



**Infrastructure Agreement between
City of Sheridan and Owens Gillette Retail Owner, L.C., et al.**

This agreement is made and entered into as of this 30 day of March, 2011, by and between the City of Sheridan, a municipal Corporation in the State of Wyoming, hereinafter known as the "City", and those parties signatory hereto, having a principal place of business at 380 North 200 West, Suite 101, Bountiful, UT 84101, hereinafter known as the "Developer." Developer shall be the responsible party in the installation of certain infrastructure detailed below.

The City and Developer for their mutual benefit and consideration agree to the terms and conditions as listed herein:

Section 1. GENERAL CONDITIONS

- A. The Developer shall be responsible for the installation of certain infrastructure improvements, hereinafter referred to as "Infrastructure." The Infrastructure shall consist of the items described in Exhibit A attached hereto. The Developer shall install the infrastructure in accordance with City Standard Specifications and Wyoming Department of Environmental Quality
- B. Installation of the Infrastructure, shall occur in one (1) phase, and shall be completed in the course of construction under any building permit issued in connection with a building to be built on Lot 1 or Lot 4 of the proposed Sugarland Marketplace II Subdivision, but in no event later than two (2) years after recording of the plat for such subdivision. Notwithstanding the foregoing, said latest date of installation may be postponed as further approved by the City.
- C. The Developer shall provide financial assurances in a form approved by the City for 100% of the estimated cost of installation of the Infrastructure, including a 10% contingency fee. Financial assurances shall cover the following estimated cost based on stamped engineering estimates provided by Sanderson Stewart attached as exhibit A:
 - 1. Future Access Realignment on Sugar Lane - \$7,650.00
 - 2. Fire Lane Signage - \$900.00
 - 3. Designed Sidewalks - \$32,320.00
 - 4. Future Connectivity Route - \$2,800.00
 - 5. Painted Striping - \$2,000.00
 - 6. Total Public Infrastructure (including 10% contingency) - \$50,237.00

The assurances acceptable to the City shall be posted at such time as, and as a condition to issuance of, a building permit for the development of any building on either Lot 1 or Lot 4 of the Subdivision, and have appropriate amounts released upon verification by the City of completion of each portion of the Infrastructure.

- D. The Developer shall provide test results, inspection reports and suitable mylar as-built drawings, certified by a registered professional engineer, verifying satisfactory completion of the Infrastructure.
- E. Building permits will be issued as per the requirements of the Building Department and Appendix B, Section 707 of Sheridan City Code.
- F. The Developer shall remain owner and responsible party for all of the Infrastructure until such time as it receives final acceptance from the City Council. Following final acceptance of the Council, the Developer shall provide a warranty, backed by a financial assurance approved by the City, for 10% of the total cost of the installation of the Infrastructure. Said warranty period shall continue for a period of one year from the date of Council final acceptance.
- G. The Developer intends to relocate the storm drain sewer line that traverses Lot 4. To accommodate the future development of Lot 4, City agrees to abandon and vacate the existing storm drain sewer line and associated easement on Lot 4 if the relocation of the storm drain line is necessary for the

building improvements on Lot 4. The Developer will grant to the City a new easement for the relocated storm drain sewer line along the new route. The easement to be vacated and the proposed easement are shown on Exhibit B.

Section 2. COMPLIANCE WITH TERMS AND CONDITIONS

The Developer agrees to comply with the terms of this Agreement, including all deadlines, contained in Section 1. Should the Developer fail to comply with any of the conditions in Section 1 of this Agreement, the City will send a letter to the Developer listing the conditions for which The Developer is not compliant. The City reserves the right to pursue any action permissible under law or the terms of this agreement, including calling on financial assurances, if the Developer does not propose appropriate remedies which are reasonably acceptable to the City to eliminate the non-compliance(s) within two weeks of the date of the letter of non-compliance.

Section 3. EFFECTIVE DATE

This Agreement shall be effective upon the date listed in the first paragraph on page 1.

Section 4. TERMINATION

This Agreement may be amended, revised, or terminated only by the mutual consent of both parties.

Section 5. SEVERABILITY

If any provision or portion of this agreement is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this agreement shall remain in full force and effect.

Section 6. GOVERNMENTAL IMMUNITY

Nothing in this Agreement shall in any way be deemed a waiver of any of the requirements or immunities provided by the Wyoming Governmental Claims Act.

IN WITNESS WHEREOF, the parties execute this agreement as of the date set forth above.

