

## **MUNICIPAL ORDER 28-2023**

**A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF OWENSBORO AND KENERGY CORP. BY WHICH THE CORPORATION SHALL RELOCATE ITS OFFICES PRESENTLY LOCATED AT 3111 FAIRVIEW DRIVE TO THE MIDAMERICA AIRPARK IN THE CITY OF OWENSBORO IN EXCHANGE FOR CERTAIN FINANCIAL INCENTIVES FROM THE CITY, INCLUDING A REBATE OF FIFTY PERCENT (50%) OF THE AD VALOREM REAL PROPERTY TAXES AND GENERAL FUND OCCUPATIONAL FEES ON GROSS WAGES FOR EIGHT (8) YEARS.**

**WHEREAS**, Kenergy Corp. desires to relocate its offices presently located at 3111 Fairview Drive to the MidAmerica Airpark in the City of Owensboro, Kentucky which will create jobs and further stimulate local commerce; and

**WHEREAS**, the City of Owensboro recognizes the economic impact of the Corporation's facility in Owensboro and hereby agrees to incentivize the Corporation for its relocation to the City; and

**WHEREAS**, the Parties wish to enter into an Agreement that memorializes the benefits and specific obligations of each, a copy of which is attached hereto as Exhibit "A" and incorporated by reference.

**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 an Agreement between the City of Owensboro and Kenergy Corp. for the purpose of establishing the benefits and obligations of each Party.

**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 Kenergy Corp.

**INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE READING,** this the 6<sup>th</sup> day of June, 2023.

---

Thomas H. Watson, Mayor

ATTEST:

---

Beth Davis, City Clerk

## EXHIBIT "A"

### AGREEMENT

This Agreement (hereinafter "Agreement"), dated as of \_\_\_\_\_, 2023, is made 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 (hereinafter the "City"), and **KENERGY CORP.**, a Kentucky Non-profit corporation, P.O. Box 18, Henderson, Kentucky 42419-0018 (hereinafter the "Corporation"). City and Corporation are each a "Party" and collectively the "Parties."

### RECITALS

WHEREAS, the Corporation desires to relocate its offices at 3111 Fairview Drive to an approximately seventeen (17) acre site within the MidAmerica Airpark of the City of Owensboro, Kentucky which will further stimulate local commerce through an investment of up to Twenty Million Dollars (\$20,000,000.00) and the employment of approximately eighty-two (82) employees; and

WHEREAS, the City recognizes the economic impact of the Corporation's move into Owensboro and hereby agrees to incentivize the Corporation for its relocation and investment initiative in our community.

NOW THEREFORE, in consideration of these premises and the terms and conditions hereinafter set forth, the Parties to this Agreement hereby agree as follows:

**Section 1. City Obligations.** In consideration of the Corporation's investment and relocation of jobs within the City of Owensboro, and annexation of the Corporation's property located at 3111 Fairview Drive, Owensboro, Kentucky 42303, the City agrees to provide the following incentives:

(1) Five Thousand Dollars (\$5,000.00) per acre for building site acquisition, to be paid within thirty (30) days of closing on the purchase of the real property.

(2) Construction of an extension of Airpark Drive to the proposed Corporation building site located at \_\_\_\_\_ of approximately one thousand (1,000) linear feet and an estimated cost of One Million Five Hundred Thousand Dollars (\$1,500,000.00).

(3) The rebate of fifty percent (50%) of ad valorem real property taxes paid by the Corporation for the Airpark site for a term of eight (8) years after the incentive period. The eight (8) year incentive period shall be activated within thirty-six (36) months of the date of incentive approval by the Owensboro Board of Commissioners.

(4) The rebate of fifty percent (50%) of the General Fund Occupational Fees on gross employee wages for a period of eight (8) years upon the relocation of the Corporation to the MidAmerica Airpark within the City of Owensboro.

**Section 2. Corporation Obligations.** In consideration of the incentives provided by the City, and subject to satisfying the Condition Precedents in Section 3, the Corporation agrees to:

(1) Consent to the future annexation of the real property at its current address of 3111 Fairview Drive, Owensboro, Kentucky 42303 prior to its sale or transfer.

(2) Retain its location in MidAmerica Airpark within the City of Owensboro for a period of at least twenty-five (25) years.

(3) Obtain and maintain an active City business license, timely pay all taxes, and other fees, as well as comply with all contractual and financial obligations to the City under this Agreement.

**Section 3. Condition Precedent.** The Parties understand and agree that the Corporation's relocation to the City of Owensboro is subject to the approval of the Kentucky Public Service Commission and its Board.

**Section 4. Waiver.** The failure on the part of either Party hereto to insist in any instance upon a strict observance by the other Party of any provision of this Agreement, shall not be construed as a waiver of that or any other provision of this Agreement and it shall not diminish the right of either Party to demand compliance therewith on any subsequent occasion.

**Section 5. Entire Agreement; Binding Effect.** This Agreement shall constitute the entire agreement between the Parties. Any prior understandings or representations, or any subsequent oral representations or modifications of any kind shall not be binding on either Party except to the extent incorporated herein, in writing, by agreement of the Parties.

**Section 6. Governing Law.** This Agreement shall be governed by and be construed in accordance with, the laws of the Commonwealth of Kentucky in all respects, including all matters of construction, validity and performance. Any dispute involving the terms of this Agreement shall be brought in the State or Federal Courts of Daviess County, Kentucky.

**Section 7. Partial Invalidity.** If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or

unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to the persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and such remaining terms, covenants or conditions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**IN TESTIMONY WHEREOF**, witness the signatures of the Parties hereto on this the day and date first hereinabove written.

**CITY OF OWENSBORO:**

\_\_\_\_\_  
Thomas H. Watson, Mayor

ATTEST:

\_\_\_\_\_  
Beth Davis, City Clerk

**KENERGY CORP.:**

\_\_\_\_\_  
Timothy Lindahl, President and CEO

COMMONWEALTH OF KENTUCKY     )  
   )     Sct.  
COUNTY OF DAVIESS                     )

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Thomas H. Watson, as Mayor, and attested by Beth Davis, as City Clerk, for and on behalf of the City of Owensboro, Kentucky, on this the \_\_\_\_ day of, 2023.

\_\_\_\_\_  
Notary Public, State of Kentucky at Large  
Notary ID# \_\_\_\_\_  
My commission expires: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY )  
COUNTY OF \_\_\_\_\_ )      Sect.

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Timothy Lindahl, as President and CEO, for and on behalf of Kenergy Corp., on this the \_\_\_\_ day of, 2023.

Notary Public, State of \_\_\_\_\_ at Large  
Notary ID# \_\_\_\_\_  
My commission expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY:

Mark Pfeifer  
City Attorney  
City of Owensboro, Kentucky  
101 E. Fourth Street  
P.O. Box 10003  
Owensboro, Kentucky 42302-9003  
(270) 687-8556