

**AGREEMENT FOR THE OPERATION OF FOOD, BEVERAGE AND RETAIL CONCESSION  
IN THE TERMINAL BUILDING  
BOZEMAN YELLOWSTONE INTERNATIONAL AIRPORT**

This agreement made and entered into this 12th day of March, 2015, by and between the GALLATIN AIRPORT AUTHORITY, Belgrade, Montana, (hereinafter referred to as "AUTHORITY") and Sharbert Enterprises Inc. (hereinafter referred to as "CONCESSIONAIRE").

WITNESSETH:

WHEREAS, CONCESSIONAIRE desires to lease and acquire certain premises and facilities, rights, services and privileges for the purpose hereinafter set forth and,

WHEREAS the AUTHORITY is willing to lease and grant the same to CONCESSIONAIRE on the terms and conditions hereinafter stated,

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth, the AUTHORITY does hereby lease and grant to CONCESSIONAIRE and CONCESSIONAIRE does hereby accept from the AUTHORITY certain premises, facilities, non-exclusive rights, services and privileges as follows:

1. Term.

The term of this agreement shall be for a period of seven (7) years commencing on the 1<sup>st</sup> day of June 2015 and ending on the 31<sup>st</sup> day of May 2022.

2. Premises.

The AUTHORITY hereby grants and leases to the CONCESSIONAIRE those certain premises and facilities in the airport terminal building as shown on Exhibits attached hereto and incorporated herein by this reference. Said space is herein referred to as the "leased premises" and is generally comprised of restaurants, bistro, gift shops, market and basement storage.

3. Privileges, Rights and Uses.

In addition to food, beverage and retail operations, the CONCESSIONAIRE shall have the following non-exclusive rights, privileges and uses:

- a) The right to occupy the designated premises together with the necessary rights of ingress and egress for CONCESSIONAIRE, CONCESSIONAIRE's employees and customers subject to security requirements.
- b) The right to prepare and sell in-flight meals for consumption aboard aircraft to certified air carriers at Bozeman Yellowstone International Airport.
- c) The right to prepare and sell in-flight meals for consumption aboard general aviation aircraft at Bozeman Yellowstone International Airport.

- d) The right to prepare and sell meals for consumption for catered events in the airport terminal building.

4. Fees, Payments and Records.

- (a) CONCESSIONAIRE shall pay, during the term hereof, either a concession fee of the following percentages of total gross annual revenues from sales of food, alcohol and retail or the following Minimum Annual Guarantee (MAG), whichever is greater:

|                                | <sup>16</sup> Year 1 | <sup>17</sup> Year 2 | <sup>18</sup> Year 3 | <sup>19</sup> Year 4 | <sup>20</sup> Year 5 | <sup>21</sup> Year 6 | <sup>22</sup> Year 7 |
|--------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Minimum Annual Guarantee (MAG) | \$500,000            | \$510,000            | \$520,000            | \$530,000            | \$540,000            | \$550,000            | \$560,000            |

385

| Percentage of Gross Revenue FOOD | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 |
|----------------------------------|--------|--------|--------|--------|--------|--------|--------|
|                                  | 17.5%  | 17.5%  | 17.5%  | 17.5%  | 17.5%  | 17.5%  | 17.5%  |

| Percentage of Gross Revenue ALCOHOL | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 |
|-------------------------------------|--------|--------|--------|--------|--------|--------|--------|
|                                     | 20.0%  | 20.0%  | 20.0%  | 20.0%  | 20.0%  | 20.0%  | 20.0%  |

| Percentage of Gross Revenue RETAIL | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 |
|------------------------------------|--------|--------|--------|--------|--------|--------|--------|
|                                    | 19.0%  | 19.0%  | 19.0%  | 19.0%  | 19.0%  | 19.0%  | 19.0%  |

The concession fee shall not be listed or charged separately on any customer check, ticket, invoice or receipt.

- (b) During each year of this agreement, CONCESSIONAIRE shall pay to the AUTHORITY monthly in advance, an amount equal to one-twelfth (1/12) of the applicable Minimum Annual Guarantee as specified herein. Such monthly payments shall be made in advance of the first day of each month commencing on June 1, 2015.
- (c) Within 30 days following the end of each annual contract period (June 1 to May 31), CONCESSIONAIRE shall pay to AUTHORITY an amount equal to the difference between the monthly payments and the applicable percentage of the total gross revenues for the preceding contract year, if any.

For any period over thirty (30) days that the airport is not operated by the AUTHORITY for use by certified scheduled air carriers, CONCESSIONAIRE shall not be obligated to pay any concession fees or minimum guarantee payment,

and the Minimum Annual Guarantee hereunder applicable to such period shall be correspondingly reduced; thereafter, upon resumption of such operations. CONCESSIONAIRE's obligations to pay fees shall be resumed as of the date of renewed operations and CONCESSIONAIRE shall not be required to pay any "back" fees or payments. If, during any twelve month period of this agreement, enplaning passengers fall below seventy percent (70%) of the previous twelve month passenger enplanements, the AUTHORITY shall consider reducing the Minimum Annual Guarantee (MAG) if concession fees fall short of the MAG. If there is a continuous erosion of enplanements during this agreement that jeopardizes the financial ability of the CONCESSIONAIRE to continue servicing the airport, the AUTHORITY may consider renegotiating terms of the agreement to facilitate uninterrupted service. If renegotiating terms are considered by the AUTHORITY, the CONCESSIONAIRE must make its books available to the AUTHORITY including current and the past two year's financial statements.

