

**ORDINANCE 16-2023**

**AN ORDINANCE CLOSING AN ALLEY RIGHT-OF-WAY  
ADJACENT TO 1627 MAYO AVENUE IN THE CITY OF  
OWENSBORO, KENTUCKY.**

**WHEREAS**, Janet Brown (Petitioner) has petitioned the City of Owensboro pursuant to KRS 82.405(2) to close an alley right-of-way adjacent to 1627 Mayo Avenue, Owensboro, Kentucky, plat of which is attached hereto and incorporated by reference as Exhibit A; and

**WHEREAS**, adjoining and abutting property owners, Amy Menze, Jerry Bailey and Virginia Bailey have given written and notarized consents to the closing of said alley right-of-way as evidenced in the *Consent of Abutting Property Owner to Closure of Public Right-of-Way* heretofore filed, a copy of which is attached and incorporated by reference as Exhibit B; and

**WHEREAS**, the Petitioner understands and agrees to retain public utility easements in favor of Owensboro Municipal Utilities and Spectrum Cable within the alley to be closed as shown on Exhibit A; and

**WHEREAS**, pursuant to KRS 82.405(2), the Board of Commissioners of the City of Owensboro, Kentucky, makes the following findings:

1. That the Petitioner, Janet Brown, has given written, notarized consent to the closing and abandonment of the public alley right-of-way described hereinabove, a copy of Applicant's *Request for Closure of Public Right-of-Way* is attached hereto.
2. That Janet Brown, the Petitioner herein, and Amy Menze, Jerry Bailey and Virginia Bailey are the only property owners abutting and adjoining the public alley right-of-way adjacent to 1627 Mayo Avenue sought to be closed, and have given written, notarized consents to the closure, copies of which are attached hereto.
3. That the closing of the public alley right-of-way to be abandoned herein would be in the best interest of the residents of the City of Owensboro, Kentucky, and will not create a hardship on any of the adjoining property owners or any person with any interest therein.

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

**Section 1.** That the findings of fact recited hereinabove are hereby adopted, affirmed and incorporated by reference herein.

**Section 2.** The hereinafter described public right-of-way be, and is hereby ordered to be officially closed and abandoned pursuant to the provisions of KRS 82.405(2):

An alley right-of-way to be closed containing 0.036 acres located between 1627 & 1635 Mayo Avenue, Owensboro, Daviess County, Kentucky more particularly described as follows:

Beginning at a point in the north right-of-way line of Mayo Avenue, said point having a Kentucky State Plane South Zone Coordinate N:2163152.49, E:1241593.45, said point also being the southwest corner of Janet Brown (D.B. 1064, Pg. 507); thence following the north right-of-way line of Mayo Avenue S 85°37'46" W, 10.00 feet to a point being the southeast corner of Jerry Bailey (D.B. 941, Pg. 94); thence following the west right-of-way line of the alley to be closed and the east lines of Bailey and Amy Menze (D.B. 865, Pg. 974) N 04°22'34" W, 154.99 feet to a point in the south right-of-way line of a 12 foot alley; thence following the south right-of-way line of the 12 foot alley N 85°35'09" E, 10.00 feet to a point being the northwest corner of Janet Brown (D.B. 1064, Pg. 507); thence following the west line of Brown and the east right-of-way line of the alley to be closed S 04°22'34" E, 155.00 feet to the point beginning containing 0.036 acres as shown on attached Exhibit A prepared by the City of Owensboro.

**Section 3.** The Petitioner shall dedicate by deed of easement or plat public utility easements in favor of Owensboro Municipal Utilities and Spectrum Cable within the alley to be closed.

**Section 4.** A copy of this Ordinance shall be recorded in the Office of the Daviess County Court Clerk.

**Section 5.** That all ordinances or parts of ordinances in conflict herewith, are to the extent of such conflict, hereby repealed.

