



Engineering Department

DATE: March 26, 2024

FROM: Gabe Schell, City Engineer

ITEM: Encroachment Agreement - 402 E Main Ave

REQUEST:

Encroachment and waiver agreement with Cape Boats, LLC for installation of a sign overhanging the right of way.

BACKGROUND INFORMATION:

Cape Boats, LLC is requesting an encroachment agreement to install a business sign overhanging the right of way at 402 E Main Ave for their tenant, JLG Architects. The Encroachment Committee has reviewed the agreement and recommends approval of the encroachment.

RECOMMENDED CITY COMMISSION ACTION:

Approve agreement and waiver with Cape Boats, LLC for a sign overhanging the right of way.

STAFF CONTACT INFORMATION:

Gabe Schell, City Engineer, 701-355-1507, gschell@bismarcknd.gov

ATTACHMENTS:

1. Encroachment Agreement

ENCROACHMENT AGREEMENT AND WAIVER

The City of Bismarck hereby grants Cape Boats, LLC (Grantee) the right to install and maintain a privately-owned sign & hardware (Encroachments) attached to the building face overhanging the right-of-way at 402 E Main Avenue, 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 eight (8) feet or ninety-six (96") 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.

Print Name & Title
Cape Boats, LLC

Signature

Address

Date

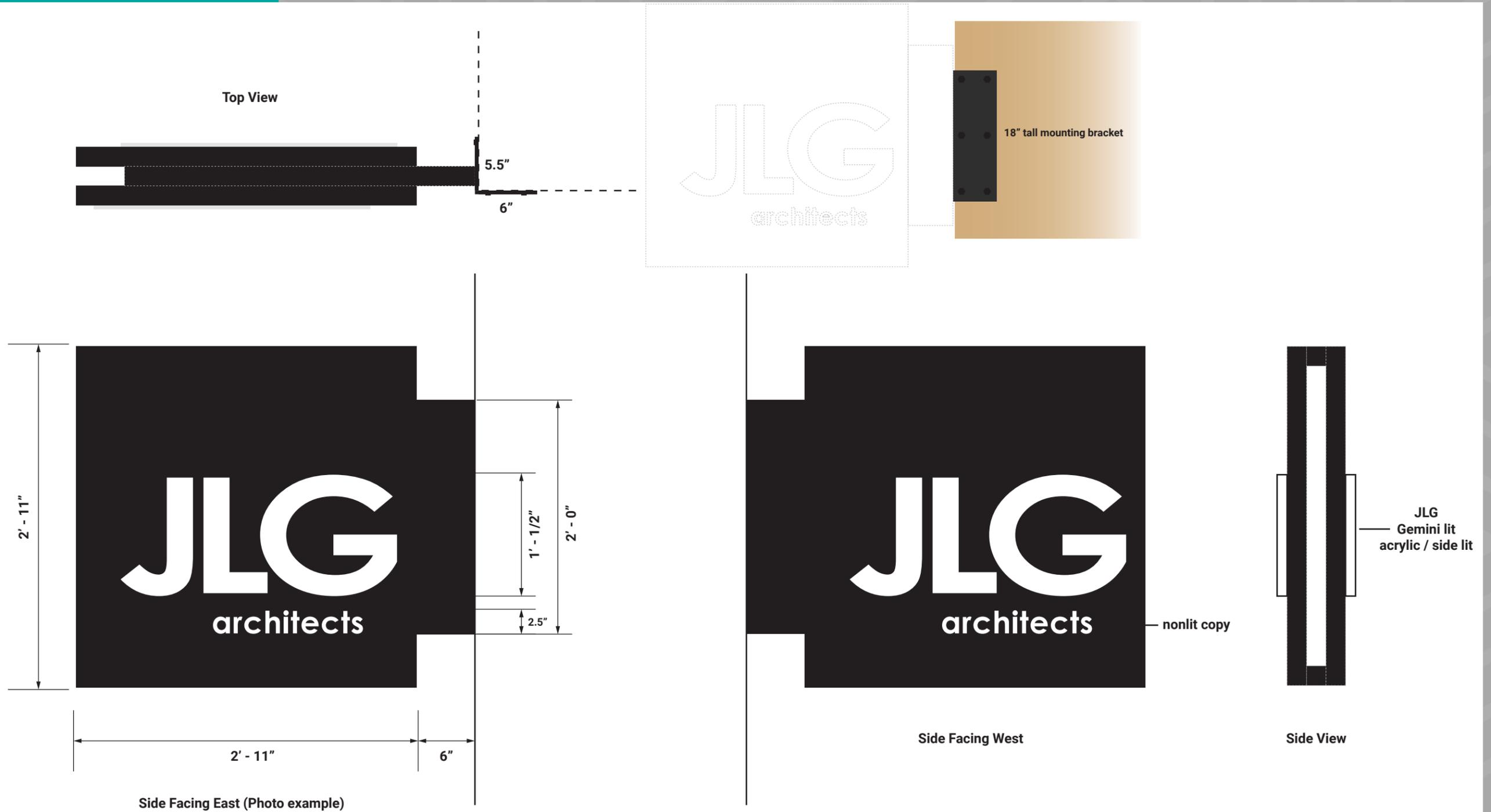
Gabe Schell, P.E.
City Engineer

Date

Jason Tomanek
City Administrator
Bismarck

Michael T. Schmitz, President
Bismarck City Commission

Date



BISMARCK SIGN CO.
SIGN DESIGN

Account: JLG Architects

Project # 240461-01

Rep: WM

Artist: MK

Proof # **01**

Approved

Notes: projecting, double faced, illuminated sign

Sheet # **1/2**

Approved pending revisions

Revise and resubmit

NOTICE
ALL SIGNS MANUFACTURED FOR
120V ELECTRICAL SERVICE
UNLESS OTHERWISE NOTED



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By signing this proof you are agreeing that all spelling,
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X

DATE _____

PLEASE PRINT, SIGN, DATE AND RETURN TO SALES REP



8' from grade to bottom of sign

BISMARCK SIGN CO.
SIGN DESIGN

Account: JLG Architects

Project # 240461-01

Rep: WM

Artist: MK

Proof # **01**

Approved

Notes: projecting, double faced, illuminated sign

Sheet # **2/2**

Approved pending revisions

Revise and resubmit

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