

MANAGEMENT AGREEMENT FOR
FOOD & BEVERAGE CONCESSION MANAGEMENT AND
OPERATING SERVICES



GSP INTERNATIONAL
AIRPORT
R O G E R M I L L I K E N F I E L D

by and between

Greenville-Spartanburg Airport District

and

Company

as of

October __, 2020

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Description

EXHIBIT A

FOOD AND BEVERAGE FACILITIES

EXHIBIT B

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EXHIBIT C

COMPANY'S PROPOSAL TO FOOD AND BEVERAGE
CONCESSIONS MANAGEMENT & OPERATING
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EXHIBIT D

INFORMATION FOR DETERMINING ACDBE ELIGIBILITY

SAMPLE

**FOOD AND BEVERAGE CONCESSION MANAGEMENT & OPERATING SERVICES
AGREEMENT
GREENVILLE-SPARTANBURG INTERNATIONAL AIRPORT**

THIS CONCESSION MANAGEMENT AND OPERATING SERVICES AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2020 ("Effective Date"), by and between the **GREENVILLE-SPARTANBURG AIRPORT DISTRICT**, a body politic created and existing under the laws of the State of South Carolina, whose address is 2000 GSP Drive, Suite 1, Greer, SC 29651 (the "District"), and **XXXXXXXXXX**, a limited liability company and licensed to do business in the State of South Carolina, whose address is _____, (the "Company").

W I T N E S S E T H:

WHEREAS, the District owns the airport known as the Greenville-Spartanburg International Airport ("Airport") located in the counties of Greenville and Spartanburg, South Carolina and operates the Airport through an appointed board of directors ("Commission") and its President/CEO; and

WHEREAS, the District wishes to contract with a qualified food and beverage concessions management and operating services Company to develop, manage, and operate food and beverage concessions in the Airport Terminal Building ("Terminal"); and

WHEREAS, pursuant to a Request for Proposals ("RFP") the District has solicited proposals from qualified parties to develop, manage, and operate food and beverage concessions; and

WHEREAS, in response to the RFP, Company has submitted a proposal dated _____, 2020 ("Proposal") and has represented to the District that it is an experienced, competent, and financially sound food and beverage management and operating services Company duly qualified to develop, manage, and operate a food and beverage concession, and has proposed to provide such concession services in the Terminal pursuant to its Proposal and meet the obligation hereinafter stated; and

WHEREAS, based upon the substance of Company's Proposal, which is incorporated herein as Exhibit C, the District has selected Company as a non-exclusive provider of food and beverage concession management and operating services in the Airport subject to terms and conditions of this Agreement;

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants hereinafter contained, the parties hereto do hereby agree as follows:

ARTICLE 1
DEFINITIONS

Capitalized terms used in this Agreement and not otherwise defined shall have the following meanings:

- 1.1 **"Agreement Year"** means the period from July 1st through June 30th during the initial and option terms of this Agreement. In the first year, this Agreement the Agreement Year shall be from the Effective Date through _____, _____, 2020.
- 1.2 **"Airport" or "GSP"** means the Greenville-Spartanburg International Airport.
- 1.3 **"Commencement Date"** means the date upon which the District delivers possession of any portion of the Premises to Company.
- 1.4 **"Company"** means the _____.
- 1.5 **"District"** means the Greenville-Spartanburg Airport District.
- 1.6 **"Effective Date"** means _____, _____, 2020.
- 1.7 **"FAA"** means the Federal Aviation Administration of the United States Government or any federal agencies succeeding to its jurisdiction.
- 1.8 **"FAR"** means Federal Aviation Regulations adopted by the FAA.
- 1.9 **"Food and Beverage Facilities"** means those areas of the Airport's terminal building that are designated for the sale and consumption of food and beverage items as described in **Exhibit A** to this Agreement or as otherwise designated from time to time by the President/CEO, to include all equipment and structures associated with those areas, as well as all office and storage areas specifically assigned to the Company from time to time during an Agreement Year.
- 1.10 **"Gross Revenues"** means all revenues received from the sale of food, beverages and merchandise, not including sales tax or staff gratuities that are associated with the Company's management and operation of Food and Beverage Facilities associated with this Agreement.
- 1.11 **"Incentive Fee"** means the fee paid to Company by District as a performance incentive for Company. Such Incentive Fee shall equal _____ percent (____%) of Net Income.
- 1.12 **"Management Fee"** means the fee paid to Company by District for the performance of all duties described in this Agreement. Such Management Fee

shall equal _____ percent (____%) of Gross Revenues. The Management Fee shall compensate Company for the following items:

- A. Company's costs in assisting the District with design and construction of improvements to the Food and Beverage Facilities.
- B. Company's general and administrative overhead.
- C. All salary and other compensation of Company, Company's affiliates, and Company's employees above the level of the Food and Beverage Facilities' general manager.
- D. Payroll processing fees.
- E. Company's telephone, mail, and messenger fees (except those incurred during the normal course of operating the Food and Beverage Facilities).
- F. All other operating expenses except those covered under **Article 15**.

