NOTARY PUBLIC, State at Large

My Commission expires: August 22, 2021



City of Owensboro Kentucky

P.O. BOX 10003
OWENSBORO, KENTUCKY 42302

Engineering Department
270-687-8641
270-687-8579 (fax)

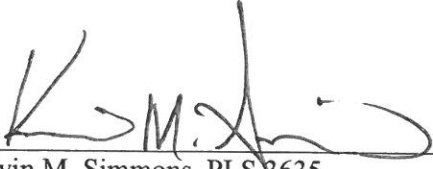
LEGAL DESCRIPTION

An alley right of way to be closed located between Plum Street and Sycamore Street, West 7th Street and West 8th Street on the west side of Owensboro, Kentucky more particularly described as follows:

Unless stated otherwise, a monument referred to herein as an "Iron Pin Set" is a 5/8 inch rebar, 18 inches in length with an orange cap stamped "Kevin Simmons, PLS 3635".

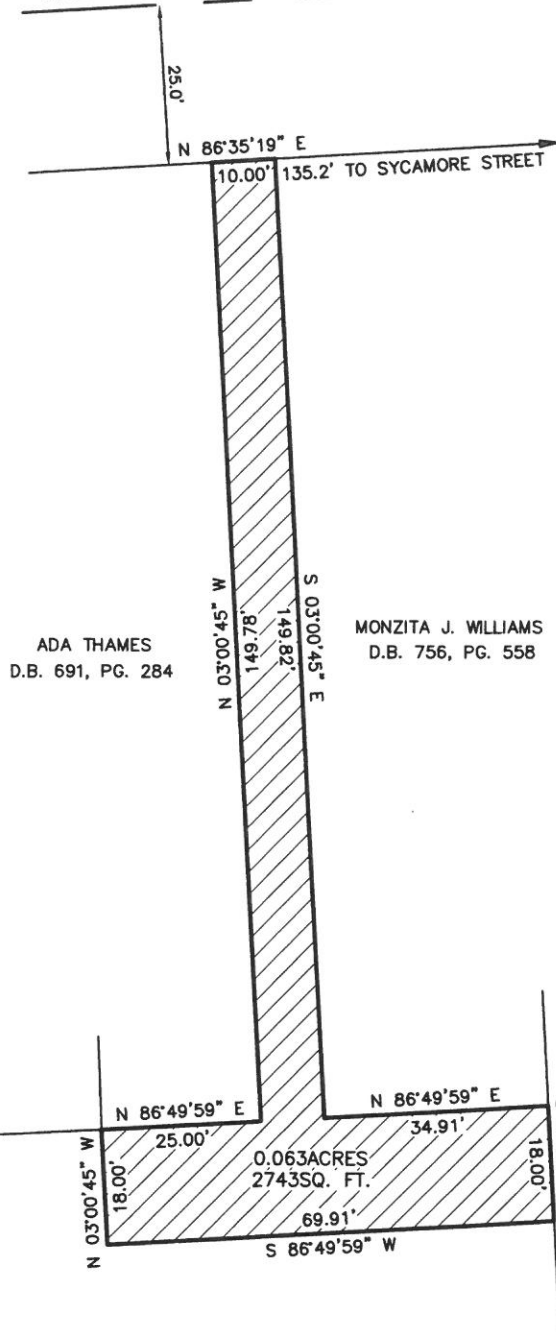
Beginning at an "Iron Pin Set" in the south right of way line of West 7th Street, said point being in the east right of way line of a 10.00 foot wide alley and being the northwest corner of Monzita Williams (D.B. 756, Pg. 558) and also being 135.2 feet from the west right of way line of Sycamore Street; thence following the west line of Williams and the east right of way line of the 10.00 foot wide alley S 03°00'45" E, 149.82 feet to an "Iron Pin Set", said point being the southwest corner to Williams in the north right of way line of a 18 foot wide alley; thence following the south line of Williams and the north right of way line of the 18 foot wide alley N 86°49'59" E, 34.91 feet to an "Iron Pin Set" in the west line of Charalambos Pavlas (D.B. 1005, Pg. 598); thence following the west line of Pavlas and the east right of way line of the 18.00 foot alley S 03°00'45" E, 18.00 feet to an "Iron Pin Set" in the south right of way line of the 18.00 wide alley, said point also being the northeast corner to Habitat for Humanity of Owensboro-Daviess County, Inc. (D.B. 1029, Pg. 608); thence following the south right of way line of the 18.00 foot alley and the north line of Habitat for Humanity S 86°49'59" W, 69.91 feet to an "Iron Pin Set" in the west right of way line of the 18.00 foot alley, said point also being a corner to Habitat for Humanity; thence following the west right if way line of the 18.00 foot wide alley and the line of Habitat for Humanity N 03°00'45" W, 18.00 feet to an "Iron Pin Set" in the north right of way line of the 18.00 foot wide alley, said point also being the southwest corner to Ada Thames (D.B. 691, Pg. 284); thence following the north right of way line of the 18.00 foot wide alley and the south line of Thames N 86°49'59" E, 25.00 feet to a point being the southeast corner to Thames and the intersection of the north right of way line of a 18.00 foot wide alley and the west right of way line of a 10.00 foot wide alley; thence following the east line of Thames and the west right of way line of the 10.00 foot wide alley N 03°00'45" W, 149.78 feet to an "Iron Pin Set" in the south right of way line of West 7th Street; thence following the south right of

