

MUNICIPAL ORDER 10-2025

A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT WITH TS ENTERTAINMENT, LLC PROVIDING THAT THE CITY SHALL PAY TS ENTERTAINMENT, LLC A TOTAL OF \$1,500,000.00 FOR DEVELOPMENT OF PROPERTY LOCATED AT 5000 FREDERICA STREET AND 5105 BACK SQUARE DRIVE CONTAINING A TOTAL OF 33.111 ACRES, MORE OR LESS.

WHEREAS, TS Entertainment, LLC is the developer of real property consisting of 33.111 acres, more or less, located at 5000 Frederica Street and 5105 Back Square Drive (hereafter “the Property”); and

WHEREAS, TS Entertainment, LLC intends to develop the Property for commercial purposes, which will have substantial benefit to the citizens of Owensboro, and the City desires to provide an incentive for TS Entertainment, LLC to commercially develop the Property.

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

Section 1. That the Mayor be, and he hereby is authorized and directed to execute a Memorandum of Agreement with TS Entertainment, LLC providing that the City will pay TS Entertainment, LLC \$1,500,000.00, payable in four (4) equal installments of \$375,000.00, for its development of the Property. A copy of said Memorandum of Agreement is attached hereto and incorporated by reference herein.

INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE READING, this the 6th day of May, 2025.

Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT made and entered into this _____ day of March, 2025, by and between CITY OF OWENSBORO, KENTUCKY, a municipality of the home rule class, 101 East Fourth Street, P. O. Box 10003, Owensboro, Kentucky 42302-9003, (hereafter referred to as “City”), and TS Entertainment LLC, 5000 Frederica, Owensboro, Kentucky. 42301 (hereafter referred to as “Developer”). City and Developer are each a “Party” and collectively the “Parties”.

RECITALS

WHEREAS, Developer is the lessee of certain tracts of real property consisting of approximately 33.111 acres, more or less, which are located at 5000 Frederica Street and 5105 Back Square Dr. Owensboro, Kentucky (hereinafter referred to as “Subject Property”), and which are depicted on Exhibit A attached hereto; and

WHEREAS, Developer intends to develop the Subject Property for commercial purposes, which will have substantial benefit to the citizens of Owensboro; and

WHEREAS, the City of Owensboro desires to provide an incentive for Developer to commercially develop the Subject Property.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants and conditions contained herein, the Parties agree as follows:

SECTION 1. INCENTIVE: Developer agrees to build a commercial development on the Subject Property with a minimum investment of

\$10,500,000.00, in substantially the same manner and dimensions as shown on Exhibit B. Developer shall begin construction of the commercial development on the Property within twenty-four (24) months of the date of this Agreement, and will complete said commercial development upon the Property within thirty-six (36) months of the start of construction (the "Incentive Term"). As an incentive, City agrees to pay a total of \$1,500,000.00 in four (4) equal payments as follows:

- A. \$375,000.00 when Developer obtains a building permit;
- B. \$375,000.00 when construction of the commercial development is 25% complete;
- C. \$375,000.00 when construction of the commercial development is 50% complete; and
- D. \$375,000.00 when Developer obtains a Certificate of Occupancy.

The City shall have the right to inspect the work that has been performed prior to making installment payments based upon percentage of completion. No incentive will be paid to Developer for progress made after the thirty-six (36) month Incentive Term ends. Further, to be entitled to incentive payments, Developer must 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.

It is understood that all payments provided for in this Agreement shall be made solely to the present Developer or its approved assignee(s) and not to any subsequent developer, purchasers, tenants, or other interests present or future.

SECTION 2. TERM: This Agreement shall commence upon its execution by both Parties and in the absence of a default by either Party, shall remain in full force and effect until the end of the Incentive Term.

SECTION 3. DEFAULT; REMEDIES: This Agreement may be terminated by the City, by written notice, in the event Developer breaches any one or more of the terms and conditions set forth herein, including failure to timely commence construction in accordance with Section 1. This Agreement may be terminated by Developer in the event the City fails to pay Developer the incentive on the terms and conditions set forth herein, and fails to cure said breach within a reasonable time after written notice thereof by Developer.

