

City of Scottsbluff, Nebraska

Tuesday, February 22, 2022

Regular Meeting

Item Reports1

Council to discuss and consider action on the License Agreement with Kersch, LLC at 1721 Broadway and authorize the Mayor to sign the Agreement.

Staff Contact: Zachary Glaubius, Planning Administrator

LICENSE AGREEMENT

This License Agreement ("Agreement") is made by and between the City of Scottsbluff, Nebraska, a Municipal Corporation, hereinafter referred to as "Licensor", and Kersch, hereinafter referred to as "Licensee".

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions under which the Licensee may construct, maintain, repair, and utilize the following described improvement which will infringe upon real estate owned by the Licensor:

To install a sidewalk café enclosed with a three foot tall wrought iron railing system. Licensee must maintain five feet of access for pedestrian walkway from any obstruction, such as posts, tree grades, or flange plates. An 8' vertical clearance above the walkway must be maintained. This Agreement shall pertain to only the area in front of the property at 1721 Broadway.

2. Description of Real Estate. The Licensee owns the following described real estate adjacent to Licensor's real estate to which this Agreement shall apply:

Lots 17 & 18 Block 2 Original Town Addition with the street address of 1721 Broadway, Scottsbluff, NE.

3. Duties and Risks. It is understood and agreed that the Licensee may construct, maintain, repair, and utilize the above described improvement at the Licensee's sole risk. The Licensee hereby waives any claim for damages against the Licensor, its officers, employees, agents, and independent contractors, for any damage or injury that might result to said improvement. If the Licensor, in its sole discretion, determines that any part or all of the improvement must be removed or is damaged by the Licensor, its employees, agents or independent contractors working for Licensor during the course of their employment or duties with the Licensor, Licensee agrees to assume and pay all costs

relating to the replacement or repair of the improvement. The Licensee indemnifies and holds the City harmless from and against all claims arising out of the use or occupancy allowed under this Agreement.

4. Existing Utilities. The Licensee is responsible for locating and coordinating original construction and future maintenance work on the described improvement. No excavation work will be permitted in the area of underground utility facilities until all such facilities have been located and identified to the satisfaction of all parties. The excavation must be done with care in order to avoid any possibility of damage to the utility facility. The Licensee shall be responsible for any and all damage.

5. Restoration of Property. If the construction or maintenance of the improvement identified in paragraph 1 above requires the excavation of earth, removal of hard surfacing, grass, vegetation, landscaping, or any other disruption of the service of the public right-of-way or neighboring property, the Licensee shall restore the surface of the area to the same condition as it existed immediately prior to the Licensee's work in the area.

6. Effective. This License Agreement shall take effect on the date it is executed by the Mayor of the City of Scottsbluff as dated below. It shall continue for an indefinite term or until such time as it is terminated as provided hereinafter.

7. Termination. This Agreement shall terminate upon one or more of the following occurrences:

- (a) The service of written notice of intention to terminate by Licensee and the removal of any improvements infringing upon the City's lands or right-of-way.
- (b) The Licensee's application for a permit to occupy right-of-way, has expired.
- (c) The Licensee's construction or installation of any structure and improvement of any nature upon the real estate owned by the Licensor except that described in paragraph 1 above, or the Licensee's failure to apply for and obtain a permit to alter or make improvement to its property.
- (d) The City may revoke this Agreement at any time.
- (e) Upon the termination of this Agreement, the Licensee shall be required, and hereby agrees, to remove any improvements or fixtures from the Licensor's real estate at its own expense and without cost to the Licensor. Said removal shall occur no later than thirty (30) days after receipt of the notice of intention to terminate or of any occurrences set forth in this paragraph. Should the Licensee fail to do so, the Licensor may remove or cause the removal of any improvements or fixtures from the Licensor's real estate and the Licensee agrees to reimburse the Licensor for all of its costs.

8. Assigns. This Agreement shall be binding upon the parties hereto, their successors and assigns.

9. Entire Agreement. This Agreement constitutes the entire agreement between the parties notwithstanding any oral or written agreements to the contrary. This License Agreement shall be amended only in writing and executed by all parties.

10. Law. This Agreement shall be construed in accordance with the laws of the State of Nebraska and the City of Scottsbluff, Nebraska.

Dated: _____

CITY OF SCOTTSBLUFF, a
Municipal Corporation, Licensor,

By _____
Mayor

Attest:

City Clerk

Licensee

State of Nebraska, Scotts Bluff County:

This License Agreement was acknowledged before me on _____, 2022,
by Jeanne McKerrigan, Mayor of the City of Scottsbluff, Nebraska, Licensor.

Notary Public

State of Nebraska, Scotts Bluff County:

This License Agreement was acknowledged before me on _____, 2022, by
_____, Licensee.

Notary Public

Application for Permit to Obstruct Sidewalk Public Right-Of-Way—City of Scottsbluff, Nebraska

1. Today's Date: 2/3/22 2. Address of Proposed Work: 1721 Broadway
 3. Property Owner's Name: Kersch (Kerri Schaff) Phone #: 641-8068

4. This application is for permit to Obstruct Sidewalk R-O-W. . . (Check all that apply)

☐ **Sidewalk Display—including planters & park benches**

- ✓ Displays must allow a clear sidewalk with not less than five (5) feet for pedestrians between the sidewalk display and other impediment near the curb side of the sidewalk.
- ✓ Displays, whether in one or more parts, shall be limited to a total length of not greater than ten (10) feet and a total square footage of not greater than thirty (30) square feet, for any single store front. No part of any display may exceed a total height of 48 inches.

☐ **Sandwich Board Sign**

- ✓ Must be located within the 3 foot width of sidewalk immediately adjacent to the store front of which the sign advertises and must allow a clear sidewalk width of not less than 5 feet for pedestrians between the Sandwich board sign and any other impediment near the curb side of the sidewalk.

☒ **Sidewalk Café**

- ✓ Must allow a clear sidewalk width of not less than 5 feet for pedestrians between the perimeter of the sidewalk café area and any other impediment near the curb side of the sidewalk. Proof of liability insurance with the Department in an amount of not less than one million per person per occurrence.

5. Draw proposed layout: *Five feet of clear sidewalk space must be obtained for pedestrians to pass through.*

See Attached

Fire: _____ Police: _____ Water/Sewer: _____ Street: _____

6. I, the undersigned, hereby certify that I am familiar with all laws governing the above outlined construction work and will comply with these laws, and that the statements herein contained are true and correct to the best of my knowledge and belief.

By: Kerri Schaff
 Authorized Employee

Note: You have NOT received your permit.
 Do NO Work until it is issued.

By: _____

Authorized Employee

City of Scottsbluff

APPROVED DISAPPROVED

Fee - \$50.00 yearly

Fire Limits: Primary Secondary None

M-1 M-1(s) M-2 A F

O-P PBC C-1 C-2 C-3

Zone: R1 R1a R2 R3 R4 R5

Addition Original Town

Lot 17418 Block 2

Address 1721 Broadway

Date Issued _____

Permit Number 22-0380