**INTRODUCED AND PUBLICLY READ ON FIRST READING**, this 6th day of June, 2023.

**PUBLICLY READ AND FINALLY APPROVED ON SECOND READING**, this 20th day of June, 2023.

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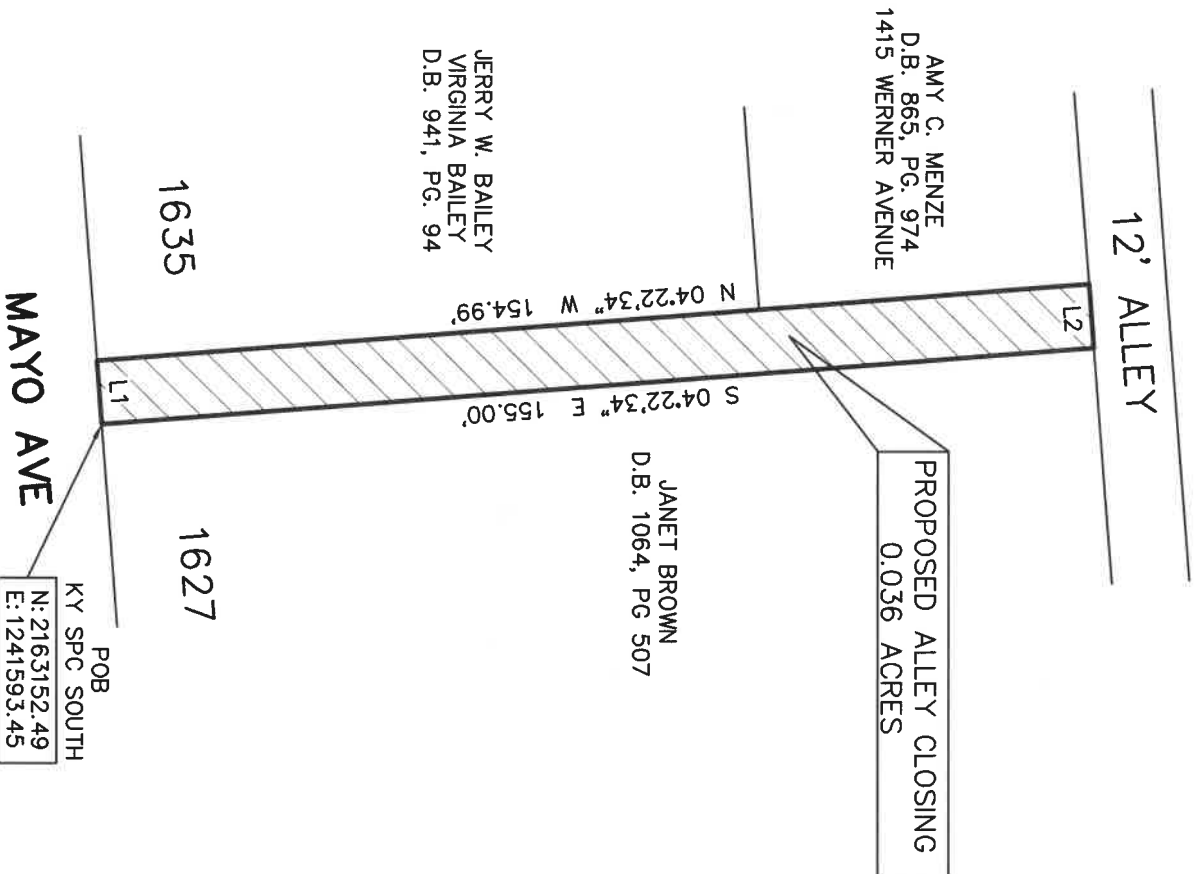
Thomas H. Watson, Mayor

ATTEST:

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Beth Davis, City Clerk

## EXHIBIT A



LINE	BEARING	DISTANCE
L1	S 85°37'46" W	10.00'
L2	N 85°35'09" E	10.00'



**CITY OF OWENSBORO**  
ENGINEERING DEPARTMENT  
P.O. BOX 10003  
OWENSBORO, KY 42302  
PHONE: 270-687-8641 FAX: 270-687-8579

**EXHIBIT A**  
**PROPOSED ALLEY CLOSING**  
ON MAYO AVENUE  
OWENSBORO, KENTUCKY

## ALLEY R/W CLOSURE DESCRIPTION

### **Mayo Avenue Alley R/W: 0.036 ACRES**

An alley right-of-way to be closed containing 0.036 Acres located between 1627 & 1635 Mayo Avenue, Owensboro, Daviess County, Kentucky more particularly described as follows:

Beginning at a point in the north right-of-way line of Mayo Avenue, said point having a Kentucky State Plane South Zone Coordinate N:2163152.49, E:1241593.45, said point also being the southwest corner of Janet Brown (D.B. 1064, Pg. 507); thence following the north right-of-way line of Mayo Avenue S 85°37'46" W, 10.00 feet to a point being the southeast corner of Jerry Bailey (D.B. 941, Pg. 94); thence following the west right-of-way line of the alley to be closed and the east lines of Bailey and Amy Menze (D.B. 865, Pg. 974) N 04°22'34" W, 154.99 feet to a point in the south right-of-way line of a 12 foot alley; thence following the south right-of-way line of the 12 foot alley N 85°35'09" E, 10.00 feet to a point being the northwest corner of Janet Brown (D.B. 1064, Pg. 507); thence following the west line of Brown and the east right-of-way line of the alley to be closed S 04°22'34" E, 155.00 feet to the point beginning containing 0.036 Acres as shown on attached Exhibit A prepared by the City of Owensboro.