Notwithstanding the rights of termination as stated herein, upon a material breach of this Agreement by either Party, the non-breaching Party shall be entitled to all remedies at law or equity, including but not limited to, specific performance or mandatory injunctive relief, rescission, or compensatory and consequential damages arising therefrom; provided, however, the City's total liability shall in no event exceed the unpaid incentive.

SECTION 4. NOTICES: Any written notices or requests required under the terms of this Agreement shall be given to the following:

CITY:

City of Owensboro
Attention: City Manager
P. O. Box 10003
101 East 4th Street
Owensboro, Kentucky 42302-9003

DEVELOPER:

Attention: Tony Yager

SECTION 5. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements, promises, communications, representations, whether oral or written, by any employee, officer, or representative of either Party hereto. There are no promises, representations, covenants, undertakings, restrictions, or conditions, other than those expressly set forth herein. Any subsequent amendment hereto shall be in writing and executed by authorized representatives of both Parties. This Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and assigns, provided, however, that this Agreement shall not be transferred or assigned, other than to an affiliated entity, at any time by Developer without the express written consent of the City.

SECTION 6: APPLICABLE LAW: This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. The Parties hereby agree that the state courts of Daviess County and the Commonwealth of Kentucky shall have exclusive jurisdiction to hear and determine any claims or disputes.

SECTION 7. SEVERABILITY: The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason,

other provisions herein may be invalid or unenforceable, in whole or in part. If a court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable as written, a court may interpret, construe, rewrite or revise such provision, to the fullest extent allowed by law, so as to make it valid and enforceable consistent with the intent of the Parties. In the event a court of competent jurisdiction finally determines that any portion of this Agreement is invalid or unenforceable as written, neither Party shall have any liability to the other as a result thereof.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Agreement as of the day and year first hereinabove written.

CITY OF OWENSBORO:

By: _____
Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk

DEVELOPER:

By: _____
Tony Yager

EXHIBIT A

OWNER'S CERTIFICATION

I, THE UNDERSIGNED OWNER(S) OF THE REAL ESTATE SHOWN AND DESCRIBED HEREON, DO HEREBY CERTIFY THAT I HAVE LAY-OUT, PLAT, AND SUBDIVIDED AND DO HEREBY LAY-OUT, PLAT, AND SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THE WITHIN PLAT, AND DO HEREBY ACCEPT THIS SURVEY, ALL STREETS AND ALLEYS SHOWN AND NOT HERETOFORE DEDICATED ARE HEREBY DEDICATED TO THE PUBLIC.

