



2011-687226 4/4/2011 2:59 PM PAGE: 10F 12  
BOOK: 524 PAGE: 248 FEES: \$41.00 DR DECLARATION  
EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

After Recording, Return to:  
380 North 200 West #100  
Bountiful, UT 84010

## DECLARATION OF CROSS EASEMENTS

THIS DECLARATION OF CROSS EASEMENTS ("Declaration") is entered into on  
Mar. 31, 2010. 2011

### Purpose

In order to facilitate the operation of the respective properties of the Shopping Center (as defined below) as an integrated commercial business complex for the mutual benefits of all of the real property in the Shopping Center and the present and future owners of each Parcel (as defined below) thereof, the parties hereto now desire to create and impose certain easements burdening and running with the land in the Shopping Center.

### 1. DEFINITIONS

The following terms shall have the definitions ascribed to them below:

(a) "Building Area": All of those areas on each Parcel where a building is located from time to time.

(b) "Common Area": All of those areas on each Parcel which are not Building Area. The size and arrangement of the Common Area including, without limitation, vehicular access drives, truck delivery access drives, and parking may be adjusted, but shall not be changed or altered in such a way as to unreasonably interfere or obstruct access to or from each of the existing access points on Coffeen Avenue, Sugar Lane and Sugarland Drive to the access drives, truck delivery access drives, service areas and parking located on each Parcel. While the locations of existing internal drive aisles may be changed, moved or relocated, in no event shall such change(s) materially change the ultimate ingress and egress of vehicular and pedestrian traffic throughout the Shopping Center.

(c) "Common Area Improvements": All improvements located in the Common Area, including, without limitation the traffic directional arrow signs, paving, bumper guards and curbs, landscape planters and other landscaped areas in the Common Area, parking lot lighting, perimeter walls and fences, utility pads and equipment serving the Common Area, sidewalks, and walkways in the Common Area, but excluding the following: canopies, eaves and roof overhangs (including columns or posts supporting the same), normal foundations, utility cabinets and meters, signs and doors for ingress and egress to the Building on each Parcel; those



areas devoted to Service Facilities or drive-up or drive through customer service facilities; and Tenant Signage which is not dedicated to the use for the entire Shopping Center.

(d) "Declarant": The parties who are signatory as such to this Declaration, who collectively own the entirety of the fee title interest in the Shopping Center.

(e) "Owner": The record holder or holders of fee simple title to a Parcel (including its heirs, personal representatives, successors and assigns).

(f) "Parcel": Any of Lot 1, 2, 3 or 4 of the Sugarland Marketplace Plat (respectively Parcel 1, Parcel 2, Parcel 3, and Parcel 4 where a specific reference to a Parcel is required) as shown on Exhibit "A" and more particularly described in **Schedule I** attached hereto and made a part hereof. The Parcels are located at the southeast corner of the intersection of Coffeen Avenue and Sugar Lane in the City of Sheridan, County of Sheridan, State of Wyoming.

(g) "persons": Individuals, partnerships, firms, associations, corporations, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

(h) "Service Facilities": Loading docks, trash compactors and enclosures, exterior coolers, electrical and refrigeration facilities and other similar service facilities.

(i) "Shopping Center": All of the Parcels, which are generally known as the Sugarland Village Shopping Center.

### AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and benefits contained herein and good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Declarant for themselves and for their successors and assigns as Owners (as defined above) declare as follows:

## **2. EASEMENTS**

**2.1 Permanent Easement for Ingress, Egress and Parking.** Declarant hereby establishes for the benefit of and burden upon each Parcel a perpetual nonexclusive easement for ingress and egress for vehicular and pedestrian traffic and vehicular parking upon, over and across the Common Area, as may exist and be adjusted from time to time, except for those areas devoted to Service Facilities or drive-up or drive through customer service facilities, if any. The reciprocal rights of ingress and egress set forth in this Section shall apply to the Common Area for each Parcel as such area may be changed from time to time.

