

GILLETTE AVENUE
SIDEWALK USE AND LEASE AGREEMENT

THIS AGREEMENT is entered into effective the _____ day of _____, 20____, by and between the City of Gillette, Wyoming , a municipal corporation and city of the first class, hereinafter CITY and _____, defined as , **OWNER** (whether actual owner or lessee), of the premises described as _____, hereinafter, PROPERTY. OWNER owns or leases the PROPERTY which is adjacent to the sidewalk or public right-of-way described below and wishes to use a portion thereof for its business services offered to the public, and the CITY desires to accommodate the OWNER's desired use as being in the public interest. THEREFORE, in consideration of the promises exchanged below, the CITY and OWNER agree as follows:

1. **Premises.** CITY leases to the OWNER the following described portion of the sidewalk adjacent to OWNER's real property, to be known as the PREMISES and described as follows and illustrated on the attached EXHIBIT A Map attached hereto:

_____.
2. **Term.** The term of this Agreement shall be two (2) years, beginning on April 1, and terminating two (2) years thereafter on March 31. The CITY may terminate this Agreement upon thirty (30) days written notice to the OWNER should it deem the Agreement no longer serves the public interest; provided however, should a public health or safety concern arise from the OWNER's use of the PREMISES, this lease may be terminated immediately by the CITY. The use of the public right-of-way for outdoor food and beverage service shall only be between the hours of 6:00 a.m. and 11:00 p.m.
3. **Purpose.** The parties agree that the PREMISES are intended to provide an outdoor dining and/or beverage service area for patrons at OWNER's adjacent PROPERTY .
4. **Rent.** OWNER shall pay Twenty Five Dollars (\$25.00) for the right to use the PREMISES during the Term.
5. **Maintenance/Repair.** OWNER shall at all times keep PREMISES clean, maintained and in good repair in at least as good of condition as upon the effective date of the Agreement. CITY shall not be responsible for cleaning, maintaining, repairing or inspecting the PREMISES during the Term of this Agreement.
6. **Improvements.** Any improvements added to the PREMISES shall be: (a) constructed only with the prior written approval by the CITY's Development Services Department after April 1st of each calendar year of the Term; (b) shall be in compliance with all applicable building and development codes; (c) be free standing and not permanently affixed to the sidewalk; (d) a minimum of a five foot (5') unobstructed pedestrian walkway shall be maintained at all times; (e) all fencing shall be black wrought iron construction and meet the requirements of the specification attached; (f) all such

improvements shall be removed and the PREMISES be reclaimed to its original condition by October 31st of each calendar year of the Term.

- 7. Permitting.** The OWNER shall submit an application and obtain a Zoning Permit which includes a Site Plan, similar to EXHIBIT A to this Agreement, provided it includes all information required on the Sidewalk Use Site Plan Checklist.
- 8. Liability Insurance by OWNER.** Lessee agrees to maintain insurance on the Premises in accordance with Lessee's Standard Insurance Requirements as described on Exhibit "B" attached hereto and incorporated herein by reference during the Term of the Agreement.
- 9. Indemnity/Sovereign Immunity.** OWNER shall assume the risk of any liability arising from this Agreement and any and all use of the PREMISES, and OWNER shall hold harmless, defend and indemnify the CITY for any liability associated with the use of the PREMISES and improvements thereon. The CITY does not waive sovereign immunity by entering into this Agreement and specifically reserves immunity and all defenses available to it as a sovereign pursuant to W.S. §1-39-104(a) and all other law.
- 10. No Third Party Beneficiaries.** The parties do not intend to create in any other party the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between parties hereto and shall inure solely to the benefit of the parties to this Agreement.
- 11. Consent by City for Dispensing.** If the OWNER holds a liquor license on the adjoining property, described above, it may sell and serve alcoholic or malt beverages upon the leased Premises according to the terms of this lease, as an immediately adjacent fenced or enclosed area as approved by the local licensing authority.
- 12. Modifications.** Any changes, modifications, revisions, or amendments to this Agreement shall be mutually agreed upon in writing by the parties.
- 13. No Waiver.** The failure of the OWNER to insist on a strict performance of any of the terms and conditions hereof shall not be deemed a waiver of rights or remedies that OWNER may have regarding that specific term or condition nor deemed a waiver of any prior or subsequent breach. If a term in this Agreement is determined to be illegal, then the remainder of the Agreement shall remain in full force and effect and shall be binding upon the parties.
- 14. Miscellaneous.** The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, and the venue shall be the Sixth Judicial District, Campbell County, Wyoming.

CITY OF GILLETTE:

By:

OWNER:

By:

Address: _____

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