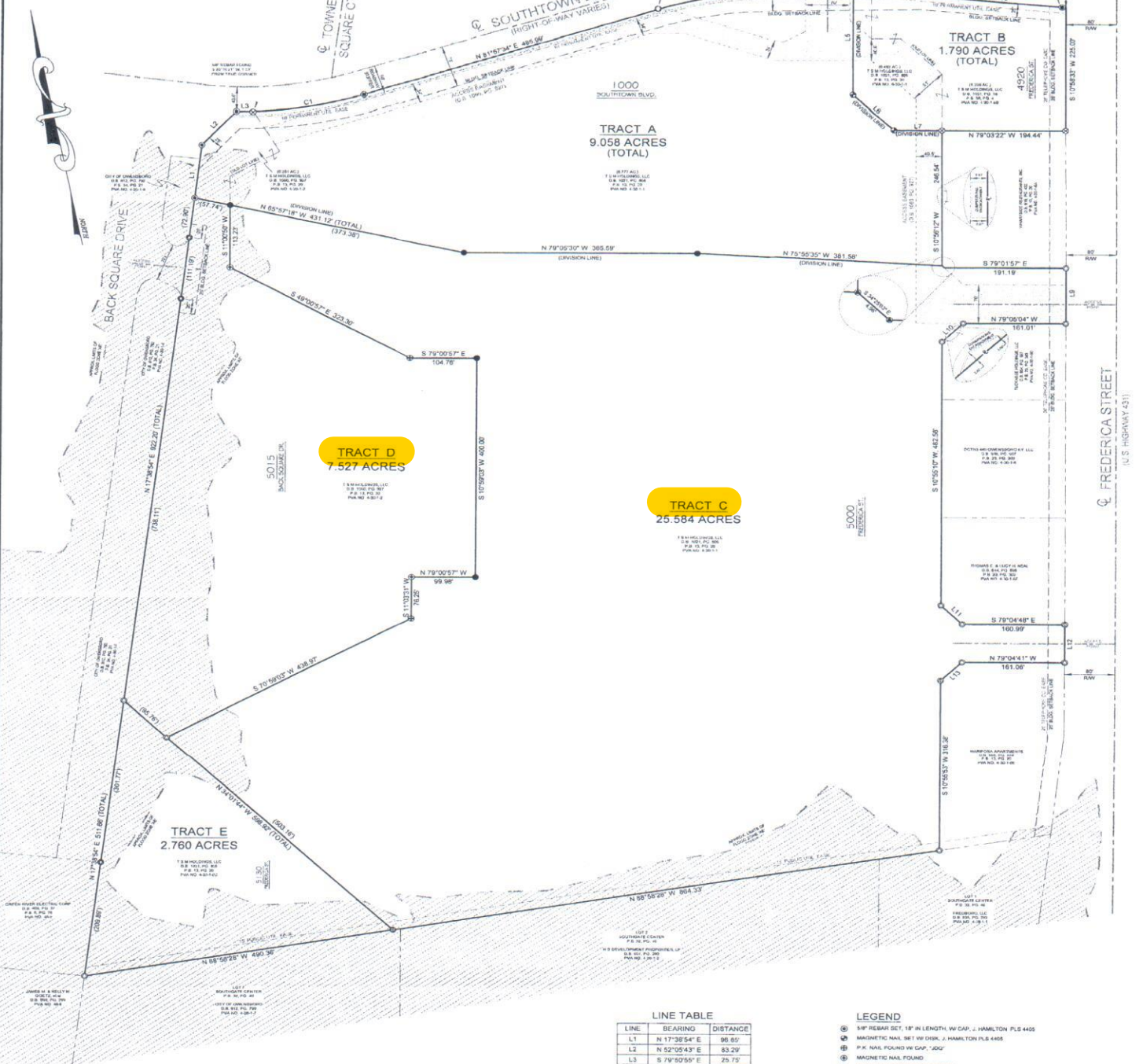
SIGNED: 

OMPC APPROVAL

APPROVED: 
DATE: 6/10/22



VICINITY MAP



CURVE TABLE

CURVE	BEARING	CHORD	RADIUS	LENGTH
C1	S 89°04'37" E	175.20	593.08	175.84
C2	S 89°12'12" E	183.06	522.02	183.72

SURVEYOR'S CERTIFICATION

I DO HEREBY CERTIFY THAT SHOWN HEREON IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PERFORMED UNDER MY DIRECTION BY THE METHOD OF REAL TIME KINEMATIC GPS MEASUREMENT USING GEOID MODEL 10B WITH KENTUCKY SOUTH 1983 AND NAD83. THE PRECISION OF THIS SURVEY WAS PERFORMED USING TRIMBLE 5602 XTO MODELS, 2 TRIPLE FREQUENCY RECEIVERS OF WHICH THE ADJUSTED RELATIVE POSITIONAL ACCURACY OF EACH MONUMENT IS 0.04 + 10 PPM. THE BEARINGS SHOWN HEREON ARE TIED TO KENTUCKY SOUTH STATE PLANE COORDINATES. THIS SURVEY IS CLASSIFIED AS AN URBAN SURVEY AND MEETS ALL OF THE ACCURACY AND PRECISION SPECIFICATIONS FOR THAT CLASS AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I ALSO CERTIFY THAT ALL MONUMENTS INDICATED HEREON DO ACTUALLY EXIST AND THAT THEIR LOCATIONS, SIZES, AND MATERIALS ARE CORRECTLY INDICATED. THIS SURVEY COMPLETES WITH 307 KAS 18.156.


JARRETT E. HAMILTON, KY PLS NO. 4405

6/10/22
DATE



SURVEYOR'S NOTE:

THE SUBJECT PROPERTY IS PARTIALLY LOCATED IN FLOOD ZONE AE. APPROXIMATE LIMITS ARE SHOWN HEREON, AS PER F.I.R.M. NOS. 21095C028D, 21095C029D & 21095C029D, DATED APRIL 16, 2008.