## **2.2 Utility Lines and Facilities**

(a) Easements. Declarant hereby establishes for the benefit of and burden upon each Parcel a nonexclusive easement under, through and across the Common Area for the installation, operation, maintenance, repair and replacement of water drainage systems or structures, water mains, sewers, water sprinkler system lines, telephones, communication lines,

electrical conduits or systems, gas mains and other public or private utilities. Each Owner agrees to grant such additional easements as are reasonably required by any public or private utility for the purpose of providing the utility lines and facilities described herein provided such easements are not otherwise inconsistent with the provisions of this Declaration.

(b) Construction Requirements. The installation, operation, maintenance, repair and replacement of such easement facilities shall not unreasonably interfere with the use of the Common Area or with the normal operation of any business in the Shopping Center. The Owner of the benefitted Parcel shall bear all costs related to the installation, operation, maintenance, repair and replacement of such easement facilities, and shall repair to the original specifications any damage to the Common Area resulting from such use.

### 3. GENERAL PROVISIONS

**3.1 Covenants Run With the Land:** This Declaration and the easements, covenants, and conditions created hereby shall run with the land.

**3.2 Successors and Assigns:** This Declaration and the easements, covenants, conditions and Restrictions created hereby shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, successors and assigns, and upon any person acquiring a Parcel, or any portion thereof, or any interest therein, whether by operation of law or otherwise; provided, however, that if any Owner sells all or any portion of its interest in any Parcel, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the Parcel sold by it arising under this Declaration after the sale and conveyance of title, but shall remain liable for all obligations arising under this Declaration prior to the sale and conveyance of title.

**3.3 Injunctive Relief:** In the event of any violation or threatened violation by any person of this Declaration, any or all of the Owners of the property included within each Parcel shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Declaration or provided by law.

**3.4 Not a Public Dedication:** Nothing herein contained shall be deemed to be a gift or dedication of any portion of each Parcel to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Parties that this Declaration shall be strictly limited to and for the purposes herein expressed.

**3.5 Breach Shall Not Permit Termination:** It is expressly agreed that no breach of this Declaration shall entitle any Owner to terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Declaration. Any breach of this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Declaration shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

**3.6 Default:** A person shall be deemed to be in default of this Declaration only upon the expiration of thirty (30) days from receipt of written notice from any Owner specifying the particulars in which such person has failed to perform the obligations of this Declaration unless such person, prior to the expiration of said thirty (30) days, has rectified the particulars specified in said notice of



default. However, such person shall not be deemed to be in default if such failure cannot be rectified within said thirty (30) day period and such person is using good faith and its best efforts to rectify the particulars specified in the notice of default.

**3.7 Notices:** All notices given pursuant to this Declaration shall be in writing and shall be given by personal delivery, by United States mail or by United States express mail, to the person and address shown on the then current real property tax rolls of the county in which each Parcel is located.

**3.8 Waiver:** The failure of a person to insist upon strict performance of any of the provisions contained herein shall not be deemed a waiver of any rights or remedies that said person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the provisions contained herein by the same or any other person.

**3.9 Attorney's Fees:** In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Declaration, the prevailing party in any such action or proceeding shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

**3.10 Severability:** If any term or provision of this Declaration or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Declaration shall be valid and shall be enforced to the extent permitted by law.

**3.11 Not a Partnership:** The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Owners of the Parcels.

**3.12 Third Party Beneficiary Rights:** This Declaration is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

**3.13 Captions and Headings:** The captions and headings in this Declaration are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.

**3.14 Entire Agreement:** This Declaration contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Declaration shall be construed as a whole and not strictly for or against any party.

**3.15 Construction:** In construing the provisions of this Declaration and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.



**3.16 Joint and Several Obligations:** In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

**3.17 Recordation:** This Declaration shall be recorded in the office of the recorder of the county in which each Parcel is located.

DATED effective as of the date first above written.

