

ORDINANCE 05-2022

AN ORDINANCE CLOSING THE ALLEY RIGHT-OF-WAY LOCATED BEHIND 1633 MOSELEY STREET THAT IS A NORTH/SOUTH ALLEY FROM EAST 16TH STREET TO EAST 17TH STREET BETWEEN MOSELEY STREET AND SWEENEY STREET IN THE CITY OF OWENSBORO, KENTUCKY, AT THE REQUEST OF IMI REAL ESTATE, LLC.

WHEREAS, IMI Real Estate, LLC, has petitioned the City of Owensboro pursuant to KRS 82.405(2) to close the alley right-of-way located behind 1633 Moseley Street that is a north/south alley from East 16th Street to East 17th Street between Moseley Street and Sweeney Street, Owensboro, Kentucky, plat of which is attached hereto and incorporated by reference as Exhibit "A"; and

WHEREAS, adjoining and abutting property owners, IMI Southwest, Inc., Transit Mix Concrete Co., Garry and Diane Lillpop, Sweeney Street Baptist Church and Green Valley Development, Inc. have given their written notarized consents to the closing of said alley right-of-way as evidenced in the *Consent of Abutting Property Owner(s) to Closure of Public Right-of-Way* heretofore filed, copies of which are attached and incorporated by reference as Exhibit "B";

WHEREAS, the Petitioner understands and agrees to retain a public utility easement in favor of Owensboro Municipal Utilities and Regional Water Resource Agency over the alley to be closed as shown on Exhibit “A”; 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, IMI Real Estate, LLC, has given written, notarized 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.
2. Written notice of the proposed closing was given to all property owners in or abutting the right-of-way being closed.
3. That IMI Real Estate, LLC, the Petitioner herein, IMI Southwest, Inc., Transit Mix Concrete Co., Garry and Diane Lillpop, Sweeney Street Baptist Church and Green Valley Development, Inc. are the only property owners abutting and adjoining the public alley right-of-way located behind 1633 Moseley Street that is a north/south alley from East 16th Street to East 17th Street between Moseley Street and Sweeney Street sought to be closed, and have given written, notarized consent to the closure, copies of which are attached hereto.
4. That the closing of the public alley 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. The hereinafter described public right-of-way be, and is hereby ordered to be officially closed and abandoned pursuant to the provisions of KRS 82.405(2):

Beginning at a calculated point being in the south right-of-way line of E. 16th Street and being the northwest corner of the Green Valley Development, Inc. property as recorded in Deed Book 660, at page 610 in the Daviess County Clerk's Office; thence with the west line of said Green Valley Development, Inc. property south 02 degrees 41 minutes 30 seconds east, passing through the northwest corners of the Transit Mix Concrete Co. properties as recorded in Deed Book 902, at page 411 and Deed Book 577, at page 163 both recorded in said Clerk's Office, then continuing on said course for a total distance of 250.33 feet to a calculated point being the southwest corner of said Transit Mix Concrete Co. property and being the northwest corner of the Garry & Diane Lillpop property as recorded in Deed Book 1019, at page 185 in said Clerk's Office; thence with the west line of said Garry & Diane Lillpop property south 02 degrees 41 minutes 29 seconds east, a distance of 48.04 feet to a calculated point being the northwest corner of the Sweeney Street Baptist Church property, record source unknown; thence with the west line of said Sweeney Street Baptist Church south 04 degrees 01 minute 00 seconds east, passing through the northwest corner of the IMI Southwest, Inc. property as recorded in Deed Book 915, at page 225 in said Clerk's Office for a total distance of 200.02 feet to a calculated point being the southwest corner of said IMI Southwest, Inc. property and being in the north right-of-way line of E. 17th Street; thence with said north right-of-way line south 86 degrees 56 minutes 59 seconds west, a distance of 24.63 feet to a calculated point being the southeast corner of the IMI Southwest, Inc. property as recorded in Deed Book 915, at page 225 in said Clerk's Office; thence with the east line of said IMI Southwest, Inc. property north 02 degrees 41 minutes 30 seconds west, passing through the southeast corner of the IMI Real Estate property as recorded in Deed Book 1059, at page 618 for a total distance of 498.50 feet to a calculated point being the northeast corner of said IMI Real Estate LLC and being in the south right-of-way line of E. 16th Street; thence with said south right-of-way line north 87 degrees 18 minutes 29 seconds east, a distance of 20.00 feet to the point of beginning and containing 0.239 acres or 10,431 S.F. This description was prepared for an alley closing exhibit only and is not to be used for the transfer of real property.

Section 3. The Petitioner shall dedicate by deed of easement or plat a public utility easement in favor of Owensboro Municipal Utilities and Regional Water Resource Agency over the entire length and width of the alley to be closed.

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 March, 2022.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this 15th day of March, 2022.

Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk

CERTIFICATION

I, Beth Davis, City Clerk of the City of Owensboro, Kentucky, do hereby certify that the foregoing is a true and correct copy of Ordinance 05-2022 duly adopted by the Board of Commissioners of the City of Owensboro, Kentucky, on the 15th day of March, 2022, the original of which is on file in the Office of the City Clerk, on this the 15th day of March, 2022.

Beth Davis, City Clerk

EXHIBIT “A”

CITY OF OWENSBORO

COMMISSION MEETING DATE: 3/1/2022

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

TITLE: PROPOSED CLOSING OF A SECTION OF ALLEY RIGHT OF WAY BEHIND 1633 MOSELEY STREET THAT IS A NORTH/SOUTH ALLEY FROM EAST 16TH STREET TO EAST 17TH STREET BETWEEN MOSELEY STREET AND SWEENEY 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 IMI Southwest, Inc, for consideration to close a section of alley right of way at the rear of 1633 Moseley Street, being 20 foot wide and described below:

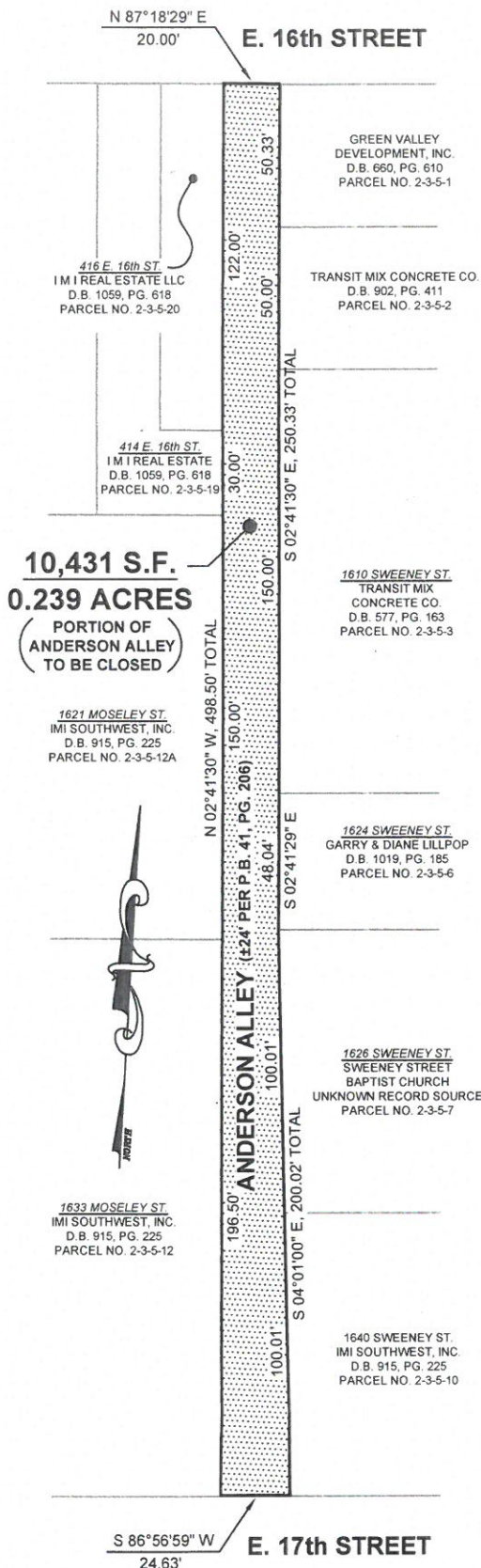
The proposed alley right of way is described as commencing at the northeast corner of the 416 E. 16th Street being 180 FT. east of the east right-of-way of Moseley Street and in the south right-of-way of E. 16th Street, thence southward along the west alley right-of-way approximately 502 FT. to the southeastern corner of 1633 E. 17th Street being in the north right-of-way of E. 17th Street, then west approximately 20 FT. along the north right-of-way of E. 17th Street crossing the alley right-of-way to southwest corner of 1640 Sweeney Street, thence north along the east right-of-way line of the alley 502 FT. to the northwest corner of 1600 Sweeney Street being in the south right-of-way of E. 16th Street, thence westward along the south right-of-way of E. 16th Street for 20 FT. to the point of beginning, containing approximately 0.239 of an acres, more or less. (See right of way closing description and exhibit plat provided David Weaver attached)

IMI Southeast, Inc., the owner of property that abutting the proposed alley right of way to be closed at 1640 Sweeney Street, 1633 Moseley Street, 1621 Moseley Street, 414 East 16th Street, and 416 East 16th Street has signed and submitted a Request for Closure Form, and the Consent of Abutting Property Owner forms for the proposed closing.

