**MUNICIPAL ORDER 37-2026**

**A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT WITH OWENSBORO DOWNTOWN PROPERTIES, LLC PROVIDING THAT THE CITY SHALL PAY OWENSBORO DOWNTOWN PROPERTIES, LLC AN INCENTIVE PER RESIDENTIAL UNIT BUILT ON PROPERTY LOCATED IN THE EAST END OF DOWNTOWN.**

**WHEREAS,** Owensboro Downtown Properties, LLC is the owner of various tracts of real property located in the east end of downtown Owensboro (hereafter "the Property"); and

**WHEREAS,** Owensboro Downtown Properties, LLC intends to develop the Property by building one hundred sixty-five (165) residential units, which will have substantial benefit to the citizens of Owensboro, and the City desires to provide an incentive for Owensboro Downtown Properties, LLC to 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 Owensboro Downtown Properties, LLC providing that the City will pay Owensboro Downtown Properties, LLC an incentive per residential unit built on 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 17th day of November, 2026.

_____
Thomas H. Watson, Mayor

ATTEST:

_____
Beth Davis, City Clerk

# MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT made and entered into this _____ day of November, 2026, 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 OWENSBORO DOWNTOWN PROPERTIES, LLC, 608 Frederica Street, Ste. 200, Owensboro, Kentucky 42301, (hereafter referred to as "Developer"), and Pat Anthony Yager, John T. Yager, and Aaron Kizer (hereafter collectively referred to as "Guarantors"). City, Developer and Guarantors are each a "Party" and collectively the "Parties".

## RECITALS

**WHEREAS,** Developer is the owner of certain tracts of real property located on the east end of downtown Owensboro within the boundary shown on Exhibit A and may, thereafter, acquire additional tracts within said boundary, or contiguous to the boundary (hereinafter referred to as "East End Property"); and

**WHEREAS,** Developer intends to develop the East End Property for residential purposes, which will have substantial benefit to the citizens of Owensboro; and

**WHEREAS,** the City of Owensboro has a need for additional residential units within the City and desires more downtown units specifically; and

**WHEREAS,** the City desires to provide an incentive for Developer to develop residential units on the East End Property; and

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

SECTION 1. INCENTIVE:

a) East End Property. Developer agrees to build one hundred sixty-five (165) residential units on the East End Property, substantially similar to those shown on Exhibit B. Developer agrees that it will make good faith efforts to ensure that the units built on the East End Property are priced competitively. Construction shall commence within twelve (12) months of execution of this Agreement, and construction shall be complete within ninety-six (96) months of execution of this Agreement. City agrees to pay $10,000.00 per residential unit, or $1,650,000.00 for the one hundred sixty-five (165) units to be built, at time of execution of this Agreement. If additional units in excess of one hundred sixty-five (165) are completed within the term set forth above, City agrees to pay an additional $10,000.00 per unit as they are completed.

b) All incentives paid to Developer under paragraph a) above are subject to the following provisions:

    1. If Developer builds fewer units on the East End Property than set forth above, then Developer agrees to pay back to City that portion of the Incentive not earned (e.g., if Developer builds a total of one hundred fifty (150) units rather than the one hundred sixty-five (165) units stated in a) above, Developer agrees to pay to City $150,000.00 for the fifteen (15) units it failed to build).

2. If a home in the East End Property is remodeled rather than newly built, it will count as a unit for purposes of the Incentive.
3. Developer can build unit sizes as dictated by market conditions.
4. If a unit in the East End Property is converted to a corner store or restaurant, Developer can either count the corner store or restaurant as a unit for purposes of the Incentive or can seek eligibility for the City's Downtown Business Incentive Program but cannot claim both incentives.
5. To qualify as a unit for purposes of the Incentive, the unit must have a certificate of occupancy prior to the applicable construction deadline set forth in a) above, except for those remodeled units referenced in (b)2 above which may not require a certificate of occupancy depending on the extent of remodeling conducted.
6. If a row house is sold entirely to one individual or entity, Developer shall receive credit for $20,000.00 (2 units). If a row house is split with one purchaser purchasing the second level and one purchaser purchasing the first level, Developer shall receive credit for $20,000.00 (2 units). If a row house is sold entirely to a mix of three individuals or entities, Developer shall receive credit for $3,000.00 (3 units). If a row house is sold to a mix of four individuals or entities, Developer shall receive credit for $4,000.00 (4 units).

c) 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.

d) It is understood that all payments provided for in this Agreement shall be made solely to the present Developer 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 all Parties and in the absence of a default by any Party, shall remain in full force and effect for ninety-six (96) months. The obligation to repay any excess incentive will survive the term and remain until satisfied. As set forth in Section 4, Guarantors' obligations shall terminate on December 31, 2035.

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.

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 not exceed $1,650,000.00.

SECTION 4. GUARANTY: Guarantors personally guarantee Developer's obligation to repay incentives set forth in Section 1 above, in the percentages set forth below:

| | |
|---|---|
| Tony Yager | 33.3% |
| John T. Yager | 33.3% |
| Aaron Kizer | 33.3% |

The maximum aggregate liability of the Guarantors is $1,650,000.00, plus any costs of collection and reasonable attorney's fees incurred by City in enforcing the guaranty. The guaranties shall terminate on December 31, 2035.

SECTION 5. 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: Owensboro Downtown Properties, LLC
Attention: Aaron Kizer
608 Frederica Street, Suite 200
Owensboro, KY 42301

GUARANTORS: Pat Anthony Yager
3673 Limestone Drive
Owensboro, KY 42303

John T. Yager
3659 Limestone Drive
Owensboro, KY 42303

Aaron Kizer
4460 Greenacre Drive
Owensboro, KY 42303

SECTION 6. 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 at any time by Developer or Guarantors without the express written consent of the City.

SECTION 7. 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 8. 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 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:

Owensboro Downtown Properties, LLC

By: _____
Aaron Kizer, Managing Member

GUARANTORS:

_____
Pat AnthonyYager

_____
John T. Yager

_____
Aaron Kizer

**EXHIBIT A**