1.13 **"Net Income"** means all revenue received from the sale of food, beverages, and merchandise not including staff gratuities, **LESS** (a) the amortization of any District capital investments associated with this Agreement (five (5) year straight line amortization), (b) the Management Fee, and (c) Operating Expenses.

1.14 **"Operating Expenses"** means those specified direct expenses incurred in operation of the Food and Beverage Facilities, as limited in **Article 15** of this Agreement.

1.15 **"President/CEO"** means the President/CEO of the District or his/her duly authorized representative.

1.16 **"Proposal"** means the response submitted by Company to the District's request for proposals, which response is included as **Exhibit C** to this Agreement.

1.17 **"Rules and Regulations"** means those policies, rules and regulations promulgated from time to time by District and implemented by the President/CEO for the orderly use of Airport by air transportation companies, tenants and users of Airport.

1.18 **"Term"** means the term of this Agreement including both the Initial Term and Option Term as defined in **Article 3** hereof.

1.20 **"Terminal"** means the commercial passenger terminal building at the Airport existing as of the Effective Date of this Agreement

1.21 **"Transportation Security Administration"** (TSA) means the Transportation Security Administration of the U.S. Government or any federal agencies succeeding to its jurisdiction.

- 1.22 **"TSR"** means Transportation Security Regulations adopted by the Transportation Security Administration of the U.S. Government or federal agencies succeeding to its jurisdiction.

**ARTICLE 2
DUTIES AND RESPONSIBILITIES OF COMPANY**

- 2.1 **Duties and Responsibilities**. Subject to the provisions of this Agreement, Company shall have decision-making authority in the day-to-day operation, direction, management, and supervision of the Food and Beverage Facilities. Company's authority and obligations include:
- A. Hiring, training, supervision, and termination of Food and Beverage Facilities' personnel. The compensation and determining number of staff required shall be subject to the prior written approval of the District, in the District's sole discretion, prior to implementation;
 - B. The creation of food and beverage menus, wine lists, and the pricing of same, and the setting of dress codes for the Food and Beverage Facilities, all of which shall be subject to the prior written approval of the District, in the District's sole discretion, prior to implementation;
 - C. Maintaining and operating the Food and Beverage Facilities in accordance with the operating standards set from time to time by the District. As to matters relating to the operation or management of the Food and Beverage Facilities that are not provided for in this Agreement, Company agrees to implement the District's observations and requests from time to time with respect thereto, provided that the District will not make any such requests, which would be inconsistent with the operating standards. At the District's request, Company will meet with the District from time to time to discuss such observations and requests;
 - D. Purchasing and maintaining all inventories of food, beverages (including, without limitation, alcoholic beverages), and operating supplies for the Food and Beverage Facilities;
 - E. Providing on-site catering services for the District as requested;
 - F. Obtaining, and keeping in full force and effect, in the name of the District or Company as appropriate (or as expressly provided herein), all necessary licenses and permits (including the liquor license and other bar, restaurant, and occupancy licenses or permits) as may be required by law, rule, regulation or ordinance to operate the Food and Beverage Facilities. Company shall not take any actions which could jeopardize or otherwise

adversely affect any of such licenses or permits. Company shall comply with the conditions set forth in any such licenses and permits and at all times shall manage and operate the Food and Beverage Facilities in accordance with such conditions and other applicable laws, rules, regulations or ordinances;

- G. Applying sound administrative, accounting, cash management, budgeting, operational, sales, advertising, legal, personnel, and purchasing policies and procedures in accordance with the terms of this Agreement to the end of optimizing the aggregate Net Income generated by the Food and Beverage Facilities. The parties acknowledge that Company will prepare the annual operating budget consistent with the goal of optimizing Net Income; and
- H. Notifying the District, in writing within 24 hours, if it has actual knowledge relating to, and promptly forwarding to the District within 24 hours, any notices or communications it delivers or receives with respect to:
 - 1. The occurrence of damage or destruction to the Food and Beverage Facilities;
 - 2. Any litigation, claim, or proceeding affecting the District, Company, or the operation of the Food and Beverage Facilities in which the amount claimed or in controversy is \$500 or more or otherwise which is material to the operation of the Food and Beverage Facilities, and any written threat to institute any of the same which is likely to give rise to any such litigation, claim, or proceeding;
 - 3. Any notice of violation (or alleged violation) of any law, rule, regulation or ordinance relating to ownership or operation of the Food and Beverage Facilities which could expose the District or Company to any criminal or civil penalty, or which is otherwise material to the ownership or operation of the Food and Beverage Facilities; and
 - 4. Any strikes or other material labor unrest relating to the Food and Beverage Facilities.