All of the other owners of property that abut the proposed right of way to be closed have signed the Consent of Abutting Property Owners form. J. Kim Agner, president of Transit Mix Concrete Co., owner of 1602 and 1610 Sweeney Street; Edwin Shelton, president of the Green Valley Development, Inc. at 1600 Sweeney Street; Oscar Ray James, representing the Sweeney Street Baptist Church, owner of 1626 Sweeney Street; and Garry Lillpop, owner of 1624 Sweeney Street have all signed consenting to the proposed alley closing.

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. However, an easement for the right of ways entire length & width will need to be retained as requested by both OMU and RWRA.

Mark Phifer, City Attorney, drafted the Ordinance for closure



DESCRIPTION FOR CLOSING:

BEGINNING AT A CALCULATED POINT BEING IN THE SOUTH RIGHT-OF-WAY LINE OF E. 16th STREET AND BEING THE NORTHWEST CORNER OF THE GREEN VALLEY DEVELOPMENT, INC. PROPERTY AS RECORDED IN DEED BOOK 660, AT PAGE 610 IN THE DAVIESS COUNTY CLERK'S OFFICE; THENCE WITH THE WEST LINE OF SAID GREEN VALLEY DEVELOPMENT, INC. PROPERTY SOUTH 02 DEGREES 41 MINUTES 30 SECONDS EAST, PASSING THROUGH THE NORTHWEST CORNERS OF THE OF TRANSIT MIX CONCRETE CO. PROPERTIES AS RECORDED IN DEED BOOK 902, AT PAGE 411 AND DEED BOOK 577, AT PAGE 168 BOTH RECORDED IN SAID CLERK'S OFFICE, THEN CONTINUING ON SAID COURSE FOR A TOTAL DISTANCE OF 250.33 FEET TO A CALCULATED POINT BEING THE SOUTHWEST CORNER OF SAID TRANSIT MIX CONCRETE CO. PROPERTY AND BEING THE NORTHWEST CORNER OF THE GARRY & DIANE LILLPOP PROPERTY AS RECORDED IN DEED BOOK 1019, AT PAGE 185 IN SAID CLERK'S OFFICE; THENCE WITH THE WEST LINE OF SAID GARRY & DIANE LILLPOP PROPERTY SOUTH 02 DEGREES 41 MINUTES 29 SECONDS EAST, A DISTANCE OF 48.04 FEET TO A CALCULATED POINT BEING THE NORTHWEST CORNER OF THE SWEENEY STREET BAPTIST CHURCH PROPERTY, RECORD SOURCE UNKNOWN; THENCE WITH THE WEST LINE OF SAID SWEENEY STREET BAPTIST CHURCH SOUTH 04 DEGREES 01 MINUTE 00 SECONDS EAST, PASSING THROUGH THE NORTHWEST CORNER OF THE IMI SOUTHWEST, INC. PROPERTY AS RECORDED IN DEED BOOK 915, AT PAGE 225 IN SAID CLERK'S OFFICE, FOR A TOTAL DISTANCE OF 200.02 FEET TO A CALCULATED POINT BEING THE SOUTHWEST CORNER OF SAID IMI SOUTHWEST, INC. PROPERTY AND BEING IN THE NORTH RIGHT-OF-WAY LINE OF E. 17th STREET; THENCE WITH SAID NORTH RIGHT-OF-WAY LINE SOUTH 86 DEGREES 56 MINUTES 59 SECONDS WEST, A DISTANCE OF 24.63 FEET TO A CALCULATED POINT BEING THE SOUTHEAST CORNER OF THE IMI SOUTHWEST, INC. PROPERTY AS RECORDED IN DEED BOOK 915, AT PAGE 225 IN SAID CLERK'S OFFICE; THENCE WITH THE EAST LINE OF SAID IMI SOUTHWEST, INC. PROPERTY NORTH 02 DEGREES 41 MINUTES 30 SECONDS WEST, PASSING THROUGH THE SOUTHEAST CORNER OF THE IMI REAL ESTATE PROPERTY AS RECORDED IN DEED BOOK 1059, AT PAGE 618 FOR A TOTAL DISTANCE OF 498.50 FEET TO A CALCULATED POINT BEING THE NORTHEAST CORNER OF SAID IMI REAL ESTATE LLC AND BEING IN SAID SOUTH RIGHT-OF-WAY LINE; THENCE WITH SAID SOUTH RIGHT-OF-WAY LINE NORTH 87 DEGREES 18 MINUTES 29 SECONDS EAST, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.239 ACRES OR 10,431 S.F. THIS DESCRIPTION WAS PREPARED FOR AN ALLEY CLOSING EXHIBIT ONLY AND IS NOT TO BE USED FOR THE TRANSFER OF REAL PROPERTY.

PURPOSE:

TO SHOW AND DESCRIBE THE PROPOSED ALLEY CLOSING.