DECLARANT :

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

By: [Signature]  
JOHN N. OWENS, Manager

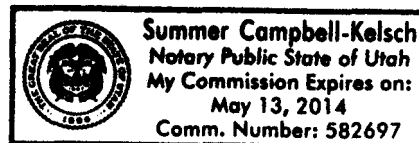
STATE OF Utah )  
: ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of March, 2011,  
by JOHN N. OWENS, who is the Manager of OWENS GILLETTE RETAIL OWNER, L.C., a Utah limited  
liability company.

[Signature]  
NOTARY PUBLIC  
Residing at: 170 S. Main St., Ste. 1600  
SLC, UT. 84101

My Commission Expires:

May 13, 2014





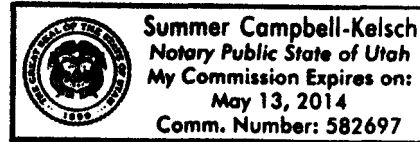
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EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

COMMERCIAL REAL ESTATE, L.C., a Utah limited liability company

By:

J. McDONALD BRUBAKER, Manager

STATE OF Utah )  
 : SS.  
COUNTY OF Salt Lake )



The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of March, 2011, by J. McDONALD BRUBAKER who is the Manager of COMMERCIAL REAL ESTATE, L.C., a Utah limited liability company.

Summer Campbell-Kelsch  
NOTARY PUBLIC  
Residing at: 170 S. main st., Ste. 1600  
SLC, UT 84101

My Commission Expires:

May 13, 2014

SHERIDAN MOUNTAIN PARTNERS, LLC, a Utah limited liability company, by its following Manager

CBIRES, Inc., a Utah corporation

By:

KEVIN L. MORTENSEN, President

STATE OF UTAH )  
 : SS.  
COUNTY OF DAVIS )

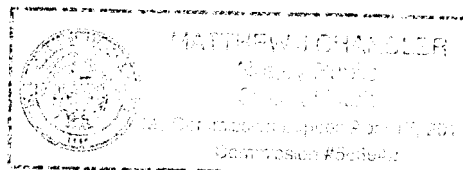
The foregoing instrument was acknowledged before me this 17 day of MARCH, 2011, by KEVIN L. MORTENSEN, who is the President of CBIRES, Inc., a Utah corporation, which is the Manager of SHERIDAN MOUNTAIN PARTNERS, LLC, a Utah limited liability company.

Matthew J. Schuler  
NOTARY PUBLIC

Residing at: DAVIS, UT

My Commission Expires:

April 17, 2011





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EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

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

By: [Signature]  
CHARLES C. MOORE II, Manager

By: [Signature]  
BEN BROWN, Manager

STATE OF Utah )  
: ss.  
COUNTY OF Salt Lake )

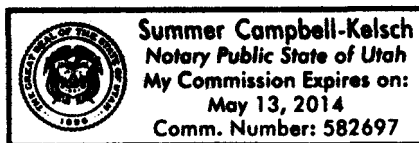
The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of March, 2011,  
by CHARLES C. MOORE II, who is a Manager of MBHT GILLETTE RETAIL OWNER, L.C., a Utah  
limited liability company.

[Signature]  
NOTARY PUBLIC

Residing at: 170 S. main St., Ste. 1600  
SLC, Utah 84101

My Commission Expires:

May 13, 2014



STATE OF Utah )  
: ss.  
COUNTY OF Salt Lake )

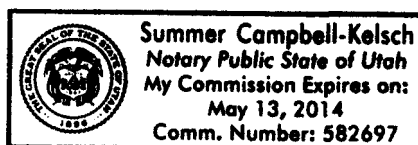
The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of March, 2011,  
by BEN BROWN, who is a Manager of MBHT GILLETTE RETAIL OWNER, L.C., a Utah limited liability  
company.