2.2 **Limitations on Company's Authority**. In addition to any other limitations on Company's authority set forth in this Agreement, Company shall not, without the District's prior written approval, take any of the following actions with respect to the Food and Beverage Facilities, unless otherwise expressly permitted by the terms hereof and except if the specific terms of such action shall have been expressly provided for in the annual operating budget or otherwise have received

the prior written approval of the District:

- A. Enter into any contract or other agreement that could require payment of more than \$2,500 per year or having a term longer than one year (unless such contract is terminable after one year upon not more than thirty days' notice without penalty) or so modify or amend any such contract or agreement; or
- B. Enter into any sublease, sublicense, sub-concession, or other agreement with respect to the Food and Beverage Facilities; or
- C. Enter into any arrangement for the employment of any professional firm in the regular course of operating the Food and Beverage Facilities except as set forth in the annual operating budget; or
- D. Enter into, renew, modify, amend, or terminate any union contract or collective bargaining agreement affecting the Food and Beverage Facilities; or
- E. Settle any litigation or claims for more than \$500 unless the settlement solely involves the payment of an amount in cash which is covered by insurance proceeds for which the deductible amount does not exceed \$500; or
- F. Extend more than \$500 of credit to a single customer or group of related customers; or
- G. Borrow money, issue any guarantees, or incur any interest or contingent obligation in the operation of the Food and Beverage Facilities, except for ordinary trade debt; or
- H. Sell, transfer, grant a security interest in, or otherwise dispose of any District property used in the operation of the Food and Beverage Facilities, except for the sale of inventory in the ordinary course of business of the Food and Beverage Facilities; or
- I. Provide complimentary services of more than \$2,500 in any Agreement Year without the prior written approval of District; or
- J. Take any other action that is prohibited under the terms of this Agreement or requires the prior written approval of the District.

**ARTICLE 3
TERM OF AGREEMENT**

- 3.1 **Initial Term.** The term of this Agreement is for a period of five (5) years beginning October __ , 2020.
- 3.2 **Option Term.** At the expiration of the Initial Term stated in Section 3.1, this Agreement may be renewed for another five (5) year term at the sole discretion of the District.

**ARTICLE 4
COMPANY COMPENSATION**

- 4.1 **Management Fee.** As compensation for the food and beverage management and operating services provided by Company, District shall pay Company a Management Fee as defined in **Article 1**. The District will pay the Management Fee monthly, in arrears, within thirty (30) days of the end of each month, subject to this Agreement and Year-end audits and adjustments.
- 4.2 **Reimbursable Expenses.** Company shall be paid monthly, in arrears, for Operating Expenses as defined in **Article 1** within thirty (30) days of District receiving an invoice from Company detailing the Operating Expenses for the previous month, subject to this Agreement and Year-end audits and adjustments.
- 4.3 **Incentive Fee.** Company shall be paid annually an Incentive Fee as defined in **Article 1**, within ninety (90) of the end of each Agreement Year, subject to this Agreement and Year-end audits and adjustments.

**ARTICLE 5
HOURS OF OPERATION**

- 5.1 **Hours of Operation.** Company agrees to open the Food and Beverage Facilities for business seven (7) calendar days a week beginning ninety (90) minutes prior to the first scheduled departure of the day, and closing only after the final departure of the day has left the terminal building including delayed and diverted flights.
- 5.2 **Changes in Hours of Operation.** The President/CEO has the authority to change the hours of operation from time to time. Company may recommend or request changes to the hours of operation as stated in Section 5.1 in writing to the President/CEO. Company agrees that the decision of the President/CEO regarding the request will be final.

ARTICLE 6 OPERATIONS

6.1 **Operations Manual.** At least sixty (60) calendar days prior to commencing operations under this Agreement, Company shall prepare and submit to District for its approval or disapproval a written operations manual describing the specific procedures it will use to manage and operate the Food and Beverage Facilities.

The operations manual must include, but is not to be limited to, the following sections:

- A. Organizational Chart
- B. Kitchen Management (including, but not limited to, setup, cleaning, and closing procedures; inventory controls, food safety, etc.)
- C. Dining Room and Bar Management (including, but not limited to, customer service policies and procedures, opening and closing procedures, seating plan, complaint resolution, ordering procedures, payment and closeout procedures, liquor inventory and management, dining room and bar cleanup, etc.)
- D. Personnel Administration (including, but not limited to, job descriptions, application and hiring process, termination, orientation, scheduling, performance review, employee discipline, vacation and sick time policies, overtime, operational rules and policies, sexual harassment policy, and timekeeping procedures)
- E. Employee training (including, but not limited to, training schedules by position, training manuals by position, cleanliness and sanitation training, foodborne illness prevention training, and customer service training)
- F. Purchasing and Inventory (including, but not limited to, product specifications, vendor policy/approved vendors, inventory levels, ordering procedures, receiving procedures, inventory control, handling of spoilage, and physical inventory counts)
- G. Safety and Security (including, but not limited to, safety management, emergency procedures, security policies and procedures, safety rules and practices, fire prevention, and first aid)

- H. Business and Financial Management (including, but not limited to, cash deposit procedures and controls, point-of-sale procedures and controls, discounts and comp policy, payroll processing procedures, administration of gratuities, accounts payable, weekly reports, financial statements, monthly reports, expense reimbursement procedures, and insurance)
- I. Equipment Management (including, but not limited to, equipment maintenance schedule, handling breakdowns and repairs, repair vendor management, equipment replacement procedure, and new equipment request procedure)

District may from time to time require modifications to the procedures set forth in the operations manual to promote efficient operation, increased customer service, and customer convenience. Company agrees to promptly make such modifications as may be requested by District. Company shall diligently comply with the procedures set forth in the operations manual.

