



## Engineering Department

**DATE:** January 23, 2024

**FROM:** Gabe Schell, City Engineer

**ITEM:** Encroachment Agreement - 205 N 2nd St - Shelter Partners, LLP

**REQUEST:**

Consider approval of an encroachment agreement with Shelter Partners, LLP.

**BACKGROUND INFORMATION:**

Shelter Partners LLP is requesting to replace awnings overhanging the right of way on the building located at 205 N 2nd Street. The awnings would have the same projection from the building face and the same clearance from the sidewalk as the existing awnings. Staff has reviewed and approved the encroachment agreement.

**RECOMMENDED CITY COMMISSION ACTION:**

Approval of encroachment agreement with Shelter Partners, LLP.

**STAFF CONTACT INFORMATION:**

Gabe Schell, City Engineer, 701-355-1507, [gschell@bismarcknd.gov](mailto:gschell@bismarcknd.gov)

**ATTACHMENTS:**

1. Agreement - Shelter Partners Awnings
2. Awning Exhibit

## **ENCROACHMENT AGREEMENT AND WAIVER**

The City of Bismarck hereby grants Shelter Partners, LLP (Grantee) the right to install and maintain privately-owned awnings & hardware (Encroachments) attached to the building face overhanging the right-of-way at 205 N 2nd Street, Bismarck, Burleigh County, North Dakota 58501, as shown on the attached exhibit. Exhibit will be stored with the original signed document in the Engineering Department, subject to the following conditions:

1. The Grantee shall maintain the Encroachment and comply with all rules regarding maintenance of the Encroachment in the public right of way as set by the City Engineer.
2. The term of this grant shall be for Five (5) years and shall continue thereafter from year to year. The City may cancel this grant at any time after the initial five-year term upon six months' written notice to the Grantee.
3. The Grantee shall maintain a minimum of seven (7) feet or eighty-four (84") inches of unobstructed space between the lowest point of the encroachments and the top of the highest point in the sidewalk below the encroachment.
4. Upon the end of the term or prior abandonment of the Encroachment by the Grantee, the Grantee shall, at its own expense, remove the Encroachment and restore the right of way to its original condition, if so required by the City.
5. For and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, in exchange for the City's permission to operate and encroachments in the right-of-way, Grantee agrees to release the City, its assigns, or other franchised utilities from and waive any and all claims relating to signs, but not limited to, damages arising from damage to the encroachments, loss of business, or other personal injury or property damage resulting from damage to the signs by the City, its assigns, or other franchised utilities. Grantee agrees that it is using the public right-of-way at its own risk. Grantee shall not look to the City, its assigns, or other franchised utilities to pay for any expense or damage to the encroachments by the City, its assigns, or other franchised utilities. Grantee agrees that it will hold harmless and indemnify the City, its assigns, or other franchised utilities from any and all claims in any way resulting from the placement of the encroachments in the public right-of-way. In the event the City is required to perform maintenance or construction on the right-of-way at the location of the encroachments, Grantee shall cooperate with the City in temporarily protecting the signs and accommodating the City's project, at Grantee's sole expense.
6. In the event of the commission of any breach of the terms of this Agreement by a party, the non-breaching party may cause this Agreement to be terminated on ten (10) days written notice. All obligations contained in paragraphs 4 and 5 will survive the termination of this Agreement, including but not limited to, the restoration of the property to the original condition.

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Print Name & Title  
Shelter Partners

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Signature

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Address

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Date

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Gabe Schell, P.E.  
City Engineer

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Date

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Keith Hunke  
City Administrator  
Bismarck