[Signature]  
NOTARY PUBLIC

Residing at: 170 S. main St., Ste. 1600  
SLC, Utah 84101

My Commission Expires:

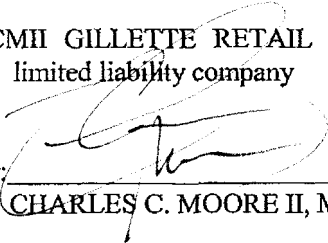
May 13, 2014





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EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

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

By:   
CHARLES C. MOORE II, Manager

STATE OF Utah )  
: ss.  
COUNTY OF Salt Lake )

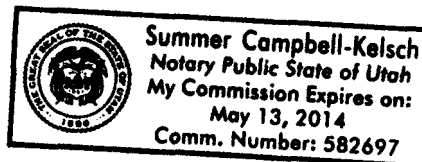
The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of March 2011,  
by CHARLES C. MOORE II, who is a Manager of CCMII GILLETTE RETAIL OWNER, L.C., a Utah  
limited liability company.

  
NOTARY PUBLIC

Residing at: 170 S. Main St., Ste. 1600  
SLC, Utah 84101

My Commission Expires:

May 13, 2014







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EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

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

By: 

BEN BROWN, Manager

STATE OF Utah )  
: ss.  
COUNTY OF Salt Lake )

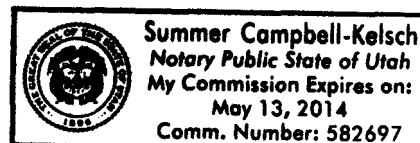
The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of March 2011, by  
BEN BROWN, who is a Manager of BROWN GILLETTE RETAIL OWNER, L.C., a Utah limited liability  
company.

  
NOTARY PUBLIC

Residing at: 170 S. main st., Ste. 1600  
SLC, Utah 84101

My Commission Expires:

May 13, 2014






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EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

JEC & JHC INVESTMENTS LLC, a Utah limited  
liability company

By:   
JOSEPH E. COOLEY, Manager

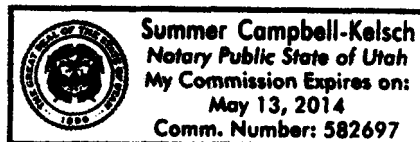
STATE OF Utah )  
: ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of March 2011, by  
JOSEPH E. COOLEY, who is the Manager of JEC & JHC INVESTMENTS LLC, a Utah limited liability  
company.

  
NOTARY PUBLIC  
Residing at: 170 S. Main St., Ste 1600  
SLC, UT. 84101

My Commission Expires:

May 13, 2014





## **SCHEDULE I**

### **To Declaration of Restrictions and Easements**

#### **Sugarland Marketplace II Subdivision:**

Lots 1 & 2 , Block 1, Replat of Sugarland South, an Addition to the City of Sheridan as recorded in Book 1 Page 321, and a tract as described in warranty deed recorded in Book 498, Page 118, Sheridan County Records, situated in the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 35, Township 56 North, Range 84 West, 6<sup>th</sup> Principal Meridian, City of Sheridan, Sheridan County, Wyoming.

##### **Lot 1:**

Lot 1 of the recorded plat of the Sugarland Marketplace II Subdivision, City of Sheridan, Sheridan County, Wyoming.

##### **Lot 2:**

Lot 2 of the recorded plat of the Sugarland Marketplace II Subdivision, City of Sheridan, Sheridan County, Wyoming.

