

ORDINANCE NO. 23-183

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A LICENSE AGREEMENT WITH RENEE L. BROWN AND JOSIAH P. BROWN SR., TO PROVIDE FOR THE USE OF A CERTAIN PORTION OF THE CITY'S ALLEY AS DESCRIBED IN THE GRANT OF A LICENSE FOR ENCROACHMENT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, certain property of the City is currently platted as a City alley, including the property identified and more fully described in Exhibits "A" and "B"; and

WHEREAS, this proposed License for Encroachment will allow the current property owner, Renee L. Brown and Josiah P. Brown Sr., to maintain an existing shed within an alley south of 320 Bell Street; and

WHEREAS, this City Commission, under powers of Local self-government granted to the City by Article XVIII of the Ohio Constitution and Section 3 and Section 25 of the Charter of the City of Sandusky, has the power to change the use of City property to a use that would be of greater benefit and use to the public; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute and record the Grant of a License for Encroachment and to allow the property owner to retain their existing shed located in an alley south of 302 Bell Street; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into the Grant of a License for Encroachment Agreement with Renee L. Brown and Josiah P. Brown Sr., substantially in the same form as contained in Exhibit "1", which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the City's public purpose as set forth in the preamble hereto.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction,

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such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

CATHLEEN A. MYERS
CLERK OF THE CITY COMMISSION

Passed: September 11, 2023

**GRANT OF A LICENSE FOR ENCROACHMENT LOCATED
SOUTH OF 320 BELL STREET**

This License Agreement is made this _____ day of _____, 2023, between the City of Sandusky, Ohio (the "City") whose tax mailing address is 240 Columbus Avenue, Sandusky, Erie County, Ohio, 44870, and Renee L. Brown and Josiah P. Brown Sr., (the "Licensees"), whose tax mailing address is 1337 C Street, Sandusky, Erie County, Ohio 44870 under the following conditions and circumstances:

- A. The City is the Owner and Trustee for the general public of alleys as defined by the Ohio Revised Code, Section 4511.01(XX), including the alley south of 320 Bell Street, and is more fully described in Exhibit "A" which is attached to this License Agreement and is specifically incorporated as if fully rewritten herein.
- B. The Licensees are the owners of the real estate located at 320 Bell Street, and is more fully described in Exhibit "A" which is attached to this License Agreement and is specifically incorporated as if fully rewritten herein.
- C. The Licensees desire to maintain a shed that is within the alley (the "Encroachment") and is more fully described in Exhibit "A" and Exhibit "B" which are attached to this License Agreement and are specifically incorporated as if fully rewritten herein.
- D. The City is willing to grant to Licensees a temporary license to maintain the Encroachment for so long as the Licensees remain the owners of the real estate located at 320 Bell Street and provided the Encroachment is not substantially altered.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION PAID, THE PARTIES AGREE AS FOLLOWS:

- 1. The City grants to the Licensees the license and permission to maintain the Encroachment as more fully described in Exhibit "A" and Exhibit "B", which are attached to this License Agreement and are specifically incorporated as if fully rewritten herein, for so long as the Licensees remain the owners of the real property located at 320 Bell Street, Sandusky, Ohio, and provided the Encroachment is not substantially altered and the Licensees comply with all legal requirements and the Licensees acknowledge that this grant of a license is terminable at the will of the City;
- 2. The Licensees agree that, except for the license granted pursuant to this Agreement, the Licensees make no claim of right and have no interest or title in any part of the property and the Licensees further agree that the maintenance of the Encroachment shall not, at any time, be deemed or construed to be an adverse possession of any part of the City's alley;
- 3. The Licensees agree to maintain the Encroachment, solely at Licensees' expense, for use in conjunction with the Licensees' real estate at 320 Bell Street, and further agrees to indemnify and hold harmless the City, including its officials, employees, boards, commissions, and agents, from any and all loss, damage, expense, or liability arising from the maintenance of the Encroachment;
- 4. This Agreement shall not be construed to run with the land and is only a temporary license, terminable at the will of the City.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the dates indicated below:

SIGNED AND ACKNOWLEDGED
IN THE PRESENCE OF:

CITY:
CITY OF SANDUSKY

John Orzech, City Manager

State of Ohio)
) ss:
County of Erie)

Before me a Notary Public for the State of Ohio, appeared the above named, John Orzech, City Manager of the City of Sandusky, who acknowledged that he signed the foregoing instrument and that the signing was a free act.

IN TESTIMONY WHEREOF, I have hereto subscribed my name and affixed my seal this ___ day of _____, 2023.

