

MUNICIPAL ORDER 15-2023

A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF OWENSBORO AND ELLIS ENTERTAINMENT, LLC BY WHICH THE COMPANY SHALL MEET CERTAIN PAYROLL REQUIREMENTS IN ORDER TO EARN THE INCENTIVE PROVIDED FOR IN THE PARTIES' AGREEMENT DATED APRIL 20, 2022.

WHEREAS, Ellis Entertainment, LLC desires to locate a historical horse racing gaming facility in the City of Owensboro, Kentucky which will create jobs and further stimulate local commerce; and

WHEREAS, the City of Owensboro and Ellis Entertainment, LLC entered into an Agreement dated April 20, 2022, whereby the City agreed to incentivize the Company for its job creation initiative in our community, which Agreement was approved by Municipal Order 13-2022; and

WHEREAS, Ellis Entertainment, LLC has requested that the City of Owensboro amend its smoking ordinance to allow for smoking in a limited segregated area of the historical horse racing gaming facility, and in consideration therefor the City of Owensboro has requested that Ellis Entertainment, LLC meet certain annual payroll requirements in order to ensure substantial economic development will resort from the facility; and

WHEREAS, the City of Owensboro and Ellis Entertainment, LLC desire to amend the Agreement to require the Company to meet annual payroll requirements to earn the incentive provided in the Agreement.

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

Section 1. That the Mayor be, and hereby is, authorized and directed to execute the First Amendment to Agreement between the City of Owensboro and Ellis Entertainment, LLC for the purpose of adding annual payroll requirements for the Company to meet. A true and correct copy of the First Amendment to Agreement is attached as Exhibit A and incorporated by reference

Section 2. That the Mayor, City Manager and other appropriate staff members are hereby authorized and directed to execute any and all other agreements, instruments, or documents necessary and appropriate to effectuate and implement the intentions of the City of Owensboro and Ellis Entertainment, LLC.

**INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE
READING,** this the 7th day of March, 2023.

Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk

EXHIBIT A

FIRST AMENDMENT TO AGREEMENT

This FIRST AMENDMENT TO AGREEMENT (hereinafter “**Amendment**”) is effective as of the ____ day of _____, 2023, (“**Amendment Effective Date**”) by and between the CITY OF OWENSBORO, a municipal corporation of the Home Rule Class created and existing under the laws of the Commonwealth of Kentucky, 101 East Fourth Street, P.O. Box 10003, Owensboro, Kentucky 42302-9003 (the “**City**”), and ELLIS ENTERTAINMENT, LLC, a Kentucky limited liability company, 600 North Hurstbourne Pkwy., Suite 400, Louisville, KY 40202 (the “**Company**”).

RECITALS

WHEREAS, the City and Company entered into an Agreement, dated effective as of April 20, 2022, (the “**Agreement**”), pursuant to which the City granted an Incentive Rebate to the Company in consideration of the Company locating its Facility in the City of Owensboro; and

WHEREAS, the parties desire to amend the Agreement to include additional obligations on the Company according to the terms set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of these premises and the mutual covenants contained herein, the parties agree as follows:

I. Scope of Amendment. Capitalized terms that are used herein but not otherwise defined herein shall have the respective meanings ascribed thereto in the Agreement.

II. Amendments.

a. Section 2 of the Agreement is hereby amended and restated in its entirety as follows:

Section 2. Company Obligations. In consideration of the incentive provided by the City, the Company agrees to:

- (1) Retain the Facility in Owensboro for a period of least ten (10) years;
- (2) Obtain and maintain an active City business license, as well as timely comply with all contractual and financial obligations to the City under this Agreement; and
- (3) Maintain annual payroll at the Facility according to the following schedule:
 - a. Five million dollars (\$5,000,000) following the first twelve (12) months of opening to the public;

- b. Six million dollars (\$6,000,000) after twenty-four (24) months of opening to the public;
- c. Six million five-hundred thousand dollars (\$6,500,000) after thirty-six (36) months of opening to the public; and
- d. Seven million dollars (\$7,000,000) after forty-eight (48) months of opening to the public, and each remaining year throughout the Incentive Rebate period.
- e. Failure to meet any of the above payroll requirements will result in the loss of the incentive otherwise owed for the applicable twelve (12) month period.

III. Ratification and Confirmation. All other terms and provisions of the Agreement are hereby ratified and confirmed and shall remain in full force and effect for the duration of the term described in the Agreement.

IN TESTIMONY WHEREOF, the parties hereto have caused this Amendment to be executed by their respective duly authorized officers, as of the Effective Date.

CITY OF OWENSBORO:

Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk

ELLIS ENTERTAINMENT, LLC:

William E. Mudd, President