THE PROPERTY DESCRIBED HEREON IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHTS-OF-WAY THAT MAY OR MAY NOT BE OF RECORD.

THIS PLAT AND SURVEY REPRESENTED HEREON COMPLETES WITH 201 K.A.S. 18.155.

PUBLIC UTILITY EASEMENTS ARE FOR THE JOINT USE OF POWER, TELEPHONE, GAS, STORM SEWER, CABLE TV, AND WATER, UNLESS NOTED OTHERWISE.

CORRECTION: B-4
SOUTHTOWN BOULEVARD, RIGHT-OF-WAY AS PER KENTUCKY DEPARTMENT OF HIGHWAYS, PROJECT NO. F004 (SPP) 030 2121 000-002.
TRACT 'E' SHOWN HEREON IS AN EXISTING LOT OF RECORD.

DIRECT ACCESS TO FREDERICA STREET / U.S. HWY 431 SHALL BE LIMITED TO THE EXISTING ACCESS POINTS SHOWN HEREON. NO ADDITIONAL DIRECT ACCESS TO FREDERICA STREET / U.S. HWY 431 SHALL BE PERMITTED.

DIRECT ACCESS TO SOUTHTOWN BLVD SHALL BE LIMITED TO THE EXISTING ACCESS POINT SHOWN HEREON. NO ADDITIONAL DIRECT ACCESS TO SOUTHTOWN BLVD SHALL BE PERMITTED.

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 17°38'54" E	96.80
L2	N 52°00'43" E	83.29
L3	S 7°50'55" E	25.73
L4	S 80°03'24" E	143.04
L5	N 10°56'28" E	166.54
L6	N 33°54'44" W	90.59
L7	N 78°03'22" W	75.06
L8	S 80°03'24" E	42.11
L9	S 10°58'51" W	99.44
L10	S 55°54'23" W	47.39
L11	S 24°13'27" E	47.29
L12	S 10°54'45" W	80.97
L13	S 55°00'04" W	47.31

LEGEND

- ① 5/1" REBAR SET, 18" IN LENGTH, W/ CAP, J. HAMILTON, PLS 4405
- ② MAGNETIC NAIL SET W/ DISK, J. HAMILTON, PLS 4405
- ③ P.K. NAIL FOUND W/ CAP, "500"
- ④ MAGNETIC NAIL FOUND
- ⑤ 3/4" REBAR FOUND W/ CAP "512"
- ⑥ 1/4" PIN FOUND W/ CAP "500 214"
- ⑦ 1/4" PIN FOUND W/ CAP "500 238"
- ⑧ 1/4" PIN FOUND W/ CAP "500 381"
- ⑨ 1/4" PIN FOUND (NO CAP)
- ⑩ 1/2" REBAR FOUND W/ CAP, 606 PLS 2062
- ⑪ 1/2" REBAR FOUND W/ CAP, D. MCCREARY, PLS 3972
- ⑫ "X"TYE" ALUMINUM DISK FOUND
- CALCULATED POINT (NO MONUMENT SET OR FOUND)

OWNER/CLIENT
T S M HOLDINGS, LLC
60 MATT HAVEN
2095 FAIRVIEW DRIVE
OWENSBORO, KY 42303

RECORD SOURCE
DEED BOOK 1021, PAGE 805
DEED BOOK 1051, PAGE 18
DEED BOOK 1060, PAGE 827
PLAT BOOK 38, PAGE 4

GRAPHIC SCALE: 1 inch = 80 feet

T S M HOLDINGS, LLC

DAVIESS COUNTY
P51 PG96

PROPERTY SURVEY, DIVISION & CONSOLIDATION
LOCATED ON SOUTHTOWN BLVD & FREDERICA ST.
CITY OF OWENSBORO
DAVIESS COUNTY, KENTUCKY
DATE: 06-03-2022



1826 FREDERICA STREET - P.O. BOX 21392
OWENSBORO, KENTUCKY 42304
270-685-2811

EXHIBIT B