- (d) The term "Gross Revenues", as used herein, shall be construed to mean, for all purposes hereof, the aggregate amount of all revenues, income and receipts for sales and vending sales made and services performed for cash, credit or otherwise, of every kind, name and nature, regardless of when and whether paid for or not, together with the aggregate amount of all exchanges of goods, wares, merchandise and services for like property, or services, at the selling price thereof as if the same had been sold for cash or the fair and reasonable value thereof, whichever is greater. Provided, however, that the term "Gross Revenues" as used herein shall not be construed to include taxes (including sales taxes, occupational taxes and other similar taxes or impositions imposed on or by reason of sales and charges) where billed to the customer by CONCESSIONAIRE as a separate item.
- (e) CONCESSIONAIRE shall, with respect to business done by it under this agreement, keep true and accurate accounts, records, books and data, which shall show all the "Gross Revenues" of said business. CONCESSIONAIRE shall, on or before the 20<sup>th</sup> day of each and every month, during the term hereof, submit to the AUTHORITY a detailed statement showing the gross revenues hereunder for the preceding calendar month. These reports shall show reasonable detail and breakdowns as may be required by the AUTHORITY. Such reports shall be maintained and retained by CONCESSIONAIRE for a period of three (3) years following the relevant reporting period.
- (f) CONCESSIONAIRE agrees to provide the AUTHORITY a certified statement of gross revenue of its operations prepared by a certified public accountant each annual contract period during the term hereof. In the event the gross revenues of CONCESSIONAIRE as reported in such statement are greater than those reported by CONCESSIONAIRE to the AUTHORITY for the same period, CONCESSIONAIRE agrees to pay to the AUTHORITY immediately any deficiency owed to AUTHORITY, together with interest at the rate of ten percent (10%) per annum thereon. AUTHORITY shall have the right at the end of each annual contract period, on and after the thirty-first (31<sup>st</sup>) of May each year, to audit the books of the CONCESSIONAIRE to determine the gross sales revenue during the

preceding period. Should the audit reveal more than a five percent (5%) shortage discrepancy, the cost of the audit will be borne by the CONCESSIONAIRE.

5. CONCESSIONAIRE's Obligations.

- (a) CONCESSIONAIRE agrees to provide, at its sole cost and expense, all materials, equipment, supplies and fixtures that are necessary to operate the Food, Beverage and Retail Concession at the airport. All AUTHORITY owned equipment, materials, improvements, furniture and fixtures in the leased premises shall be available for use within the leased premises by the CONCESSIONAIRE.

CONCESSIONAIRE accepts the premises "as is" (with the exception of items currently being repaired by the Authority) and has conducted its own inspection and investigation of the premises and operation. CONCESSIONAIRE acknowledges that it has not relied upon any representations or warranties of the AUTHORITY in connection with the execution of this agreement and the operation of the concessions. CONCESSIONAIRE voluntarily enters into this agreement based upon its independent investigation.

- (b) CONCESSIONAIRE agrees to obtain AUTHORITY's approval of any remodeling, equipping, furnishing or decorating plans prior to commencement thereof.
- (c) CONCESSIONAIRE shall work diligently with the current Concessionaire and shall make every reasonable effort to ensure an efficient and timely change of concessionaires without any interruption in service to the public.
- (d) Upon termination of this agreement, for any reason, or expiration of the term thereof, the AUTHORITY shall have an option to purchase from CONCESSIONAIRE all of the equipment then owned by CONCESSIONAIRE and used in its operation of the Food, Beverage and Retail Concession. Within ten (10) days after receipt of notice of intent to exercise this option, CONCESSIONAIRE must submit an appraisal of the furnishing(s), dishes and equipment to the AUTHORITY. Within five (5) days thereafter, if AUTHORITY does not agree with said appraisal, AUTHORITY may appoint a second appraiser. Said second appraisal shall be completed within ten (10) days thereafter. The parties agree that the fair market value shall then be deemed the average of the two appraisals. Regardless, upon receipt of the notice of intent to exercise the option, AUTHORITY shall have the right of possession of said furnishing(s), dishes, and equipment, with payment, therefore to be made to CONCESSIONAIRE upon the determination of its fair market value.
- (e) Upon expiration or earlier termination of this agreement, CONCESSIONAIRE agrees to cooperate fully with the AUTHORITY and with all successor Food, Beverage and Retail Concessionaires to ensure a smooth transition from CONCESSIONAIRE to such successor Concessionaires and to provide continuity of first-class food and beverage services to the traveling public.

- (f) Except for structural maintenance of the premises by AUTHORITY in accordance with Paragraph 6(a) below, CONCESSIONAIRE shall be obligated, without cost to the AUTHORITY, to maintain the premises and every part thereof in good order, repair and safe condition. CONCESSIONAIRE shall maintain and repair all improvements on the premises, including furnishings, fixtures, and equipment. All such maintenance and repairs shall be of a quality of materials and workmanship equal to the original and the AUTHORITY shall be the sole judge of the quality and timeliness of maintenance. If such equipment is in non-repair and beyond useful life, the AUTHORITY will replace them with comparable quality items. CONCESSIONAIRE shall keep the leased premises clean and orderly at all times and AUTHORITY shall be the sole judge of what shall be considered clean and orderly. CONCESSIONAIRE shall conduct operations using the most modern available techniques and equipment in order to reduce to a minimum the emanation of fumes and odors from its operations. Cleaning and maintenance by CONCESSIONAIRE shall include, but not be limited to, cleaning, vacuuming, carpet cleaning, inside window washing, repair and replacement of doors, glass, locks and general maintenance and upkeep.

The AUTHORITY or its authorized agents, may, at all reasonable times without notice, enter upon the premises to determine if cleaning and maintenance satisfactory to the AUTHORITY is being performed. Should said cleaning and maintenance not meet the reasonable standards of the AUTHORITY, AUTHORITY shall have the right to enter the premises and perform such activities; provided however, other than in a case of emergency, AUTHORITY shall give to CONCESSIONAIRE reasonable advance written notice of non-compliance, not to exceed ten (10) days, prior to the exercise of this right. If such right is exercised, CONCESSIONAIRE shall pay to AUTHORITY, upon receipt of invoice, the cost of such services plus twenty-five percent (25%).

- (g) The CONCESSIONAIRE shall arrange and provide for, at its own expense, complete, proper and adequate sanitary handling and disposal of all trash, garbage and refuse caused as a result of the operation of its business. The CONCESSIONAIRE shall provide and use suitable covered receptacles for all garbage, trash and other refuse on or in connection with those premises.

The AUTHORITY shall provide covered dumpsters and/or trash compactors for use by CONCESSIONAIRE for disposal of trash, garbage and refuse generated by CONCESSIONAIRE's business.