  
Kevin M. Simmons, PLS 3635      5-26-23  
Date



## **EXHIBIT B**



## CITY OF OWENSBORO

COMMISSION MEETING DATE: 6/6/2023

**AGENDA REQUEST AND SUMMARY SUBMITTED BY:** City Engineering Department –  
Michael Hamilton

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**TITLE:** PROPOSED CLOSING OF A PORTION OF ALLEY RIGHT OF WAY ADJACENT TO  
1627 MAYO AVENUE

**Ordinance Prepared by:** ☒ City Staff ☐ Other Preparer **Attachments:** Request for Closure of Public Right of Way Form, Consent of Abutting Property Owner to Closure of Public Right of Way Forms, Ordinance for Closure, Alley Description and Exhibit Plat

**Summary & Background:** A request has been received from Janet Brown., for consideration to close a section of alley right of way adjacent to 1627 Mayo Avenue, being 10 foot wide and described below:

The proposed alley right of way is described as beginning at a point in the north right-of-way line of Mayo Avenue, said point having a Kentucky State Plane South Zone Coordinate N:2163152.49, E:1241593.45, said point also being the southwest corner of Janet Brown (D.B. 1064, Pg. 507); thence following the north right-of-way line of Mayo Avenue S 85°37'46" W, 10.00 feet to a point being the southeast corner of Jerry Bailey (D.B. 941, Pg. 94); thence following the west right-of-way line of the alley to be closed and the east lines of Bailey and Amy Menze (D.B. 865, Pg. 974) N 04°22'34" W, 154.99 feet to a point in the south right-of-way line of a 12 foot alley; thence following the south right-of-way line of the 12 foot alley N 85°35'09" E, 10.00 feet to a point being the northwest corner of Janet Brown (D.B. 1064, Pg. 507); thence following the west line of Brown and the east right-of-way line of the alley to be closed S 04°22'34" E, 155.00 feet to the point beginning containing 0.036 Acres.

Janet Brown, owner of property at 1627 Mayo Avenue has signed and submitted a Request for Closure Form and Consent of Abutting Property Owner Form for the proposed closing. Amy Menze, also owns property at 1415 Werner Avenue that abuts the proposed alley to be closed and has signed and returned a Consent of Abutting Property Owner Form for the proposed closing. Jerry & Virginia Bailey, owners of property 1635 Mayo Avenue that abuts the proposed alley right of way to be closed has signed and returned a Consent of Abutting Property Owner Form.

The request has been forwarded to all City departments and City Utilities. No objections were noted to the closing of the public alley rights of way. A public utility easement was requested and will be retained on the right of way area proposed to be closed by OMU Electric and Water and Spectrum Cable for their facilities within the proposed closed alley right of way adjacent to 1627 Mayo Avenue.

Mark Pfeifer, City Attorney - DRAFTED THE ORDINANCE FOR CLOSURE

**REQUEST FOR CLOSURE OF PUBLIC RIGHT-OF-WAY**

CITY ENGINEER:

The undersigned hereby requests that the right-of-way described below be closed and that the City Engineer's office make inquiry of all necessary City departments and utilities to determine if there are any reasons why the right-of-way located at:

SOUTH TO NORTH ALLEY, WEST SIDE OF  
1627 MAYO AVE. OWENSBORO, KY 42301.

should not be closed.

I understand that if I do not own all the land abutting the right-of-way proposed to be closed, I will obtain the consent of all other adjoining landowners on the appropriate form provided by the City. I also agree to provide the City with the names and addresses of all abutting or otherwise affected landowners by the proposed closure.

Once the appropriate consent forms have been executed by all fee simple property owners abutting the right-of-way proposed to be closed, and have been filed with the City, I understand and agree that it shall be my responsibility to obtain and pay for the services of a licensed attorney to prepare the legal documents necessary to close public right-of-way in accordance with KRS 82.405, subject to the approval of the City Attorney.