SURVEYOR NOTES:

THE PROPERTY AND DESCRIPTION SHOWN HEREON DOES NOT CONSTITUTE A BOUNDARY SURVEY AND SHALL NOT BE USED FOR THE TRANSFER OF REAL PROPERTY. THE PROPERTY LINES SHOWN HEREON WERE TAKEN DIRECTLY FROM THE CITY OF OWENSBORO GIS MAPPING.

CLIENT

IMI IRVING MATERIALS, INC.
1440 SELINDA AVE.
LOUISVILLE, KY 40213-1954

COMPLIES WITH 201 KAR18:150 SECTION 13.
NOT A BOUNDARY SURVEY.
NOT FOR TRANSFER OF REAL PROPERTY.

EXHIBIT "A" PROPOSED ALLEY CLOSING

SCALE: 1"=50' / DATE: 2-10-2022

PREPARED BY:

[Signature]
R. DAVID WEAVER, KY. P.L.S. NO. 3470

02/16/22

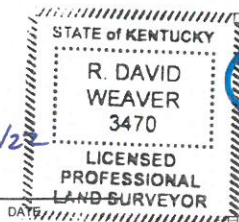


EXHIBIT “B”

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 being : ____Anderson Alley from E. 17th Street to E. 16th Street, between Moseley Street and Sweeney Street, as shown on Exhibit "A" 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: imi Real Estate LLC

(PRINTED NAME) Brett Baker

DATE: 11-12-21

ADDRESS: 1440 Selinda Ave Louisville ky 40213

STATE OF KENTUCKY)

)
COUNTY OF DAVIESS)

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

Brett Baker, on this the 12th day of October, 2021.



Mary Ellen Hayden
Notary Public, State of Kentucky at Large
My commission expires: 10-23-2025

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

I (We), I M I Southwest Inc

, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property

located at and known as 1640 Sweeney Street, 1633 and 1621 Moseley Street, 414 and 416 E

16th Street

, 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:

Anderson Alley from E. 17th Street to E. 16th Street, between Moseley Street and Sweeney Street as shown on Exhibit "A"

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 February, 2022

PROPERTY OWNER (S) :

Wes Carter

STATE OF KENTUCKY)

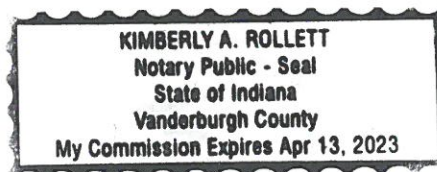
COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Wes Carter
On this the 16th day of February, 2022.

Kimberly Rollett

NOTARY PUBLIC, State at Large

My Commission expires: 4/13/23



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

I (We), Transit Mix Concrete Co.

, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1602 and 1610 Sweeney Street

, 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:

Anderson Alley from E. 17th Street to E. 16th Street, between Moseley Street and Sweeney Street as shown on Exhibit "A"

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 12 Day of
November, 2021

PROPERTY OWNER (S) :

J. Kim Agner President of HBN, Inc formerly
J. Kim Agner Transit & Mix Concrete

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by

J. Kim Agner
On this the 12th day of November, 2021.

Wendell O. Feldpausch
NOTARY PUBLIC, State at Large

My Commission expires: 5-10-25

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

I (We), Garry & Diane Lillpop

, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1624 Sweeney Street

, 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:

Anderson Alley from E. 17th Street to E. 16th Street, between Moseley Street and Sweeney Street, as shown on Exhibit "A".

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 17th Day of November, 2021

PROPERTY OWNER (S) :

Garry Lillpop
1624 Sweeney Street

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Garry Lillpop
On this the 17th day of November, 2021.

Gerry Coome
NOTARY PUBLIC, State at Large
My Commission expires: 12-18-2023
ID# 637227

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

I (We), Sweeney Street Baptist Church

, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1626 Sweeney Street

, 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:

Anderson Alley from E. 17th Street to E. 16th Street, between Moseley Street and Sweeney Street, as shown on Exhibit "A".

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 28 Day of November, 2021

PROPERTY OWNER (S):

Oscar Ray James

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Oscar Ray James
On this the 28 day of November, 2021.

Robert C. Kendrick

NOTARY PUBLIC, State at Large

My Commission expires: Nov-18-23

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

I (We), Green Valley Development Inc C/O M C Shelton

, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property
located at and known as 1600 Sweeney Street

, 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:

Anderson Alley from E. 17th Street to E. 16th Street, between Moseley Street and Sweeney Street,
as shown on Exhibit "A".

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 1ST Day of December, 2021

PROPERTY OWNER (S) :

Edwin M. Shelton Pres
Green Valley Development INC

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Edwin Shelton
On this the 1st day of December, 2021.

Biller M. Cain #KYNP11523

NOTARY PUBLIC, State at Large

My Commission expires: 8-18-24