- (h) The CONCESSIONAIRE shall observe and obey all laws, ordinances, rules and regulations of the Federal, State and local governments or any agency thereof, and those contained in the airport's Rules and Regulations now in place or hereafter adopted, which may be applicable to its operations at the airport and to be solely responsible for the payment of any taxes, license fees or charges resulting from such compliance.
- (i) The CONCESSIONAIRE shall bear at its own expense all costs of operating hereunder and shall pay, in addition to concession fees, for other costs connected with the use of the premises, facilities, rights and privileges granted, including, but not limited to the generality hereof, maintenance (except as set

forth in Paragraph 6(a) below), insurance, any and all taxes, cleaning and janitor service and supplies and shall pay for all permits and licenses required by law, or by the Authority. The AUTHORITY shall pay for all costs and expenses of HVAC on the premises. Other than those utilities set forth in Paragraph 6(b) below, CONCESSIONAIRE shall pay for all other utilities used on premises.

- (j) CONCESSIONAIRE shall permit public address announcements within its leased premises.
- (k) CONCESSIONAIRE shall provide personnel adequate to achieve a standard of service comparable to other first class restaurants and retail in the Bozeman, Montana area. CONCESSIONAIRE shall require its employees to maintain a clean and neat appearance and to carry out their duties in an efficient and courteous manner, and at all times provide excellent service to the public and air travelers. CONCESSIONAIRE shall require its employees to dress in uniforms or in such other manner as to maintain a neat and orderly appearance.
- (l) CONCESSIONAIRE agrees to use its best efforts to maintain and develop the business operations to be conducted by it under this agreement and to further use its best efforts to avoid diversion of business from the airport. In connection with such undertaking, CONCESSIONAIRE agrees to fully operate over the entire leased premises for the concession operations contemplated in this agreement.
- (m) CONCESSIONAIRE shall maintain a menu price range for goods, foods and services offered for sale in the concession areas similar to such prices for like products and goods sold or offered at airports of similar size. Menu and pricing shall be submitted to the Airport Director for review and approval prior to implementation.

The AUTHORITY may notify the CONCESSIONAIRE if the service given by the CONCESSIONAIRE to the general public is not reasonably adequate, and the CONCESSIONAIRE shall provide such service as may be reasonably required immediately after receipt of notice by AUTHORITY.

- (n) CONCESSIONAIRE agrees to serve the public in the various areas made available for its use during Airport hours:
  - Bistro shall remain open from 4:30 a.m. until 30 minutes beyond the last arrival.
  - Downstairs retail 04:30 a.m. until last departure
  - Upstairs retail 04:30 a.m. until last departure
  - Market 09:00 a.m. until 30 minutes beyond last arrival
  - Restaurant 04:30 a.m. until last departure
  - New food venue 11 a.m. until 3 p.m.

Hours may vary in order to accommodate changing flight schedules *and airport capacity issues as directed by airport management*. The intent of the hours of operation is for the facility to remain open during departing and arriving flights in order to provide service to customers who desire food

or beverage and retail options. In connection with such operations, the CONCESSIONAIRE agrees to maintain and make such services and goods available 365 days per year. CONCESSIONAIRE also agrees to be flexible with extended hours caused by flight delays.

- (o) The CONCESSIONAIRE shall maintain and operate the leased premises and shall keep the leased premises in a safe, clean, orderly and inviting condition at all times. All food, beverages and other items sold or kept for sale under the lease shall be of high quality, wholesome and pure, and must conform in all respects to Federal, State and local food laws, ordinances and regulations.
- (p) The CONCESSIONAIRE shall at all times retain an active, qualified, competent, and experienced manager to manage and supervise the concession operations, who shall be authorized to represent and act for the CONCESSIONAIRE.
- (q) In entering into this agreement, the AUTHORITY has foremost in mind providing the public and air travelers with food, beverage and retail services of high quality. CONCESSIONAIRE shall serve and dispense high quality foods with adequate portions.
- (r) In connection with its operations, CONCESSIONAIRE shall provide for and comply with the following requirements:
  - i. Restaurant and Lounge: CONCESSIONAIRE shall offer a high quality eating facility that offers a menu selection and service equivalent or similar to high quality eating establishments in the Bozeman, Montana, geographical area. Such menu shall provide for breakfast, lunch and dinner meals as well as non-entrée items.
  - ii. Bar: CONCESSIONAIRE shall operate a high quality cocktail lounge facility.
  - iii. Bistro: CONCESSIONAIRE shall operate a high quality bistro.
  - iv. Market: CONCESSIONAIRE shall operate a high quality market.
  - v. New Food Venue: CONCESSIONAIRE shall operate a high quality quick food service.

6. AUTHORITY's Obligations.

- (a) The AUTHORITY will maintain the structural integrity of the terminal building, heating, air conditioning, sprinkler system, roof, outer walls and outer windows.
- (b) The AUTHORITY will provide electricity, gas and water at no cost to CONCESSIONAIRE.
- (c) The AUTHORITY will reimburse the CONCESSIONAIRE up to Three Hundred Thousand Dollars (\$300,000) for purchase of equipment, installation and build out of a new food venue that is mutually agreed upon and designated as Exhibit

B. The CONCESSIONAIRE shall submit monthly itemized invoices with documentation for items paid by the 15<sup>th</sup> of each month. The AUTHORITY will instruct the CONCESSIONAIRE to subtract the amount paid for actual build out of the new food venue (not to exceed \$300,000) from concession fees owed the AUTHORITY. CONCESSIONAIRE understands that the entire \$300,000 is for build out of the **initial food venue** and any remaining funds after the initial build out are not to be used for ongoing maintenance or a sinking fund for future capital expenditures.

- (d) The AUTHORITY agrees to operate the Bozeman Yellowstone International Airport as a public airport during the term of this agreement, subject to its agreement with the United States Government and the Federal Aviation Administration and subject to conditions and events contained in this agreement, and further to maintain the grounds and the public portions of the airport terminal building. The AUTHORITY expressly reserves the right to further develop or improve the airport terminal and surrounding property without regard to CONCESSIONAIRE's views, desires, interference or hindrance. Except as specifically granted herein, CONCESSIONAIRE has no right or entitlement to the airport, property of the AUTHORITY, aesthetic views, or other interests.