SIGNED BY: Janet Marie Brown

(PRINTED NAME) JANET MARIE BROWN

DATE: 12-20-2022

ADDRESS: 1627 Mayo Ave.

COUNTY OF DAVIESS )

Tracy C. McCarthy, on this the 20<sup>th</sup> day of December, 2022.

Tracy C. Murphy  
Notary Public, State of Kentucky at Large  
My commission expires: 3-9-2024  
Notary ID # KYNP4507

VB

**CONSENT OF ABUTTING PROPERTY OWNER (S)  
TO CLOSURE OF PUBLIC RIGHT-OF-WAY**

I (We), JANET MARIE BROWN,

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1627 Mayo Ave, Owensboro, Ky 42301., part or all of which property abuts a part or all of public right-of-way that the City of Owensboro, Kentucky, proposes to abandon and close in conformity with **KRS 82.405**, which right-of-way is more particularly described as follows:

South to North Alley, WEST SIDE OF  
1627 Mayo Ave, Owensboro, Ky 42301

I (We), as fee simple owner (s) of property in or abutting the portion of public right-of-way to proposed to be closed, do knowingly, voluntarily, and expressly waive my (our) right to written notice of the proposed closing otherwise required by **KRS 82.405 (2) (b)**, and hereby consent to, and join in the request for, the closure of said public right-of-way as proposed herein. I (We) further understand that I (we) are not required to consent to the closure of public right-of-way and may object to same. However, I (we) expressly waive any and all rights to object to the proposed closure.

I (We) further understand and acknowledge, that upon the enactment and publication of an ordinance by the Owensboro Board of Commissioners closing subject right-of-way, unless otherwise agreed, I (we) as abutting landowner (s), will receive by operation of law as my (our) own property, that portion of the right-of-way abutting my (our) property up to the center line of said right-of-way.

I further understand and acknowledge that if other fee simple owner (s) of property in or abutting the public right-of-way proposed to be closed does (do) not approve of the proposed

closure, the City reserves the right to withdraw from consideration any ordinance, or dismiss any lawsuit prosecuted herein, unless any one or all of the fee simple owner (s) of property in or abutting the right-of-way proposed to be closed, agrees (agree) to indemnify and hold the city of Owensboro harmless from any and all damages assessed against it by virtue of the initiation of eminent domain proceedings pursuant to **KRS 82.405 (3) and (4)**.

I (We) further understand and acknowledge that the City of Owensboro reserves the right to deny or qualify any request for closure of public right-of-way, if upon inquiry from all necessary City departments, utilities, and all abutting or affected property owners, it is determined that it is not in the best interest of the city to close public right-of-way or the retention of public or private utility easements or required to accommodate municipal services.

In testimony whereof, witness my (our) signature (s) on this 20<sup>th</sup> Day of December, 2022

**PROPERTY OWNER (S) :**

Janit Marie Brown

**STATE OF KENTUCKY** )

**COUNTY OF DAVIESS** )

The foregoing instrument was signed and acknowledged before me by Tracy C. McCarthy  
On this the 20<sup>th</sup> day of December, 2022.

Tracy C. McCarthy

**NOTARY PUBLIC, State at Large**

**My Commission expires:** 3-9-2024

**Notary ID #** KTNP4509

Amy M

**CONSENT OF ABUTTING PROPERTY OWNER (S)  
TO CLOSURE OF PUBLIC RIGHT-OF-WAY**

I (We), Amy Menze, ,

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 1415 Werner Ave Owensboro KY 42301

, part or all of which property abuts a part or all of public right-of-way that the City of Owensboro, Kentucky, proposes to abandon and close in conformity with **KRS 82.405**, which right-of-way is more particularly described as follows:

South to North Alley, west of  
1627 Mayo Ave. Owensboro, Ky 42301

I (We), as fee simple owner (s) of property in or abutting the portion of public right-of-way proposed to be closed, do knowingly, voluntarily, and expressly waive my (our) right to written notice of the proposed closing otherwise required by **KRS 82.405 (2) (b)**, and hereby consent to, and join in the request for, the closure of said public right-of-way as proposed herein. I (We) further understand that I (we) are not required to consent to the closure of public right-of-way and may object to same. However, I (we) expressly waive any and all rights to object to the proposed closure.