way line of West 7th Street being 25.00 feet from and parallel with the centerline of said road N 86°35'19" E, 10.00 feet to the point of beginning containing 0.063 Acres according to a field survey performed by Kevin M. Simmons, PLS with the City of Owensboro Engineering Department dated 07/05/2021.


Kevin M. Simmons, PLS 3635 7-8-21
Date



WEST 7TH STREET



NOTES:

THIS EXHIBIT TO BE USED FOR ALLEY
R/W CLOSURE PURPOSES ONLY AND
SHALL NOT BE USED FOR THE TRANSFER
OF REAL PROPERTY.

STATE of KENTUCKY
KEVIN M. SIMMONS
3635
LICENSED
PROFESSIONAL
LAND SURVEYOR

HABITAT FOR HUMANITY OF
OWENSBORO-DAVESS COUNTY, INC.
D.B. 1029, PG. 608

PREPARED BY:

EXHIBIT 'A'
PROPOSED ALLEY CLOSING

SCALE: 1"=30' / DATE: 7/08/2021

Kevin M. Simmons
KEVIN M. SIMMONS, KY PLS NO. 3635

7-08-21
DATE



CITY OF OWENSBORO
ENGINEERING DEPARTMENT
P.O. BOX 10003
OWENSBORO, KY 42302

PHONE: 270-687-8641

FAX: 270-687-8579

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

I (We), Charalambos & Androniki Pavlas, do solemnly swear and affirm that I am (we are) the fee simple owner(s) of real property located at and known as 714 Sycamore Street Owensboro, KY 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:

SEE ATTACHED DESCRIPTION FOR ALLEY CLOSING

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 9th Day of July, 2021

PROPERTY OWNER (S) :

Andreas Pavlas POA for Charalambos Pavlas
Andreas Pavlas POA for Androniki Pavlas

STATE OF KENTUCKY)
)
COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Andreas Pavlas, as Attorney in fact for both Charalambos Pavlas and Androniki Pavlas on this the 9th day of July, 2021.



NOTARY PUBLIC, State of Kentucky at Large
My Commission expires: Aug. 15, 2023
Notary ID # 627986

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

I (We), Ada M. Thames

, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1014 West 7th Street Owensboro, KY

, 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:

SEE ATTACHED DESCRIPTION FOR ALLEY CLOSING

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 30th Day of June, 2021

PROPERTY OWNER (S) :

Ada M. Thames

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Ada M. Thames, Owner
On this the 30th day of June, 2021.

Ruth Cecil Davis #599130

NOTARY PUBLIC, State at Large

My Commission expires: 5/6/2022

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

I (We), Monzita Williams
, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1010 West 7th Street Owensboro, KY (Parcel ID # 005-04-10-034-00-00, 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:

SEE ATTACHED DESCRIPTION FOR ALLEY CLOSING

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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 15 Day of June, 2021

PROPERTY OWNER (S) :

Manzita Williams
Manzita Williams

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Manzita Williams
On this the 15 day of June, 2021.

Ally M. Shelton
NOTARY PUBLIC, State at Large
My Commission expires: February 26, 2024