Notary Public

My Commission Expires:

SIGNED AND ACKNOWLEDGED
IN THE PRESENCE OF:

LICENSEES:
Renee L. Brown; Josiah P. Brown Sr.

320 Bell Street, Owners

State of Ohio)
) ss:
County of Erie)

Before me a Notary Public for the State of Ohio, appeared the above named, Renee L. Brown and Josiah P. Brown Sr., who acknowledged that she/he signed the foregoing instrument and that the signing was a free act.

IN TESTIMONY WHEREOF, I have hereto subscribed my name and affixed my seal this ___ day of _____, 2023.

EXHIBIT "A"

Notary Public
My Commission Expires:

Instrument prepared by:

Sarah S. Chiappone (#0101179)
Assistant Law Director
City of Sandusky

ENCROACHMENT LICENSE DESCRIPTION

Situated in part of the alley in Harper Subdivision as per plat recorded in Volume 2 Page 37 of the Erie County Records, Ward 2, City of Sandusky, Erie County, Ohio, and being more particularly described as follows;

Commencing at an iron pin found at the northwesterly corner of Lot Number 5 in said Harper Subdivision, now or formerly owned by Josiah and Renee Brown as per deed recorded in RN202301187 of the Erie County records, said point being on the southerly right of way line of Bell Street;

Thence North $89^{\circ}-11'-00''$ East, along the northerly line of said Lot Number 5 and Lot Number 4 in said Harper Subdivision, being the southerly right of way line of Bell Street, a distance of 71.15 feet to an iron pin found at the northeasterly corner of said Brown parcel, being the northwesterly corner of a parcel of land now or formerly owned by Timothy and Shelly Carpenter as per deed recorded in RN201100435 of the Erie County Records;

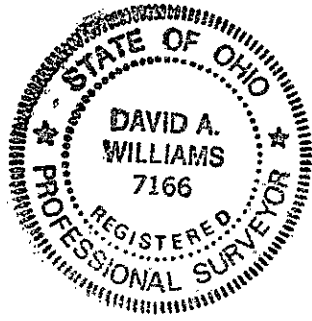
Thence South $04^{\circ}-58'-35''$ East, along the easterly line of said Brown parcel and the westerly line of said Carpenter parcel, a distance of 162.00 feet to an iron pin set on the northerly line of the alley in said Harper Subdivision, being the southerly line of said Lot Number 4;

Thence South $89^{\circ}-11'-00''$ West, along the northerly line of said alley and the southerly line of said Lot Number 4, a distance of 4.00 feet to a point, said point being the principal place of beginning for this description;

1. Thence South $04^{\circ}-58'-35''$ East, a distance of 9.00 feet to a point;
2. Thence South $89^{\circ}-11'-00''$ West, a distance of 6.00 feet to a point on the easterly line of said Lot Number 5;
3. Thence North $04^{\circ}-50'-00''$ West, along the easterly line of said Lot Number 5, a distance of 9.00 feet to a point on the northerly line of said alley, being the southwest corner of said Lot Number 4;
4. Thence North $89^{\circ}-11'-00''$ East, along the northerly line of said alley, being the southerly line of said Lot Number 4, a distance of 6.00 feet to the place of beginning and containing 0.0012 acres (53.86 Sq. Ft.) of land, but subject to all easements and restrictions of record.

In the above description the courses were referred to a meridian assumed for the purpose of indicating angles only.

This description was prepared by David A. Williams, Registered Surveyor No. 7166 and was taken from an actual field survey performed on August 7, 2023.



David A. Williams

A handwritten signature in cursive script that reads "David A. Williams".

Registered Surveyor No. 7166

APPROVED as per Erie County Requirements
And Sections 4733-37 thru 4733-37-07 of the Ohio
Administrative Code only. No Field Verifications
for Accuracy made.

A handwritten signature in cursive script that reads "Michael J. Farrell".

Engineer/Surveyor: Erie County Engineer's

Date: 8-8-2023

EXHIBIT "A"