7. Insurance and Indemnity.

- (a) At all times during the term hereof, CONCESSIONAIRE shall maintain, with insurance companies satisfactory to the AUTHORITY, a standard form policy or policies of insurance in such amounts as may from time to time be required by AUTHORITY insuring and protecting the CONCESSIONAIRE and the AUTHORITY against public liability, products liability, property damage, personal injury and automobile liability. CONCESSIONAIRE shall furnish insurance coverage and proof thereof promptly after the execution of this agreement in at least the following amounts and coverages:
- i. Comprehensive General Liability: \$2,000,000 per occurrence bodily injury or property damage.
  - ii. Products Liability: Single limit of \$2,000,000
- (b) CONCESSIONAIRE agrees to provide the AUTHORITY with current certificates of insurance naming the Gallatin Airport Authority as additional insured and containing the following information:
- i. Policy Number
  - ii. Named Insured and Additional Insured
  - iii. Dates of Coverage
  - iv. Hazards Covered
  - v. Limits of Liability

The CONCESSIONAIRE shall provide the AUTHORITY 30 days' notice of intent to cancel any or all of the insurance required above. Under no circumstance will



CONCESSIONARE allow insurance requirements to lapse or be uninsured or underinsured during terms of the agreement.

- (c) The CONCESSIONAIRE shall indemnify and save harmless the AUTHORITY against any and all claims of any nature whatsoever, including damage to property of the AUTHORITY or injuries to employees, agents and elective or appointed officers of the AUTHORITY arising directly or indirectly out of any operation of the CONCESSIONAIRE hereunder, except claims arising from the primary negligence of the AUTHORITY or its agents, employees and appointed officials.

8. Performance Bond.

Prior to the execution of this document by the AUTHORITY, the CONCESSIONAIRE shall furnish to the AUTHORITY a performance bond in the amount of fifty percent (50%) of the Minimum Annual Guarantee fee for each annual contract period unless waived by the Authority. Not less than thirty (30) days prior to each contract anniversary, a performance bond will be furnished for the succeeding period in an amount equal to fifty percent (50%) of the Minimum Annual Guarantee for that year. Said bond is to be provided by a surety company qualified to do business in the State of Montana, acceptable and satisfactory to the AUTHORITY; and said bond shall be conditioned to insure faithful and full observance and performance by the CONCESSIONAIRE of all the terms, conditions, covenants and agreements set forth in this lease agreement.

In lieu of a performance bond, the CONCESSIONAIRE, at the CONCESSIONAIRE's option may deposit with the AUTHORITY, a cash amount, certificate of deposit, or an irrevocable letter of credit equal to the amount of the required bond. In the event the CONCESSIONAIRE chooses to provide a letter of credit as security, the letter of credit shall be irrevocable for the period of performance, shall be drawn on a bank approved by the AUTHORITY, and shall be payable on demand by the AUTHORITY. Said deposit will be held as security and refunded in full at the end of the term of the lease unless used to satisfy the CONCESSIONAIRE's financial obligations herein.

9. Liquor Licenses.

It is understood and agreed by and between the parties hereto that operation of the cocktail lounge and the sale of alcoholic beverages by CONCESSIONAIRE in restaurant and bistro will require an All-Beverage Liquor License issued by the State of Montana. AUTHORITY agrees to provide said license at its sole cost and to lease or assign the same, as the AUTHORITY may determine in the best interest of the airport, to CONCESSIONAIRE during the original term hereof, together with any renewals or extensions. CONCESSIONAIRE agrees to release or reassign the same to AUTHORITY upon expiration of this agreement or any other termination thereof, and to execute the necessary reassignment or release forms as required by the State of Montana and the Montana Department of Revenue and the AUTHORITY. It is specifically understood and agreed that the release or reassignment of the liquor license by CONCESSIONAIRE to AUTHORITY upon expiration or termination of this agreement shall not require any payment by AUTHORITY in consideration of said release or reassignment.

CONCESSIONAIRE further agrees not to assign, transfer, mortgage, pledge, or otherwise encumber or hypothecate the airport All-Beverage Liquor License, and in the event liens or encumbrances are created on said license through any act, failure, or omission of CONCESSIONAIRE, the AUTHORITY may, in addition to any rights provided in Paragraph 14 hereof, immediately take such steps as it deems necessary to remove said liens and charge the entire cost thereof to CONCESSIONAIRE.

CONCESSIONAIRE agrees to obtain and maintain an Off-Premises Liquor License issued by the State of Montana for the market to sell Beer and Wine for Off-Premises Consumption. The CONCESSIONAIRE agrees to provide and maintain said license at its sole cost and abide by all applicable laws.

CONCESSIONAIRE agrees to execute with airport the Gaming Management Agreement attached which shall become part of the agreement.

10. Assignment.

CONCESSIONAIRE shall not assign, transfer, or sublease the whole or any part of this agreement or the premises or rights and privileges granted herein without first having obtained the consent of AUTHORITY in writing. Such consent shall not be unreasonably withheld by AUTHORITY.

11. Successors and Assigns.

All the covenants, stipulations and agreements herein shall extend to and bind the legal representatives, successors and assigns of the respective parties hereto.

12. Nondiscrimination.

No person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of airport facilities and services used or provided by CONCESSIONAIRE under the terms of this agreement on the grounds of race, color or national origin.

Further, in the construction of any improvements on, over, or under such land and the furnishings of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin.

CONCESSIONAIRE agrees to furnish its accommodations and services on a fair, equal and non-discriminatory basis to all users and to charge fair, reasonable and non-discriminatory prices therefore; provided, however, that the CONCESSIONAIRE may make reasonable and non-discriminatory discounts, rebates or other similar price reductions to volume purchasers.

CONCESSIONAIRE shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. CONCESSIONAIRE agrees that the foregoing provisions regarding non-discrimination shall be included in any lease, agreement, contract or undertaking by which CONCESSIONAIRE grants a right or privilege to any person, firm or entity to render accommodations or services to the public on the leased premises, consented to by the AUTHORITY.

13. Validation of Parking Lot Tickets.

An agreement between CONCESSIONAIRE hereunder and the Parking Lot Concessionaire operating at Bozeman Yellowstone International Airport shall be entered into that shall provide for free parking for a reasonable period of time for CONCESSIONAIRE's customers. Such agreement shall be subject to prior approval of the AUTHORITY and no changes may be made thereon without approval of the AUTHORITY.