For the City of Sheridan:

Dave Kinskey
Dave Kinskey
Mayor

Attest:

City Clerk

For the Developer:

OWENS GILLETTE RETAIL OWNER, L.C., a Utah Limited Liability Company

By: John Owens
John Owens, Manager

COMMERCIAL REAL ESTATE, L.C., a Utah Limited Liability Company

By: J. McDonald Brubaker
J. McDonald Brubaker, Manager

SHERIDAN MOUNTAIN PARTNERS, L.L.C., a Utah Limited Liability Company

By: CBIRES, Inc., a Utah Corporation, Its Manager

By: Kevin L. Mortensen
Kevin L. Mortensen, President

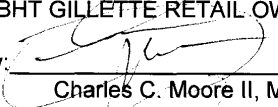
State of Wyoming } ss
County of Sheridan }

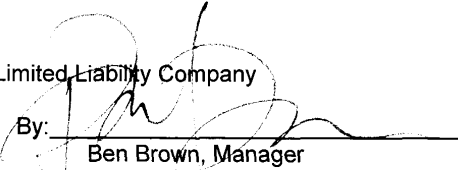
The foregoing instrument was acknowledged
before me by Dave Kinskey
this 30th day of March, 2011
Witness my hand and official seal.

Brenda K. Williams
Notary Public

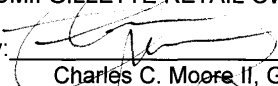
My commission expires November 12, 2012
Brenda K. Williams, Notary Public
County of Sheridan State of Wyoming

MBHT GILLETTE RETAIL OWNER, L.C., a Utah Limited Liability Company


By: 
Charles C. Moore II, Manager

By: 
Ben Brown, Manager

CCMII GILLETTE RETAIL OWNER, L.C., a Utah limited liability company

By: 
Charles C. Moore II, General Partner

BROWN GILLETTE RETAIL OWNER, L.C., a Utah limited liability company

By: 
Ben Brown, President

JEC & JHC INVESTMENTS, LLC, a Utah Limited Liability Company

By: 





EXHIBIT A

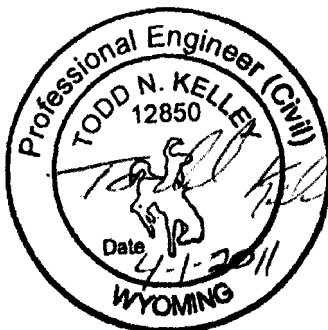
SHE-07182.04

Engineer's Opinion of Probable Cost
For
Sugarland Marketplace II Subdivision
City of Sheridan, Sheridan County, Wyoming

Sidewalk and Miscellaneous Improvements

ALL ITEMS ARE COMPLETE IN PLACE

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE
General					
101	6	EA	No Parking Any Time Signs	@ \$150.00 / EA =	\$900.00
102	1	LS	Future Connectivity Route	@ \$2,800.00 / LS =	\$2,800.00
103	1	LS	Painted Striping	@ \$2,000.00 / LS =	\$2,000.00
Subtotal - General					\$5,700.00
Future Access Realignment of Sugar Lane					
301	120	L.F	Remove and Replace Concrete Curb and Gutter	@ \$20.00 / L.F =	\$2,400.00
302	350	SF	Remove and Replace Concrete Street	@ \$15.00 / SF =	\$5,250.00
Subtotal - Future Access Realignment of Sugar Lane					\$7,650.00
Designed Sidewalks					
201	2,230	SF	5' Concrete Sidewalk	@ \$7.50 / SF =	\$16,725.00
202	6	EA	Handicap Accessibility Ramp	@ \$1,200.00 / EA =	\$7,200.00
203	12	EA	Truncated Dome	@ \$300.00 / EA =	\$3,600.00
204	255	SF	Remove and Replace Asphalt	@ \$9.00 / SF =	\$2,295.00
205	125	L.F	Remove and Replace Concrete Curb and Gutter	@ \$20.00 / L.F =	\$2,500.00
Subtotal - Designed Sidewalks					\$32,320.00
TOTAL COST OF CONSTRUCTION IMPROVEMENTS					\$45,670.00
Construction Contingency (10%)					\$4,567.00
TOTAL LETTER OF CREDIT					\$50,237.00



NO. 2011-687227 AGREEMENT - LEGAL
EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK
CITY OF SHERIDAN - PLANNING P O BOX 848
SHERIDAN WY 82801