- 6.2 **Menu and Pricing.** Company will be responsible for the development of the menu and pricing for each location in the Food and Beverage Facilities, subject to the prior written approval of the President/CEO. Changes to the menu or pricing must be received and approved in advance by the President/CEO.

All food and beverage products offered for sale by Company will be priced within ten percent (10%) of like facilities serving products of similar portion and presentation in other U.S. airports. What constitutes "like facilities" and "similar portion and presentation" will be determined solely by the President/CEO in his or her sole discretion.

- 6.3 **Employee Discounts.** Company will provide a discount of twenty percent (20%) off all food and beverages purchased by employees of Company, other Airport terminal building tenants, and the District. Employees shall be required to display their District-issued identification badge to receive the discount. The President/CEO shall have the sole District to determine who qualifies for the Employee Discount under this program. Employee discounts shall be included in the determination of Net Income in this Agreement, and Company will be required to track employee discounts in order to report them to the District.

- 6.4 **Independent Contractor.** Company agrees that no authority has been conferred upon it by the District to hire any person or persons on behalf of the District, and the District undertakes no obligation of any sort to Company's employees. It is understood that Company shall select, engage, and discharge its employees, agents or servants and otherwise direct and control their

services. It is further understood that for all purposes of this Agreement, Company is an independent contractor and, as such, Company agrees to comply with and shall be responsible for all requirements of Federal, State and Local laws and regulations, including Workers' Compensation.

ARTICLE 7 CLEANING, MAINTENANCE, AND REPAIR

- 7.1 **General Maintenance and Cleaning**. Company is responsible for the cleaning and maintenance of the Food and Beverage Facilities. The cost of maintenance, cleaning, and repairs, including the cost of personnel, equipment, and supplies, are considered operating expenses under Article 15. Company will provide sufficient and qualified staff to perform the assigned maintenance and cleaning of the Food and Beverage Facilities.
- A. **Cleaning**. Company is responsible for daily cleaning and trash pick-up in the Food and Beverage Facilities. The operations manual must specify the appropriate schedule for cleaning and shall include the kitchen, dining room, bar, and food storage areas. Company shall clean the floors, windows, and bar at least once per day. Company shall clean tables and seating surfaces after each patron's use.
1. Cleaning consists of wiping the interior surfaces with an appropriate cleaner, sweeping, wet mopping, and dusting as necessary to keep the Food and Beverage Facilities free of dirt. Trash containers must be emptied or picked up at least daily in all areas. Company shall remove trash swiftly and inconspicuously and place it in containers designated by the President/CEO. Company shall keep clean all food storage and office areas so as to present a clean, sanitary, and professional appearance at all times.
 2. Company shall keep all kitchen equipment, including but not limited to ovens, ranges, grills, utensils, and prep areas, clean and sanitary at all times in accordance with applicable state and local health codes.
- B. **Facility Maintenance**. District will maintain and repair the Food and Beverage Facilities. Company is responsible to promptly report all maintenance and repair requirements to the District.
- C. **Equipment Maintenance and Repair**. Company is responsible for the daily cleaning and maintenance of the equipment provided by the District in the Food and Beverage Facilities. Company will arrange prompt repairs

of District provided equipment in the Food and Beverage Facilities and will promptly report all such repairs to the President/CEO.

- 7.2 **Pest Control**. Company shall be solely responsible for promoting a pest-free environment within the Food and Beverage Facilities by maintaining cleanliness and minimizing pest attractants. Company agrees to notify the District within 24 hours if pest control services are needed in the Food and Beverage Facilities.

ARTICLE 8 RIGHT TO INSPECT AND MAKE REPAIRS

District has the right to:

- A. Inspect the Food and Beverage Facilities at any time to determine whether Company has complied and is complying with the terms of this Agreement.
- B. Perform maintenance and make repairs and replacements in any case where Company has failed to report it in **Section 7.1** of this Agreement. District may, at its discretion, deduct from the monthly Company's Management Fee payment an administrative fee of fifteen percent (15%) of the cost incurred from any such repairs.
- C. Perform maintenance and make repairs and replacements, whenever District determines it necessary or desirable to do so, to preserve the safety of the Food and Beverage Facilities or to correct any condition likely to cause injury or damage to persons or property.
- D. Company waives any claim to lost revenues from its Annual Management Fee resulting from the District performing repair and maintenance on the Food and Beverage Facilities.