14. Termination.

(a) This agreement shall be subject to termination by the CONCESSIONAIRE in the event any one or more of the following events should occur:

- i. The permanent abandonment of the airport.
- ii. The terminal building or airport is damaged beyond use or destroyed by acts of God or through enemy attack or for any other reason that the airport cannot be operated as an airport.
- iii. Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the airport as an air terminal, and the remaining in force of such an injunction for a period of at least ninety (90) days.
- iv. Default by the AUTHORITY in the performance of any covenant or agreement herein required to be performed by AUTHORITY and the failure of AUTHORITY to remedy such default within a period of thirty (30) days after receipt from CONCESSIONAIRE of written notice to remedy and of CONCESSIONAIRE's intention to declare this agreement cancelled.

(b) This agreement may be subject to termination by the AUTHORITY upon occurrence of any of the following events:

- i. Failure of CONCESSIONAIRE to pay the rentals or other fees at the time and in the manner herein set forth.
- ii. Default by CONCESSIONAIRE in the performance of any of the other terms or conditions of this agreement.
- iii. CONCESSIONAIRE files a petition in bankruptcy or is adjudged bankrupt or insolvent by any court or makes any assignment for the benefit of creditors.
- iv. CONCESSIONAIRE abandons or vacates the premises or discontinues operations at the airport.
- v. A lien is placed against the premises on account of the CONCESSIONAIRE and such lien is not discharged or removed within thirty (30) days.

If any of the foregoing events occurs and is not cured, corrected or remedied within thirty (30) days following notice from AUTHORITY to CONCESSIONAIRE stating in general terms the nature of the default then, in that event, this Concession Agreement shall automatically terminate. However, notwithstanding the foregoing, in the event CONCESSIONAIRE abandons or vacates the premises or discontinues operations at the airport, the AUTHORITY may immediately terminate this agreement without notice, obtain possession of the premises and make arrangements to provide the concession services to persons and businesses utilizing the airport.

In the event of termination, the CONCESSIONAIRE's obligation for rent, fees, maintenance and other expenses incurred during the possession of the premises shall survive termination. The rights and remedies herein granted to AUTHORITY shall be in addition to any other rights and remedies to which the AUTHORITY may be entitled to under law and not in lieu thereof.

15. Notices.

Service of all notices required under the terms hereof shall be deemed complete and effective upon being deposited in the United States mail, with postage prepaid. If intended for AUTHORITY, notices shall be delivered to:

Airport Director  
Gallatin Airport Authority  
850 Gallatin Field Rd., Suite 6  
Belgrade, MT 59714

or to such other address as may be designated by AUTHORITY by written notice to CONCESSIONAIRE.

Notices to CONCESSIONAIRE shall be delivered to:

Sharbert Enterprises Inc. -Attn: Bert Hopeman  
P.O. Box 1860  
Bozeman, MT 59771

Or to such other address as may be designated by CONCESSIONAIRE by written notice to AUTHORITY.

16. Security.

CONCESSIONAIRE, its officers, employees, agents, and those under its control, shall comply with security measures required of CONCESSIONAIRE by the TSA or contained in any airport master security plan approved by the TSA. If CONCESSIONAIRE, its officers, employees, agents, or those under its control shall fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against AUTHORITY, then, CONCESSIONAIRE shall be responsible and shall reimburse AUTHORITY in the full amount of any such monetary penalty or other damages. The CONCESSIONAIRE shall be financially responsible for any fee charged by any government agency for conducting a background search on CONCESSIONAIRE's personnel in order that they may go behind security to perform their duties. Said fee is currently \$50.00 per employee per background search. Failure to pass such background check will be grounds for the AUTHORITY to refuse admittance of the employee for working behind security.

17. Miscellaneous.

In the event any covenant, term, condition or provision set forth herein is held invalid by any court of competent jurisdiction, the invalidity of such covenant, term or provision shall in no way affect the remainder of this agreement. It is further understood and agreed that the paragraph headings set forth herein are for convenience only and shall in no way affect the interpretation or construction of this agreement.

18. Attorney's Fees.

In the event either party to this agreement shall be required to retain the services of an attorney to

enforce its rights hereunder, to seek collection or to institute proceedings relating to this agreement, the successful party shall be entitled to a reasonable attorney's fee and all costs incurred therein.

19. Governing Law.

This agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue in any proceedings held hereunder shall be in Gallatin County, Montana.

20. Subordination to Requirements of the United States.

The parties hereto expressly agree that this agreement is subordinate to the provisions and requirements of any existing or future agreement between the AUTHORITY and the United States relative to the development, operation or maintenance of the airport. CONCESSIONAIRE agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations contained within the Code of Federal Regulations in the event any future structure or building is planned for the leased premises or any planned modification or alteration of any present or future building or structure situated on the leased premises. In the event the AUTHORITY is required, under its agreement and obligations with the United States of America relative to the operation of the airport, to alter this agreement, such terms and conditions as may be necessary to comply with government requirements shall be undertaken by the parties. In the event CONCESSIONAIRE refuses or declines to consent to such changes or alterations, this agreement may be terminated by either party upon 90 days written notice to the other.

21. Entire Agreement.

This agreement constitutes the entire agreement and understanding of the parties with respect to matters referenced herein. Time is expressly declared to be of the essence in connection with the obligations and undertakings of the parties to the agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 12<sup>th</sup> day of March, 2015.