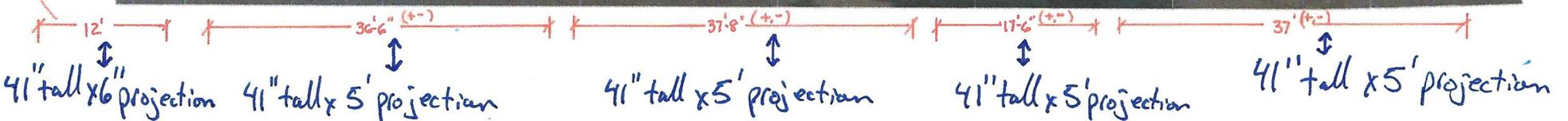
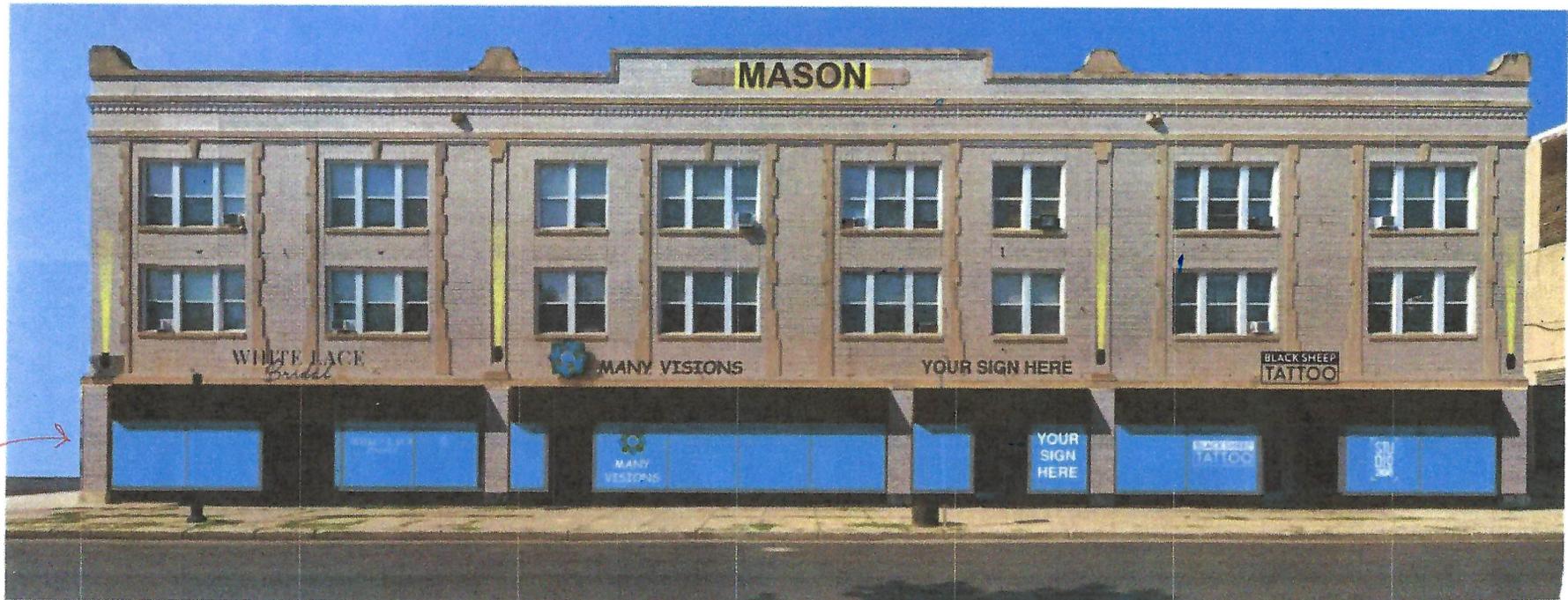
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Michael T. Schmitz, President  
Bismarck City Commission

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Date

\* 5 New aluminum awnings to replace the existing awnings on the building. 4 awnings on the south elevation, 1 awning on the west elevation



**BROADWAY STOREFRONT  
RENOVATIONS**

**OPTION B  
REVISED**

- ADD BACK AWNING. CLERE STORY WINDOWS COULD BE ADDED OR NOT
- ADD CHANNEL SIGN, WINDOW SIGNAGE
- ADD BUILDING LIGHTING
- ADD 'MASON' OR OTHER BUILDING NAME SIGNAGE
- ADD METAL BASE BELOW WINDOWS

PROS: CLEAN LOOK. THE BLACK MAKES THE BUILDING STAND OUT. LEAST EXPENSIVE, GOOD SUN CONTROL.

CONS: NO ADDITIONAL GLASS/LIGHT IN SPACES.

END/a