ARTICLE 9 IMPROVEMENTS

- 9.1 **Improvement Proposal**. Company shall work with District (without compensation other than the Management Fee) to redesign the existing Food and Beverage Facilities as outlined in its proposal dated [Month, Day, Year] which is attached as **Exhibit C**. Company will also provide consultation during construction of the Food and Beverage Facilities as part of its services provided under this Agreement. In accordance with the Proposal and contract documents, the District shall have and possess final right of prior approval of all plans, specifications, form of contract, and construction with respect to the

Food and Beverage Facilities.

- 9.2 **Condition of Premises**. At the beginning of the Agreement's term, the District shall deliver the Food and Beverage Facilities to the Company as-is. The District owns all equipment and improvements. Company accepts such Food and Beverage Facilities and agrees that they are in good and working condition.
- 9.3 **Improvement Financial Contribution**. The District will contribute up to _____ dollars (\$_____) (the "Contribution") to pay for the design and construction of improvements to be made to the Food and Beverage Facilities.
- 9.4 **No Liens**. Company shall ensure that no security interests or other liens are placed on the Food and Beverage Facilities or other District property.
- 9.5 **Overall Construction Program**. Prior to the construction and installation of any improvements, Company shall first prepare an overall program including a time schedule for same, which shall be subject to the prior written approval of the District. The District will determine whether any proposed improvements must be publicly bid. The schedule shall include as a minimum the following milestones: (1) Conceptual Design; (2) Design Development; (3) Construction Documents; (4) Plan Check and Permit; (5) Bid; (6) Construction; and (7) Date of Beneficial Occupancy (DBO).
- 9.6 **Design Approval**. The District shall have sole approval District over design of the Food and Beverage Facilities, and Company shall consult during the review process and include in its project schedule the following review time:

- Concepts/Schematic Design Ten (10) Calendar Days
- Design Development Ten (10) Calendar Days
- Construction Documents Thirty (30) Calendar Days

One set of plans and specifications shall be returned from Company with written comments within the above time frame.

- 9.7 **Adherence to Plans and Specifications**. Upon District's approval of the detailed plans, specifications, equipment, cost estimates, and the interior design and decor of the improvements to the Food and Beverage Facilities, Company shall assist District in causing said work to be commenced and completed with dispatch and in accordance with the schedule referenced in **Section 9.5** above. No substantial change, change order, addition, or alteration shall be made in the scope of the work so approved without first obtaining the District's prior written permission. No structural changes, décor, or improvements other than as contemplated herein shall be made in

or upon the Food and Beverage Facilities without the prior written consent of the District, and any conditions relating thereto then stated by the District shall become conditions hereof as if they had been originally stated herein.

- 9.8 **Future Work**. After completion of the structural or other improvements and installation of equipment and interior design and decor, as above provided, Company shall not make any structural alterations to the ceilings, walls or floors of any permanent improvements in the Food and Beverage Facilities without first obtaining the District's prior written consent; provided, however, that Company may make nonstructural alterations which the exigencies of the operation of the Food and Beverage Facilities demand in order to promote efficiency in the operation thereof.
- 9.9 **Building Codes**. All structural or other improvements, equipment, and interior design and decor constructed or installed under Company's supervision, including the plans and specifications therefore shall in all respects conform to and comply with the applicable statutes, ordinances, building codes, zoning regulations, rules and regulations of the District and such other authorities as may have jurisdiction over the Food and Beverage Facilities and Company's operations therein.

ARTICLE 10 STANDARDS OF SERVICE AND PERSONNEL

- 10.1 **Service Standards**. It is the policy of the District that the Food and Beverage Facilities be operated in an efficient manner, giving the best possible service to the public and all customers using the Food and Beverage Facilities. Company understands that food quality, customer service, and value are important aspects to the operation of the Food and Beverage Facilities and Company agrees to cooperate at all times in support of this policy. Company further agrees to operate the Food and Beverage Facilities and to manage its employees and programs in accordance with the procedures set forth in the Proposal and the terms and conditions of this Agreement in order to provide both efficient, well-maintained Food and Beverage Facilities and a high level of quality and customer service.
- 10.2 **Company's Representative**. In entering into this Agreement, District has relied upon the knowledge, experience and expertise of the Company's Representative(s) as defined in the Proposal, and the representation of Company that such individual(s) will provide overall supervision of Company's performance of the terms of this Agreement.
- 10.3 **Manager**. Company shall employ a qualified employee designated as its local general manager to supervise the operation of the Food and Beverage Facilities

on an exclusive, full-time basis. District shall have the right in its discretion to approve or disapprove from time to time the local general manager and any successor. Company shall provide the manager with sufficient authority and responsibility to ensure proper management and operation of the Food and Beverage Facilities in compliance with this Agreement. When the local general manager is not on duty, a qualified employee shall be delegated the responsibility to supervise the operation of the Food and Beverage Facilities.