Gallatin Airport Authority  
AUTHORITY

By

Title Board Chair

CONCESSIONAIRE

By

Title

President  
Sharbert Enterprises Inc

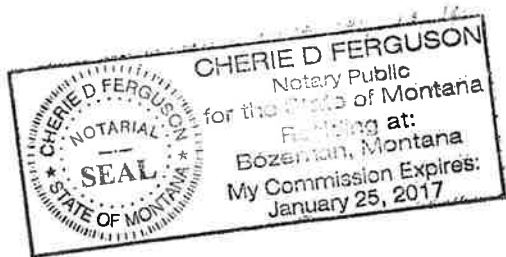
State of: Montana

County of: Gallatin

This instrument was signed or acknowledged before me on March 12, 2015 by

Kevin Kelleher, acting in the capacity of Board Chair

on behalf of Gallatin Airport Authority

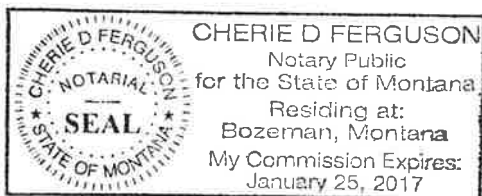


(seal)

State of: Montana

County of: Gallatin

This instrument was signed or acknowledged before me on February 20, 2015 by  
Bertram C. Hopeman, acting in the capacity of President  
on behalf of Sharburt Enterprises Inc.



(seal)

Cherie D Ferguson  
Signature of Notary

Printed, typed or stamped name of Notary

Notary Public for the State of \_\_\_\_\_

residing at: \_\_\_\_\_

Notary's City of Residence

My commission expires: \_\_\_\_\_  
mm/dd/yyyy

Cherie D Ferguson  
Signature of Notary

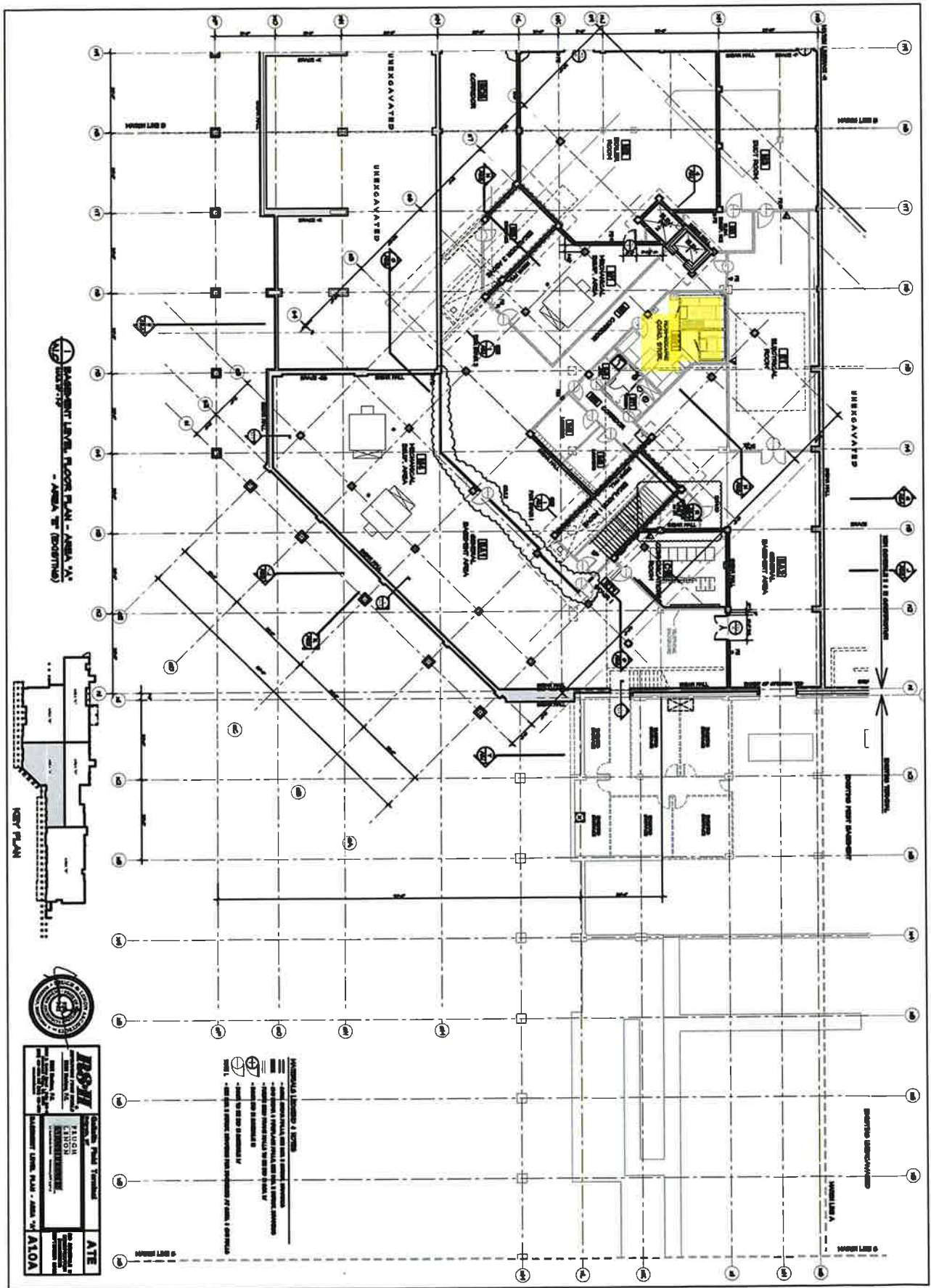
Printed, typed or stamped name of Notary

Notary Public for the State of \_\_\_\_\_

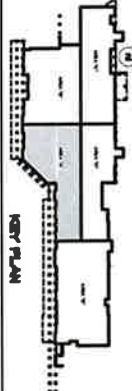
residing at: \_\_\_\_\_

Notary's City of Residence

My commission expires: \_\_\_\_\_  
mm/dd/yyyy



BASEMENT LEVEL FLOOR PLAN - AREA 1A  
- AREA 1A (EXISTING)



**RS-H**  
Architectural Firm  
1100 N. 1st Street  
Phoenix, AZ 85004  
Tel: 602.254.1100  
Fax: 602.254.1101  
www.rs-h.com

**ATE**  
Architectural Firm  
1100 N. 1st Street  
Phoenix, AZ 85004  
Tel: 602.254.1100  
Fax: 602.254.1101  
www.ate.com

- NOTES:**
- 1. ALL DIMENSIONS ARE IN FEET AND INCHES.
  - 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
  - 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.
  - 4. ALL DIMENSIONS ARE TO OUTLINE UNLESS NOTED OTHERWISE.
  - 5. ALL DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.
  - 6. ALL DIMENSIONS ARE TO OUTLINE UNLESS NOTED OTHERWISE.
  - 7. ALL DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.
  - 8. ALL DIMENSIONS ARE TO OUTLINE UNLESS NOTED OTHERWISE.
  - 9. ALL DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.
  - 10. ALL DIMENSIONS ARE TO OUTLINE UNLESS NOTED OTHERWISE.