I (We) further understand and acknowledge, that upon the enactment and publication of an ordinance by the Owensboro Board of Commissioners closing subject right-of-way, unless otherwise agreed, I (we) as abutting landowner (s), will receive by operation of law as my (our) own property, that portion of the right-of-way abutting my (our) property up to the center line of said right-of-way.

I further understand and acknowledge that if other fee simple owner (s) of property in or abutting the public right-of-way proposed to be closed does (do) not approve of the proposed

closure, the City reserves the right to withdraw from consideration any ordinance, or dismiss any lawsuit prosecuted herein, unless any one or all of the fee simple owner (s) of property in or abutting the right-of-way proposed to be closed, agrees (agree) to indemnify and hold the city of Owensboro harmless from any and all damages assessed against it by virtue of the initiation of eminent domain proceedings pursuant to **KRS 82.405 (3) and (4)**.

I (We) further understand and acknowledge that the City of Owensboro reserves the right to deny or qualify any request for closure of public right-of-way, if upon inquiry from all necessary City departments, utilities, and all abutting or affected property owners, it is determined that it is not in the best interest of the city to close public right-of-way or the retention of public or private utility easements or required to accommodate municipal services.

In testimony whereof, witness my (our) signature (s) on this 28 Day of December, 2022

**PROPERTY OWNER (S) :**

Amy Menze  
\_\_\_\_\_

**STATE OF KENTUCKY** )

)  
**COUNTY OF DAVIESS** )

The foregoing instrument was signed and acknowledged before me by Amy Menze  
On this the 28 day of December, 2022.

Sarah E. Clark

**NOTARY PUBLIC, State at Large**

My Commission expires: 2-4-2023

**CONSENT OF ABUTTING PROPERTY OWNER (S)  
TO CLOSURE OF PUBLIC RIGHT-OF-WAY**

I (We), SEBASTIAN W. BAILEY VIRGINIA H BAILEY

do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located  
at and known as 1635 MAYO AVE OWENBORO KY 42301

, part or all of which property abuts a part or all of public right-of-way that the City of  
Owensboro, Kentucky, proposes to abandon and close in conformity with **KRS 82.405**, which  
right-of-way is more particularly described as follows:

SOUTH TO NORTH ALLEY, WEST OF  
1624 MAYO AVE. OWENBORO KY 42301.

I (We), as fee simple owner (s) of property in or abutting the portion of public right-of-way to  
proposed to be closed, do knowingly, voluntarily, and expressly waive my (our) right to written  
notice of the proposed closing otherwise required by **KRS 82.405 (2) (b)**, and hereby consent to,  
and join in the request for, the closure of said public right-of-way as proposed herein. I (We)  
further understand that I (we) are not required to consent to the closure of public right-of-way  
and may object to same. However, I (we) expressly waive any and all rights to object to the  
proposed closure.

I (We) further understand and acknowledge, that upon the enactment and publication of an  
ordinance by the Owensboro Board of Commissioners closing subject right-of-way, unless  
otherwise agreed, I (we) as abutting landowner (s), will receive by operation of law as my (our)  
own property, that portion of the right-of-way abutting my (our) property up to the center line of  
said right-of-way.

I further understand and acknowledge that if other fee simple owner (s) of property in or  
abutting the public right-of-way proposed to be closed does (do) not approve of the proposed



closure, the City reserves the right to withdraw from consideration any ordinance, or dismiss any lawsuit prosecuted herein, unless any one or all of the fee simple owner (s) of property in or abutting the right-of-way proposed to be closed, agrees (agree) to indemnify and hold the city of Owensboro harmless from any and all damages assessed against it by virtue of the initiation of eminent domain proceedings pursuant to **KRS 82.405 (3) and (4)**.

I (We) further understand and acknowledge that the City of Owensboro reserves the right to deny or qualify any request for closure of public right-of-way, if upon inquiry from all necessary City departments, utilities, and all abutting or affected property owners, it is determined that it is not in the best interest of the city to close public right-of-way or the retention of public or private utility easements or required to accommodate municipal services.

In testimony whereof, witness my (our) signature (s) on this 07 Day of

FEB, 2023

**PROPERTY OWNER (S) :**

Virginia Bailey

STATE OF KENTUCKY )

COUNTY OF DAVIESS )

The foregoing instrument was signed and acknowledged before me by

On this the 17th day of February, 2023

Kimberly S. Cox

NOTARY PUBLIC, State at Large

My Commission expires: June 21 2026

KYNP 53898