10.4 **Employee Qualifications.**

- A. **Selection.** Company shall select honest, competent, and courteous personnel, and shall train, supervise, and maintain proper surveillance over all its employees to ensure both their integrity and the maintenance of an honest and high standard of service to the public. Company shall follow the hiring processes set forth in its Proposal and shall perform pre-employment screening on newly hired employees. All new hires will be badged for sterile area work and must pass the background checks required for the appropriate District security badge. The general manager shall coordinate deliveries through Centralized Receiving and Distribution Facility (CRDF).
- B. **Development and Behavior.** Company shall conduct the employee development programs as set forth in its operation manual or as otherwise agreed, including programs for the comprehensive orientation and training of new employees and the ongoing development of existing employees. Company shall control the actions of its employees and terminate from employment at the Food and Beverage Facilities any employee whose conduct Company finds detrimental to the best interests of the District, the Airport, or the general public, as allowed by law.
- C. **Uniforms.** Company's employees, while on or about the Airport premises, shall wear neat, clean, and properly cared for uniforms. The typical employee uniform shall include shirt and slacks or skirt as provided by the District. The cost of leasing or purchasing the uniforms shall be charged as an operating expense as provided for in **Article 15**. Cleaning of the uniforms is not a reimbursable expense. All employees will also wear appropriate footwear, as approved from time to time (but not provided) by the District. Company shall cause all employees, while on duty, to wear a District-issued identification badge containing the employee's name.

- 10.5 **Staffing.** The number of employees hired by Company, the duties to be performed by each job classification, and salary range of each job classification

(including such part-time employees as may be required to effectively operate the Airport Food and Beverage Facilities during peak periods of activity) shall be determined solely by the District.

Any changes in staff size, job positions, or salary ranges will be in accordance with **Article 15**.

10.6 **Employee Health Insurance, Life Insurance, and Retirement Benefits.**

- A. Health insurance, life insurance, retirement benefits, and Company's per employee cost (prior to any reimbursement by employee) for health insurance, life insurance and retirement benefits, shall be comparable in all respects to the benefits and per employee costs provided to employees who are involved in the food and beverage industry in the Greenville-Spartanburg metropolitan area.
- B. Health insurance, life insurance, and retirement benefits may be charged as an operating expense as provided for in **Article 15**.
- C. Company shall provide the President/CEO or designated representative with documentation annually that verifies the benefits and per employee cost of those benefits consistent with **Paragraph (A)** above.

10.7 **Gratuities.** Any gratuity paid or given by patrons or customers to Company's employees will be accurately recorded, reported, and taxed as required by the Internal Revenue Service and the State of South Carolina. Company and its employees will follow the laws of the State of South Carolina regarding the handling of gratuities paid to employees by cash or credit card.

10.8 **Employee Parking.** Company's local employees will be provided with parking commensurate to that provided for other Airport tenants' employees at the Airport. Such parking shall be provided at no cost. However, employees shall be subject to all rules, regulations, and fines associated with receiving such parking privileges.

**ARTICLE 11
DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

11.1 **Policy.** It is the policy of the District to promote the objectives of the United States Department of Transportation with respect to the participation of DBEs in DOT assisted contracts and airport concessions. This policy has been formulated to comply with 49 CFR Parts 23 and 26. The requirements of 49 CFR part 26 apply to this contract. It is the policy of the District to practice nondiscrimination based on race, color, sex or national origin in the award or

performance of this contract. The District encourages participation by all firms qualifying under this solicitation.

- 11.2 **DBE Goal**. In accordance with Regulations of the U.S. Department of Transportation, 49 CFR Part 23, the District adopted an Airport Concession Disadvantaged Business Enterprise (ACDBE) Plan, under which qualified firms may have the opportunity to operate an airport business. After the first Agreement Year, Company shall be required to update its ACDBE Certification with the District at the beginning of each Agreement Year and resubmit the attached **Exhibit "D"**. Such Schedules shall also be submitted if there is any change in ownership or control of Company.
- 11.3 **Assurance**. This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Company or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. The Company shall carry out applicable requirements of 49 CFR Part 23 in the award and administration of DOT assisted contracts. Failure by the Company to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.
- 11.4 **Inclusion of DBE Discrimination Provision in Sub-Agreements**. Company agrees to include the statements in **Section 11.3** in any subsequent agreements that it enters into and cause those businesses to similarly include the statements in further agreements.
- 11.5 **Compliance with DBE Requirements**. In the event that a national ACDBE goal, applicable to this Agreement, is set by the Federal Aviation Administration or the United States Department of Transportation during the term of the Agreement, Company shall make good faith efforts as defined by the applicable regulation, to meet the goal. Such efforts shall be documented and submitted to the District as required by the FAA or DOT regulations. Company shall submit, in the format prescribed by the District, a quarterly report of ACDBE participation, including the ACDBE participant's name, address, contact information, type and dollar amount of participation and percentage of participation. Company shall assist the District in identifying participants in the business opportunities covered by this Agreement who may be eligible for certification as an ACDBE.

Non-compliance with this requirement may result in termination of this Agreement in accordance with **Article 17**.