## **Amendment to the Operation of Food, Beverage and Retail Concessions Agreement, Bozeman Yellowstone International Airport**

This Amendment dated December 10, 2020 amends the AGREEMENT FOR THE OPERATION OF FOOD, BEVERAGE AND RETAIL CONCESSIONS IN THE TERMINAL BUILDING, BOZEMAN YELLOWSTONE INTERNATIONAL AIRPORT (AGREEMENT) originally entered into on the 12<sup>th</sup> day of March, 2015 by and between the GALLATIN AIRPORT AUTHORITY (AUTHORITY) and Sharbert Enterprises, Inc. (hereinafter referred to as the CONCESSIONAIRE).

Due to the COVID 19 pandemic, loss of CONCESSIONAIRE revenue and subsequent opening of a new restaurant and gift shop within the terminal addition, it is hereby agreed and understood that the above mentioned AGREEMENT will be amended as follows:

### 1. Term:

The term of the agreement will be extended for an additional two (2) years, giving the CONCESSIONAIRE enough time to amortize the investment needed to open the new restaurant and giftshop during this pandemic. The Agreement will now end on the 31<sup>st</sup> day of May, 2024.

### 4. Fees, Payments and Records:

Two (2) years will be added to the concession fees for total gross annual revenues from sales of food, alcohol and retail or the following Minimum Annual Guarantee (MAG) whichever is greater.

With the Consolidation of the Yellowstone Forever retail space now falling under SHARBERT ENTERPRISES INC, as of December 1, 2020, we will end "Percentage of Gross Revenue Retail" and replace with two classifications :

- Percentage of Gross Revenue Retail (Inside Security)
- Percentage of Gross Revenue Retail (Outside Security)

| Minimum Annual Guarantee (MAG) | Year 1    | Year 2    | Year 3    | Year 4    | Year 5    | Year 6    | Year 7    | Year 8    | Year 9    |
|--------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
|                                | \$500,000 | \$510,000 | \$520,000 | \$530,000 | \$540,000 | \$550,000 | \$560,000 | \$570,000 | \$580,000 |

| Percentage of Gross Revenue | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 |
|-----------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Food                        | 17.5%  | 17.5%  | 17.5%  | 17.5%  | 17.5%  | 17.5%  | 17.5%  | 17.5%  | 17.5%  |

| Percentage of Gross Revenue | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 |
|-----------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Alcohol                     | 20.0%  | 20.0%  | 20.0%  | 20.0%  | 20.0%  | 20.0%  | 20.0%  | 20.0%  | 20.0%  |

| Percentage of Gross Revenue | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 – December 1, 2020 |
|-----------------------------|--------|--------|--------|--------|--------|---------------------------|
| Retail                      | 19.0%  | 19.0%  | 19.0%  | 19.0%  | 19.0%  | 19.0%                     |

| Percentage of Gross Revenue Retail (Inside Security) | December 1, 2020 - May 31, 2024 |
|--|---------------------------------|
|  | 19.0%                           |

| Percentage of Gross Revenue Retail (Outside Security) | December 1, 2020 - May 31, 2024 |
|---|---------------------------------|
|   | 10%                             |

All of the terms of the above mentioned AGREEMENT not otherwise amended as above set forth, shall remain in full force and effect during the term of the Concession Agreement.

GALLATIN AIRPORT AUTHORITY

SHARBERT ENTERPRISES, INC.





Vice-  
Title: Chair

Title: President

State of: MT

County of: Gallatin

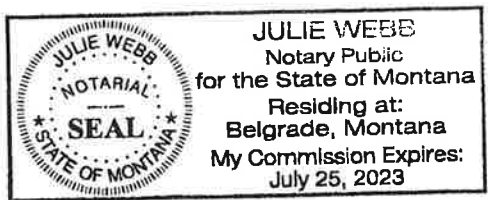
This instrument was signed or acknowledged before me on December 10, 2020 by

Karen Stelmak acting in the capacity of Vice-Chairman

on behalf of Gallatin Airport Authority

Julie Webb

Signature of Notary



Julie Webb

Printed, typed or stamped name of Notary

Notary Public for the State of \_\_\_\_\_ residing at:

Notary's City of Residence

(seal)

My commission expires: \_\_\_\_\_

mm/dd/yyyy

State of: MT

County of: Gallatin

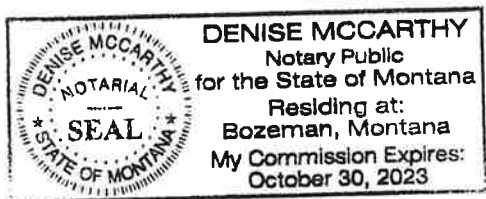
This instrument was signed or acknowledged before me on Nov 20<sup>th</sup>, 2020 by

Bertram Hopeman acting in the capacity of President

on behalf of Sharbert Enterprises

[Signature]

Signature of Notary



(seal)

DENISE MCCARTHY

Printed, typed or stamped name of Notary

Notary Public for the State of \_\_\_\_\_ residing at:

Notary's City of Residence

My commission expires: \_\_\_\_\_

mm/dd/yyyy

## Second Amendment to the Operation of Food, Beverage and Retail Concessions Agreement, Bozeman Yellowstone International Airport

This Amendment dated December 14, 2023 is the second amendment to the AGREEMENT FOR THE OPERATION OF FOOD, BEVERAGE AND RETAIL CONCESSIONS IN THE TERMINAL BUILDING, BOZEMAN YELLOWSTONE INTERNATIONAL AIRPORT (AGREEMENT) originally entered into on March 12, 2015 by and between the GALLATIN AIRPORT AUTHORITY (hereinafter referred to as the AUTHORITY) and SHARBERT ENTERPRISES, INC. (hereinafter referred to as the CONCESSIONAIRE) and subsequently amended December 10, 2020.