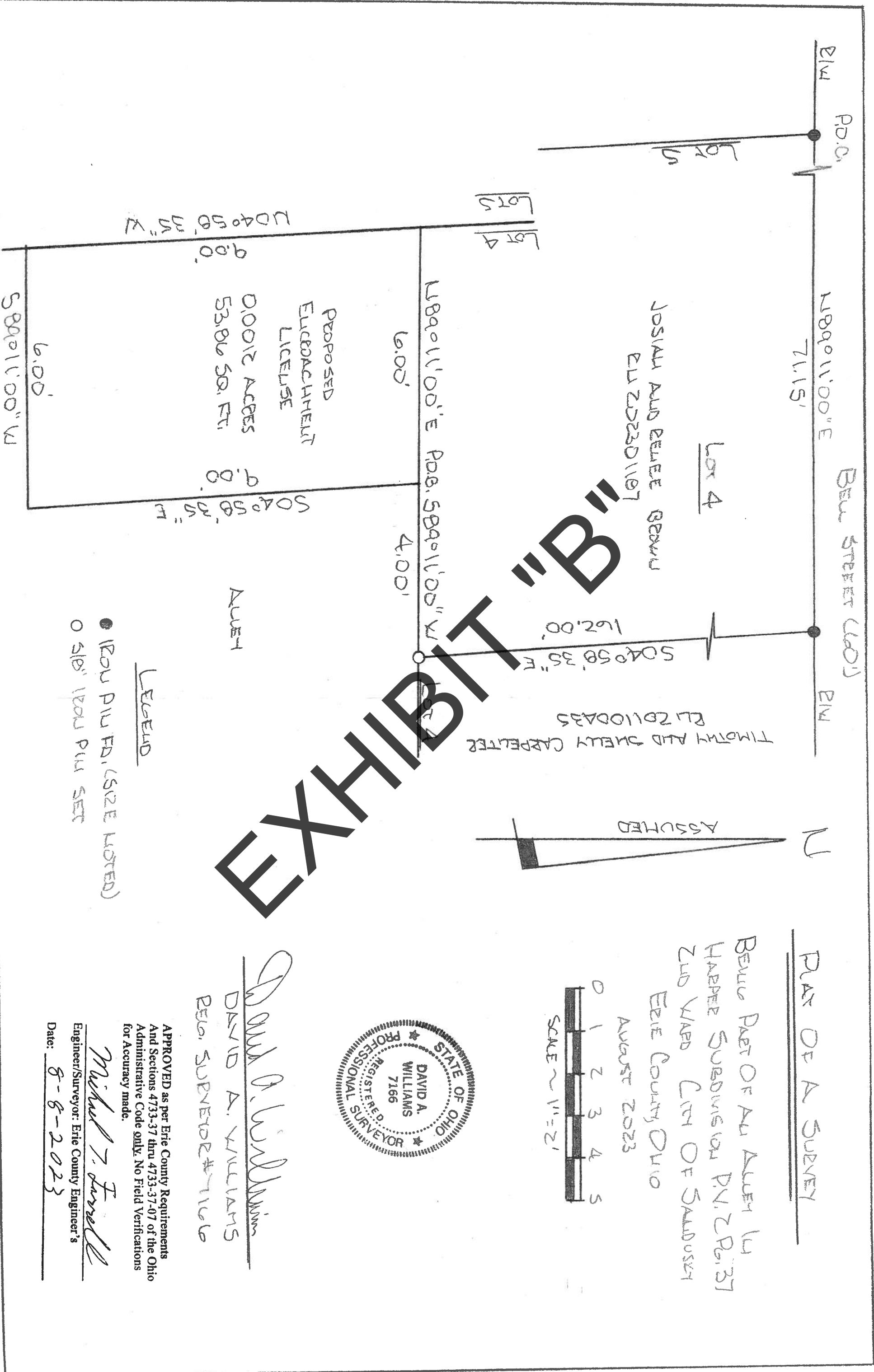
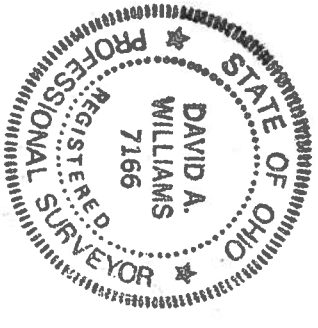
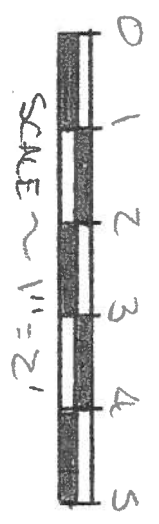


EXHIBIT "B"

PLAT OF A SURVEY

BEULS PART OF ALLEN (4)
 HADDER SUBDIVISION P.V. 2 P. 37
 ZUD WARD CITY OF SANDUSKY
 ERIE COUNTY, OHIO
 AUGUST 2023



David A. Williams
 DAVID A. WILLIAMS
 REG. SURVEYOR # 7166

APPROVED as per Erie County Requirements
 And Sections 4733-37 thru 4733-37-07 of the Ohio
 Administrative Code only. No Field Verifications
 for Accuracy made.

Michael T. Farrell
 Engineer/Surveyor: Erie County Engineer's

Date: 8-8-2023

- LEGEND**
- 180U PIV FB, (SIZE NOTED)
 - 518" 180U PIV SET