11.6 **Maximum Opportunity to Participate.**

- A. It is the requirement of the Federal Department of Transportation ("DOT") that Disadvantaged Business Enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of concession agreements at the Airport. Consequently, the DBE requirements of 49 CFR Part 23 are hereby included in this Agreement. Company agrees to comply with the requirements of any such regulations as applicable to this Agreement. Furthermore, Company agrees to submit information at the request of the Airport concerning the DBE(s) that may participate in this Agreement. This information will include the name and address of each DBE, a description of the work to be performed by each named DBE and the dollar value of the DBE's contracted participation. The Company will also provide information as requested by the Airport describing the purchase or lease of goods or services from DBE(s) including, but not limited to, the purchase or lease of automobiles, fuel, tires, maintenance and janitorial services and other services.
- B. In the event of breach of any of Company's duties contained in this **Article 10**, the Airport shall have the right to terminate this Agreement and to re-enter and repossess the facilities and hold the same as if this Agreement had never been made or issued, provided, however, that the Company shall have the right to contest an alleged breach under applicable procedures, and any sanctions under or termination of this Agreement shall be withheld pending completion of such procedures; and provided, however, that the Company will pursue these applicable procedures with diligence and dispatch.

**ARTICLE 12
ENVIRONMENTAL REGULATIONS**

12.1 **Environmental Representations.** Notwithstanding any other provisions of this Agreement, Company acknowledges that certain properties and uses of properties within the Airport are subject to environmental regulations. Company agrees to observe and abide by these regulations as applicable to its use of the Airport, and in addition to any and all other Agreement requirements, and any other covenants and warranties of Company. Company hereby expressly warrants, guarantees, and represents to District that Company will comply with all applicable federal, state, regional and local laws, regulations and ordinances protecting the environmental and natural resources and all rules and regulations promulgated or adapted as some may from time to time be amended and accepts full responsibility and liability for such compliance.

12.2 **Violations.** Company shall provide any agency's notice of environmental

violation, or similar enforcement action or notice of noncompliance, to District within 24 hours of receipt by Company or Company's agent. Violation of any part of the provisions of this Article or disposition by Company of any sanitary waste, pollutants, contaminants, hazardous waste, toxic waste, industrial cooling water, sewage or any other materials in violation of the provisions of this section will be deemed to be a default under this Agreement and, unless cured within ten (10) calendar days of receipt of notice from District, be grounds for termination of this Agreement, and will also provide District grounds for taking whatever other action it may have in addition to termination based upon default as provided for under this Agreement.

- 12.3 **Fines Resulting from Violations.** Company is responsible for payment of any and all fines imposed as a result of its acts of non-compliance with federal, state, or local regulations, statutes, ordinances, or laws in effect now or in the future concerning the protection of the environment.
- 12.4 **Storm Water Regulations and Ordinances.** Company agrees to abide by all federal, state, and local rules, regulations, statutes, ordinances, and laws in effect now or in the future concerning storm water requirements.
- 12.5 **Chemicals.** Company will observe OSHA 1910.1200, which require employers to maintain Material Safety Data Sheets (MSDS) for all chemical-containing products to which its employees are exposed. If there is a question concerning whether a MSDS is needed for a particular product, contact the District's Commercial Business Department at (864) 848-6208. Chemical-containing products include certain office supplies such as "white out", toner, etc.

ARTICLE 13 INSURANCE AND INDEMNIFICATION

- 13.1 **General.** Company shall, at its own expense, purchase and maintain insurance to protect Company and District throughout the duration of this Agreement. Said insurance shall be provided by insurance companies, "admitted" and "non-admitted" to do business in the State of South Carolina, that have no less than an A.M. Best Rating of "B" or have a recognized reputation satisfactory to District. All policies shall be written on a per occurrence basis, not a claims-made basis, and in form and amounts and with companies satisfactory to District.
- 13.2 **Insurance Requirements.**
 - A. **Workers' Compensation Insurance.** Company shall procure and maintain during the life of this Agreement, Worker's Compensation Insurance, including *Employer's Liability Coverage*, in accordance with all

applicable statutes of the State of South Carolina. The coverage limits shall include \$1,000,000 each accident for Bodily Injury by Accident, \$1,000,000 each accident for Bodily Injury by Disease, and \$1,000,000 policy limit for Bodily Injury by Disease.

