

MEMORANDUM OF UNDERSTANDING REGARDING THE OPERATIONS AND OVERSIGHT OF THE THIRD STREET PLAZA

This is an agreement between the City of Gillette (hereinafter “CITY”) whose address is 201 E. 5th Street, P.O. Box 3003, Gillette, Wyoming 82717 and Gillette Main Street (hereinafter “MAIN STREET”) of P.O. Box 7256, Gillette, Wyoming 82717, providing for an agreement by which City property commonly known as the Third Street Plaza may be managed through the assistance of Gillette Main Street. Collectively the CITY and MAIN STREET may be referred to as the PARTIES.

A. PURPOSE

The PARTIES enter into this Memorandum of Understanding (MOU) to pool resources to allow for the orderly operation of the Third Street Plaza (hereinafter “Plaza”). Specifically, while the CITY is the owner of the Plaza, part of the intended use of the Plaza is to promote the downtown area of the CITY, including the promotion of commercial traffic for the downtown merchants, provide a location for cultural and artistic events, and the promotion of the CITY as a whole. The PARTIES share these general goals and beliefs for the benefit of the entire community. This MOU sets forth the respective duties and obligations of the PARTIES for the promotion of the Plaza while maintaining the health, safety and welfare of those individuals and entities wishing to make use of the Plaza.

B. COMPLIANCE WITH CITY CODE AND ORDINANCES

Nothing contained within this MOU shall be interpreted to alter or amend the existing City Code and City Ordinances with regard to catering, malt beverage and open container permits (City Code §3-8), live music, amplified sound, or P.A. systems (City Code §3-8c) parking regulations (City Code §11-12), and street closures (City Code §18-4).

C. PLANNING AND SCHEDULING OF EVENTS

1. Responsibility for Scheduling. MAIN STREET shall be responsible for the scheduling and management of the calendar of events held at the Plaza. MAIN STREET shall schedule events on the Plaza on a “first-come, first-serve basis” without preference to any specific race, creed, religion, sexual orientation, political affiliation, disability, or other protected

class. CITY, however, shall retain all authority to approve any event occurring at the Plaza which would require closure of Third Street within the Plaza.

2. Regularly Scheduled Events. At the first regularly scheduled meeting of the City Council each year, MAIN STREET shall seek a resolution (street closure permit) from the CITY to close and reserve the Plaza for any regular events of MAIN STREET including but not limited to: the February Ice Fest, the June Art Festival, the July Brew Festival, the October Fall Boo Fest, November Small Business Saturday, the December Parade of Lights, and all known or expected dates for the Farmer's Market.

3. Special Events / Individual Requests. In addition, MAIN STREET shall be responsible for the reservation of any additional dates sought by individuals or organizations seeking to promote the City of Gillette, its merchants, its clubs and organizations, cultural or artistic events, and other needs for public areas that are for the betterment of the community.

4. Notice to the CITY. Every request for the reservation of the Plaza shall be forwarded to the City Clerk for inclusion in the regular agenda of the City Council. The City Council, for the City of Gillette, shall retain all authority to grant the closure of Third Street for purposes of the use of the Plaza through the use of a street closure permit.

5. Events Involving Alcoholic or Malt Beverages. Any event requiring the issuance of a catering, malt beverage or open container permit under City Code §3-8 shall be granted only in conformity with the existing City Code. It shall be the responsibility of the individuals seeking the permit, and not MAIN STREET, to submit the appropriate application, fee, and other information at least three (3) weeks prior to the proposed date of the event/activity as required by City Code §3-8. No catering, malt beverage or open container permit shall be granted directly to MAIN STREET under the terms of this MOU.

6. Events Involving Live Bands, Amplified Sound or P.A. Systems. Any event which may involve an outdoor dance, live band, amplified music, amplified sound or P.A. system shall require Council consideration under City Code §3-8. It shall be the responsibility of the individuals seeking the permit to make timely application to the City for Council consideration.

D. NOTICE OF STREET CLOSURE FOR OPERATIONS OF THE PLAZA

MAIN STREET shall be responsible for providing notice of the granting of any street closure to the Gillette Police Department, the local newspaper and radio stations as may be required by the CITY or under Wyoming law.

E. FEES AND EXPENSES FOR EVENTS

1. Electrical Expenses. Electrical outlets for purposes of vendors are located within the Plaza. The individual or organization making use of the Plaza, and requiring electrical service shall tender the sum of ten dollars (\$10.00) to the CITY, for each electrical outlet to be used for the event, prior to obtaining any street closure permit for use of the Plaza.