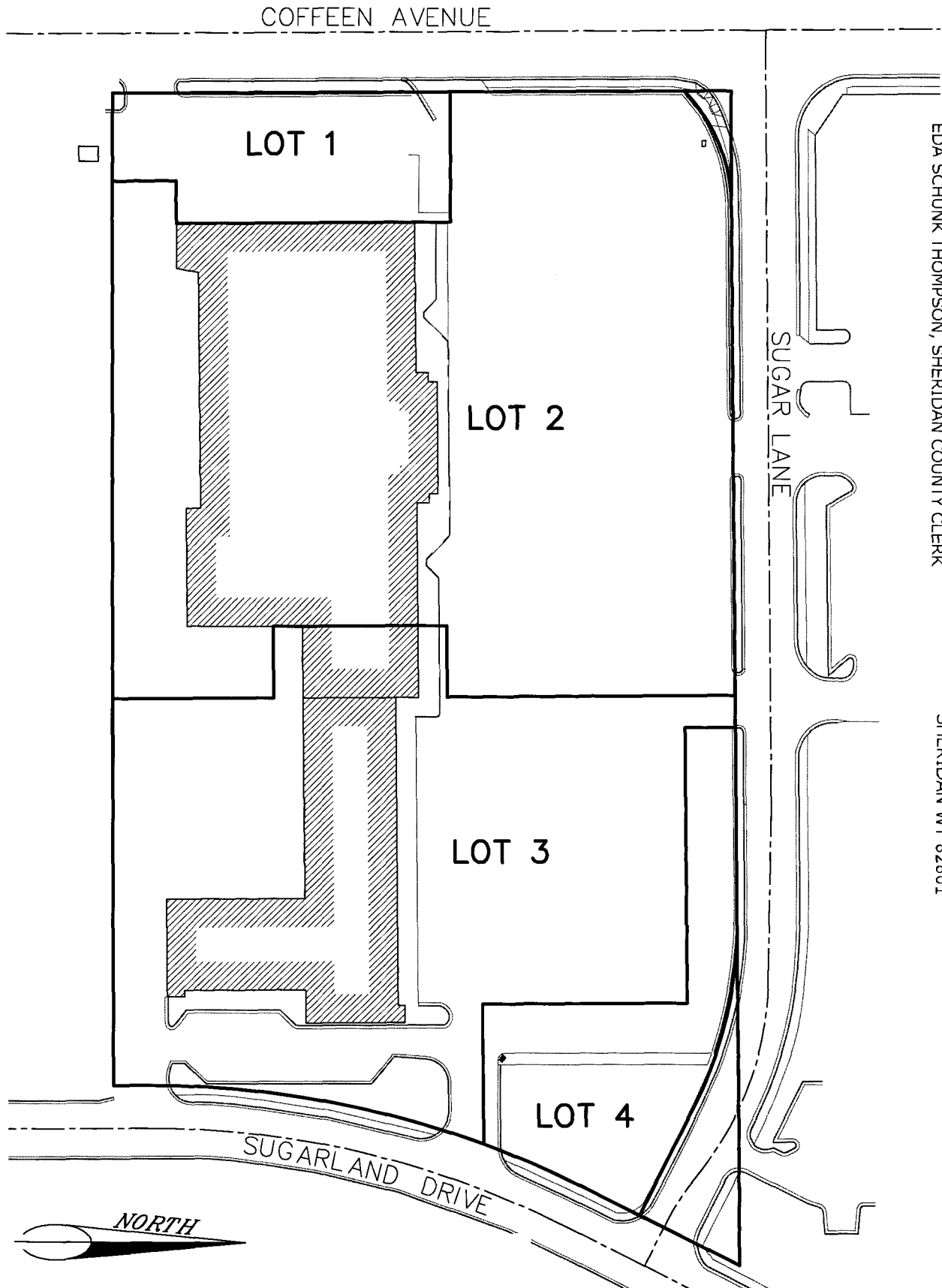
##### **Lot 3:**

Lot 3 of the recorded plat of the Sugarland Marketplace II Subdivision, City of Sheridan, Sheridan County, Wyoming.

##### **Lot 4:**

Lot 4 of the recorded plat of the Sugarland Marketplace II Subdivision, City of Sheridan, Sheridan County, Wyoming.

**EXHIBIT "A"**  
to Declaration of Restrictions and Easements  
Site Plan



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**NO. 2011-687226 DECLARATION**  
EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK  
CITY OF SHERIDAN - PLANNING P O BOX 848  
SHERIDAN WY 82801