Due to an impending terminal remodel and recent opening of a new Market Place within the concourse, it is hereby agreed and understood that the above mentioned AGREEMENT will be amended as follows:

1. Term:

The term of this agreement will be extended a second time for an additional eighteen (18) months. The Agreement will terminate on October 31, 2025.

2. Fees, Payments and Records

For the remainder of this agreement, the Percentage of Gross Retail/Revenue due the AUTHORITY shall be as follows:

|  |       |
|--|-------|
| Percentage of Gross Revenue - Food                         | 17.5% |
| Percentage of Gross Revenue - Alcohol                      | 20.0% |
| Percentage of Gross Revenue - Retail (Inside Security)     | 19.0% |
| Percentage of Gross Revenue - Retail (Outside of Security) | 10.0% |


All of the terms of the above mentioned AGREEMENT not otherwise amended as above set forth shall remain in full force and effect during the term of the AGREEMENT.

GALLATIN AIRPORT AUTHORITY



Board Chair

SHARBERT ENTERPRISES, INC.

  
Title: Acting CEO

State of: Montana  
County of: Gallatin

This instrument was signed or acknowledged before me on November 30<sup>th</sup>, 2023 by

Douglas Stock acting in the capacity of CEO

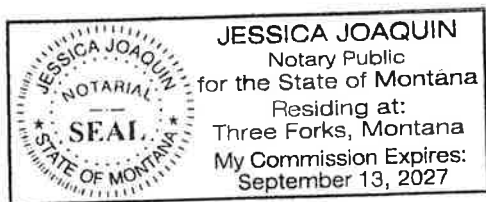
on behalf of Sharbert Enterprises

[Signature]

Signature of Notary

Jessica Joaquin

Printed, typed or stamped name of Notary



Notary Public for the State of Montana residing at:  
Three Forks, Montana

Notary's City of Residence

(seal)

My commission expires: 09/13/2027  
mm/dd/yyyy

State of: Montana  
County of: Gallatin

This instrument was signed or acknowledged before me on \_\_\_\_\_, 2023 by

\_\_\_\_\_ acting in the capacity of Chair

on behalf of Gallatin Airport Authority

[Signature]

Signature of Notary

Jessica Joaquin

Printed, typed or stamped name of Notary



Notary Public for the State of Montana residing at:  
Three Forks, MT

Notary's City of Residence

(seal)

My commission expires: 09/13/2027

mm/dd/yyyy

## Second Amendment to the Operation of Food, Beverage and Retail Concessions Agreement, Bozeman Yellowstone International Airport

This Amendment dated December 14, 2023 is the second amendment to the AGREEMENT FOR THE OPERATION OF FOOD, BEVERAGE AND RETAIL CONCESSIONS IN THE TERMINAL BUILDING, BOZEMAN YELLOWSTONE INTERNATIONAL AIRPORT (AGREEMENT) originally entered into on March 12, 2015 by and between the GALLATIN AIRPORT AUTHORITY (hereinafter referred to as the AUTHORITY) and SHARBERT ENTERPRISES, INC. (hereinafter referred to as the CONCESSIONAIRE) and subsequently amended December 10, 2020.

Due to an impending terminal remodel and recent opening of a new Market Place within the concourse, it is hereby agreed and understood that the above mentioned AGREEMENT will be amended as follows:

1. Term:

The term of this agreement will be extended a second time for an additional eighteen (18) months. The Agreement will terminate on October 31, 2025.

2. Fees, Payments and Records

For the remainder of this agreement, the Percentage of Gross Retail/Revenue due the AUTHORITY shall be as follows:

|  |       |
|--|-------|
| Percentage of Gross Revenue - Food                         | 17.5% |
| Percentage of Gross Revenue - Alcohol                      | 20.0% |
| Percentage of Gross Revenue - Retail (Inside Security)     | 19.0% |
| Percentage of Groos Revenue - Retail (Outside of Security) | 10.0% |

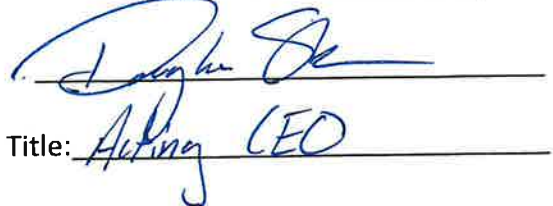
All of the terms of the above mentioned AGREEMENT not otherwise amended as above set forth shall remain in full force and effect during the term of the AGREEMENT.

GALLATIN AIRPORT AUTHORITY



Board Chair

SHARBERT ENTERPRISES, INC.

  
Title: Acting CEO

State of: Montana

County of: Gallatin

This instrument was signed or acknowledged before me on November 30<sup>th</sup>, 2023 by

Douglas Stock acting in the capacity of CEO

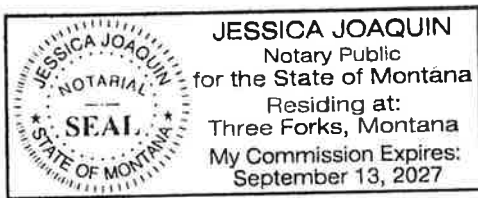
on behalf of Sharbert Enterprises

Jessica Joaquin

Signature of Notary

Jessica Joaquin

Printed, typed or stamped name of Notary



Notary Public for the State of Montana residing at:  
Three Forks, Montana

Notary's City of Residence

(seal)

My commission expires: 09/13/2027

mm/dd/yyyy

State of: Montana

County of: Gallatin

This instrument was signed or acknowledged before me on \_\_\_\_\_, 2023 by



\_\_\_\_\_ acting in the capacity of Chair

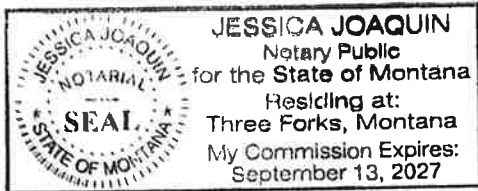
on behalf of Gallatin Airport Authority

*Jessica Voz*

Signature of Notary

Jessica Joaquin

Printed, typed or stamped name of Notary



Notary Public for the State of Montana residing at:  
Three Forks, MT

Notary's City of Residence

(seal)

My commission expires: 09/13/2027

mm/dd/yyyy