

## **MUNICIPAL ORDER 11-2024**

### **A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A THIRD ADDENDUM TO MANAGEMENT AND LEASE (WITH OPTION TO PURCHASE) AGREEMENT, AS AMENDED AND RESTATED, BETWEEN THE CITY OF OWENSBORO AND RIVERPARK CENTER, INC.**

**WHEREAS**, the City of Owensboro ("City") and RiverPark Center, Inc. entered into a Management and Lease (With Option to Purchase) Agreement, effective September 1, 2011, establishing the terms and conditions relative to the funding, management, leasing and other matters relating to the RiverPark Center facilities; and

**WHEREAS**, City and Riverpark Center, Inc. entered into a First Addendum to Management and Lease (With Option to Purchase) Agreement, effective July 15, 2013, relating to funding the cost of capital maintenance, replacement and/or renovation of RiverPark Center facilities; and

**WHEREAS**, effective August 9, 2019, the City and RiverPark Center, Inc. entered into a Second Addendum to Management and Lease (With Option to Purchase) Agreement allowing the City to sublease the RiverPark Center facilities under certain conditions; and

**WHEREAS**, the City and RiverPark Center, Inc. desire to enter into a Third Addendum to Management and Lease (With Option to Purchase) Agreement, as Amended and Restated, to allow the City to operate and/or sell a portion of the RiverPark Center facilities. A copy of the Third Addendum is attached as Exhibit A.

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

**Section 1.** That the Mayor be, and he hereby is, authorized to execute the Third Addendum to Management and Lease (With Option to Purchase) Agreement, as Amended and Restated, with RiverPark Center, Inc., under the terms of which the City will be allowed to operate and/or sell a portion of the RiverPark Center facilities.

**Section 3** That the Mayor, City Manager and appropriate staff members are hereby authorized to sign any and all other agreements, instruments or documents deemed necessary to the furtherance of the authority outlined herein.

**INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE READING,** this the 7th day of May, 2024.

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Thomas H. Watson, Mayor

ATTEST:

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Beth Davis, City Clerk

## EXHIBIT A

**THIRD ADDENDUM TO  
MANAGEMENT AND LEASE (WITH OPTION TO PURCHASE)  
AGREEMENT, AS AMENDED AND RESTATED**

**THIS THIRD ADDENDUM** to the Management and Lease (With Option to Purchase) Agreement, as Amended and Restated, is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the **CITY OF OWENSBORO, KENTUCKY**, a municipal corporation of the home rule class, 101 E. Fourth Street, P.O. Box 10003, Owensboro, Kentucky 42302-9003 ("CITY"), and **RIVERPARK CENTER, INC.**, 101 Daviess Street, Owensboro, Kentucky 42301 ("MANAGER"). CITY and MANAGER may collectively be referred to as the "PARTIES".

**WITNESSETH:**

**WHEREAS**, CITY and MANAGER entered into a Management and Lease (With Option to Purchase) Agreement, as Amended and Restated ("Agreement"), effective September 1, 2011, relative to the funding, management, leasing and other matters relating to the RiverPark Center facilities Premises (described in Exhibit A to the Agreement); and

**WHEREAS**, effective July 15, 2013, the PARTIES entered into a First Addendum to the Agreement relating to funding the cost of capital maintenance, replacement and/or renovation of the RiverPark Center facilities; and

**WHEREAS**, effective August 9, 2019, the PARTIES entered into a Second Addendum to the Agreement allowing MANAGER to sublease the Premises under certain conditions; and

**WHEREAS**, the PARTIES now desire to further amend the Agreement in order to allow CITY to operate and/or sell a portion of the premises subject to the Agreement.

**NOW THEREFORE**, in consideration of the premises as set forth in the above recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The following described property is no longer a portion of the Premises subject to the Agreement:

**TRACT VI**

The store house and lot on Main Street, in Owensboro, Kentucky, the building consisting of three stories and a basement, and also the two story building, fronting 16 feet on Daviess Street, said lot being more particularly described as follows:

Beginning at the northwest corner of the Littell lot on the east side of Daviess Street at a point 84 feet from Main Street, being the southwest corner of what is known as the office building; thence with the east edge of Daviess Street north 16 feet to the northwest corner of said office building; thence eastwardly parallel with Main Street and with the center of the brick wall 69 feet to the northeast corner of the lot hereby conveyed; thence south, parallel with Daviess Street and with the east wall of the building hereby conveyed 100 feet to Main Street; thence west with the north margin of Main Street 46 feet to the southeast corner of the Littell lot; thence northwardly with the line of the Littell lot and parallel with Daviess Street 84 feet to the northeast corner of the Littell lot; thence west, parallel with Main Street, 23 feet to the beginning.

#### TRACT X

A part of Lot No. 14 as marked and known on the plat of the Town of Owensboro and bounded as follows:

Beginning at the corner of Daviess and Second or Main Street, thence with Second Street East twenty-three feet, thence north parallel with Daviess Street eighty-four feet, thence West and parallel with Second Street, twenty-three feet, thence South with Daviess Street eighty-four feet to the beginning.

AND BEING part of the same property conveyed to the City of Owensboro, Kentucky, from Owensboro Municipal Improvement Corporation by deed dated November 21, 1990, of record in Deed Book 596, page 273, Office of the Daviess County Clerk.

(hereinafter the "Subject Property")

LESS AND EXCEPT that portion of the first floor of the building on the above-described premises indicated as "RPC" on the attached Exhibit A, and the RiverPark Center electronic (digital sign) attached to the Subject Property at 2nd and Daviess Streets (the "Sign") which will remain under the control of Manager.

(hereinafter the "Excluded Premises").