2. Garbage Disposal and Associated Expenses. Any clean up associated with an event or activity occurring at the Plaza shall be the responsibility of the party reserving the Plaza. CITY shall provide a total of ten (10) roll-out (96 gallon residential style) containers for any event scheduled in advance by MAIN STREET for each event. In the event MAIN STREET shall require more than ten (10) roll-outs for any single event, MAIN STREET shall be charged the additional amount of ten dollars (\$10.00) per roll-out container provided by CITY.

The individuals or organizations holding a special event or individual request made under Paragraph C(3) above shall be responsible for arranging for the placement of roll-out (96 gallon residential style) containers for their event. Said individuals or organizations shall be solely responsible for determining the total number of roll-outs required to ensure the Plaza is returned to its pre-event condition. CITY shall provide roll-out containers for such events at the rate of ten dollars (\$10.00) each, or the individuals or organizations holding an event may choose to obtain garbage disposal from another source, at their sole expense.

3. City Restroom Facility. The permanent restroom facility located at the Plaza will be open for use during scheduled events no later than 8:00 a.m. on the morning of the event, and will be closed at 5:00 p.m. the end of the scheduled event. Should it be necessary to extend the hours of operation for the permanent restroom facility, MAIN STREET shall provide notice of the extended hours at least two (2) days in advance of the scheduled event to ensure the facilities are open to the public during such extended hours. The individual, entity or organization reserving the Plaza (including MAIN STREET) shall be responsible for ensuring that the bathrooms are returned to their pre-event condition. The failure to return the restroom facility to

the same condition it was in prior to the event may result in the imposition of cleaning costs upon the individual or organization reserving the Plaza.

4. Portable Restrooms. MAIN STREET shall determine the need for any additional portable restrooms that may be required as a result of the size and nature of the event occurring at the Plaza. MAIN STREET shall convey this information to the individual or organization reserving the Plaza so that appropriate temporary facilities are provided at the Plaza. The CITY shall not be responsible for providing portable restrooms nor responsible for the costs thereof unless otherwise agreed to in writing.

5. Street Closure Barricades. CITY shall provide portable barricades to be used to close the Plaza to motor vehicle traffic during any scheduled event. CITY shall not be required to place the barricades prior to the event or street closure, or to remove them at the end of any event or street closure. MAIN STREET shall be responsible for the placement of barricades for any event identified in paragraph C(2) and in all other cases, the placement of the barricades shall be the responsibility of the individual, entity or organization seeking to use the Plaza.

6. Damages to Restrooms, Public Property, and the Plaza. Any individual, entity or organization (including MAIN STREET) agrees to be responsible for any property damages arising from any event held by them at the Plaza.

F. LIABILITY AND SOVEREIGN IMMUNITY

Unless specifically addressed by this MOU (or other written agreement), the parties agree to be responsible for the negligent or wrongful acts or omissions of their respective officers and employees, but only to the extent they would be liable under the laws of the State of Wyoming. Nothing in this Memorandum of Understanding shall be read to constitute or to require a waiver of any rights of the CITY under the doctrine of sovereign immunity, or a waiver of its immunity under the Wyoming Governmental Claims Act, W.S. §1-39-101 et seq.

G. INSURANCE REQUIRED

MAIN STREET shall obtain general liability insurance coverage, naming the CITY as an additional insured, against any personal injury, property damage and other injuries arising from the operations of the Plaza by MAIN STREET for those events specifically scheduled by MAIN STREET under the terms of this agreement. The amount of coverage shall be in the minimum

amount of five hundred thousand dollars (\$500,000.00). Any individual or organization seeking to reserve the Plaza under Paragraph C(3) of this MOU shall be required to obtain general liability insurance coverage, naming the CITY as an additional insured, against any personal injury, property damage or other injuries arising from any event in the minimum amount of five hundred thousand dollars (\$500,000.00).

H. TERM

This MOU shall be for an annual term beginning upon approval and execution by the CITY, and shall automatically renew each year thereafter unless otherwise terminated upon thirty (30) days written notice by either party.

I. MISCELLANEOUS PROVISIONS

1. This Agreement is intended to supersede any previous written or oral Agreements regarding to the matters set forth herein.

2. This Agreement, consisting of six (6) pages shall constitute the full Agreement between the PARTIES, and any amendments, alterations and modifications hereof shall be in writing and signed by the PARTIES' named representatives.

3. Should any provision of this Agreement be found un-enforceable, the remaining provisions shall remain in full force and effect.

In witness whereof, the Parties, through their authorized representatives, have executed this MOU on the dates set out below and certify that they have read, understood and agree to the terms and conditions of this MOU as set forth herein.

PASSED, APPROVED AND ADOPTED this _____ day of June 2015.

CITY OF GILLETTE

Louise Carter-King, Mayor

(SEAL)

ATTEST:

Karlene Abelseth, City Clerk

GILLETTE MAIN STREET

_____, Executive Director of the
Gillette Main Street Program