2. **Subleases.** The City will assume Manager's rights and responsibilities under any subleases in effect on the Subject Property (other than the Excluded Premises).

3. **Common Area.** Manager and City will have joint access to those areas marked as "Common Area" on the attached Exhibit A, including the restrooms. Manager will be responsible for cleaning and maintenance of

the Common Area until the property described in Section 1 above is sold by City or the first floor fully occupied by City's tenant(s). At that time, City will be responsible for cleaning and maintenance of the Common Area. City will be responsible for any expenditures related to repair of the area around the Daviess Street entrance outside the Common Area (including the lights and roof over the sidewalk), unless repairs are necessitated by damage caused by Manager's or Manager's invitees' use of the Common Area.

4. **Excluded Premises.** The Excluded Premises will continue to be part of the "Premises" (as defined in the initial Agreement).

5. **Access.** City agrees that Manager may have access to any portion of the Subject Property described in Section 1 above as necessary for monitoring, routine inspections and servicing of utilities and security.

6. **Operating and Capital Expenses Regarding Subject Property.** The City will be responsible for any and all operating and capital charges, costs and expenses incurred in the operation, maintenance, use and occupancy of the Subject Property, other than the Excluded Premises, and at its own expense, make or cause to be made from time to time, all necessary repairs, renewals and replacements thereof relating to the Subject Property, other than the Excluded Premises.

7. **Cooperation.** City and Manager agree to cooperate in good faith if necessary to separate HVAC or other systems, or to appropriately allocate financial responsibility for expenses that cannot be separately billed.

8. **Ratification.** The City and the Manager hereby ratify and confirm all of the provisions of the Agreement as modified herein.

**In Witness Whereof,** the parties hereto have caused this Third Addendum to be executed by their respective duly authorized officers, on the date(s) set forth below, but effective as of the date hereinabove written.

**City of Owensboro, Kentucky**

By: \_\_\_\_\_

Thomas H. Watson, Mayor

Date: \_\_\_\_\_

Attest:

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

Date: \_\_\_\_\_

**RiverPark Center, Inc.**

By: \_\_\_\_\_

Scott McCain, Chairman

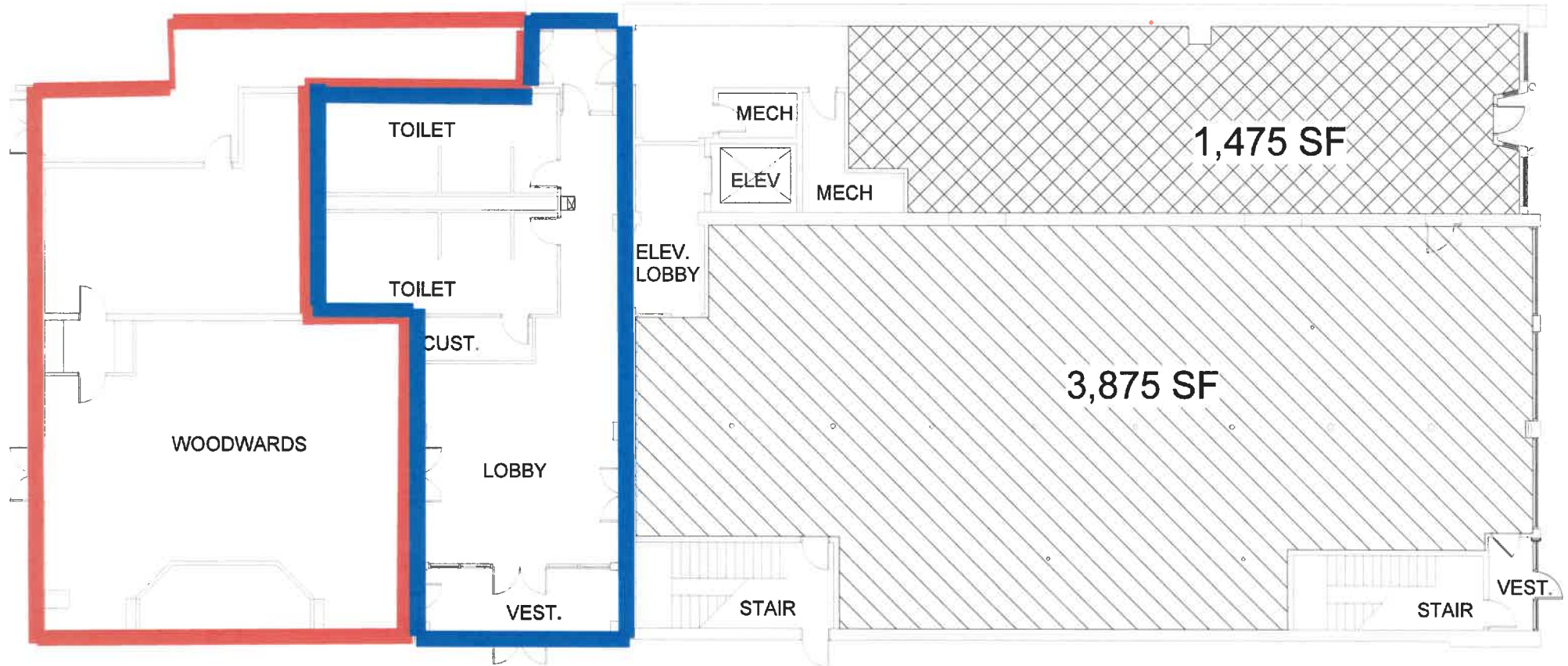
Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Jesse Mountjoy, Secretary

Date: \_\_\_\_\_

# EXHIBIT A



## TURLEY TENANT SPACES

SCALE: 1/16" = 1'-0"

- RPC
- COMMON AREA