- B. **Commercial General Liability Insurance.** Company shall procure and maintain during the life of this Agreement, Commercial General Liability coverage written on a per occurrence basis with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (1) Contractual Liability, (2) Premises and Operations, (3) Products and Completed Operations, (4) Independent Contractors Coverage, (5) Personal and Advertising Injury and (6) deletion of Explosion, Collapse and Underground (XCU), where applicable. Coverage shall be no less comprehensive and no more restrictive than the coverage provided by a standard form Commercial General Liability Policy (ISO CG 00 01, Ed 04/13 with standard exclusions "a" through "q" or any subsequent ISO equivalent or a non-ISO equivalent form). Any additional exclusion shall be clearly identified on the Certificate of Insurance and shall be subject to the review and approval of District. The policy shall be endorsed to provide an Aggregate Per Location Endorsement. Any fellow employee exclusion shall be deleted as it applies to supervisory and managerial personnel.
- C. **Umbrella/Excess Insurance.** Company shall carry Umbrella/Excess Insurance of not less than \$5,000,000. The Umbrella/Excess Insurance shall be written on a per occurrence basis and shall include the same endorsements as required of the primary policies.
- D. **Property Insurance.** Company shall procure and maintain during the life of the Agreement, Property Insurance, providing fire and lightning, extended coverage, vandalism and malicious mischief and "all risk" insurance, excluding earthquake and flood but including debris removal, in a form at least as broad as the standard Insurance Services Office's Special Cause of Loss form covering all structural or other improvements installed by Company in the premises, and all fixtures, furnishings, equipment and decoration kept, furnished or installed by Company.
- E. **Liquor Liability (Dramshop) Insurance.** Company shall procure, and maintain during the life of the Agreement, Liquor Liability (Dramshop) Insurance in the amount required by the State of South Carolina for the operation of the Food and Beverage Facilities. The insurance shall include the same endorsements as required of the primary policies.

- F. **Subcontractors**. Company shall require that any of its agents and subcontractors who perform any of Company's management and oversight responsibilities pursuant to the provisions of this contract meet the same insurance requirements as is required of Company.
- G. **Additional Insured and Governmental Immunity**. Except for Workers Compensation Insurance, the insurance policies providing the coverages specified in section 13.02, paragraphs (b), (c), and (d) above shall include District's Additional Insured and Governmental Immunities Endorsements. District shall have no liability for any premiums charged for such coverage, and the inclusion of District as an Additional Insured is not intended to, and shall not make, the District a partner or joint venturer with Company in its operations at the Airport.
- H. **Cancellation or Material Change Notice**. The insurance policies providing the coverages specified in (a) through (f) above shall include District's Cancellation Notice Endorsement. A copy of the required endorsement is attached as part of Exhibit B. Company will bear responsibility for ensuring such notices are provided to District.
- I. **Proof of Insurance**. Company shall provide to District a Certificate(s) of Insurance evidencing all required insurance coverage as provided in (a) through (h) above utilizing the latest version of the ACORD form. The Certificate(s) of Insurance shall specify under "Description of Operations/ Locations/ Vehicle/Special Items": (1) the title of the contract or permit or license, etc.; and (2) the following statement, "Where required, Additional Insured, Governmental Immunities, and Cancellation and Material Change endorsements have been included as per attached." These endorsements shall be attached to the Certificate(s) of Insurance so as to evidence their inclusion in the coverages required. Company may not operate under the terms of the resulting contract or agreement until all required certificates and endorsements have been submitted and approved by District. All certificates and endorsements shall be submitted to the President/CEO at least fourteen (14) calendar days prior to the effective date of the contract or agreement. Proof of insurance should be sent to the District at the following address: Greenville-Spartanburg Airport District, ATTN: Commercial Business Department, 2000 GSP Drive – Suite #1, Greer, SC 20651.
- J. **Changes in Coverage Limits**. If during the term of this Agreement District determines that the limits of coverage are insufficient through either change or erosion due to other losses, District shall provide Company with sixty (60) calendar days written notice of any required

changes. Company shall submit to the President/CEO, within ten (10) calendar days, new Certificate(s) of Insurance indicating that the required changes have been affected.

13.3 **Indemnification.**

- A. To the fullest extent permitted by law, Company agrees to defend, pay on behalf of, indemnify, and hold harmless District, its elected and appointed officials, employees and volunteers and others working on behalf of District against any and all claims, demands, suits, or loss, including any and all outlay and expense connected therewith, and for any damages which may be asserted, claimed or recovered against or from District its elected and appointed officials, employees, volunteers or others working on behalf of District, by reason of personal injury, including bodily injury or death, and property damages, including loss or use thereof, which arises out of or is in any way connected or associated with the work and/or services provided by Company to District pursuant to the provisions of this Agreement. It is the intention of the parties that District, its elected and appointed officials, employees, volunteers or other working on behalf of District shall not be liable or in any way responsible for injury, damage, liability, loss or expense incurred by Company, its officers, employees, subcontractors, and others affiliated with Company due to accidents, mishaps, misconduct, negligence or injuries either in person or property resulting from the work and/or services performed by Company pursuant to the provisions of this Agreement, except for and to the extent caused by the negligence of District.
- B. Company expressly assumes full responsibility for any and all damage or injuries which may result to any person or property by reason of or in connection with the work and/or services provided by Company to District pursuant to this Agreement, and agrees to pay District for all damages caused to District's premises resulting from the activities of Company, its officers, employees, subcontractors, and others affiliated with Company.
- C. Company represents that its activities pursuant to the provisions of this Agreement will be performed and supervised by adequately trained and qualified personnel, and Company will observe, and cause its officers, employees, subcontractors and others affiliated with Company to observe all applicable safety rules.

- 13.4 **Waiver of Subrogation Provision.** To the extent permitted by law, Company hereby releases District, its elected and appointed officials, its agents, employees and volunteers and other working on behalf of District from and against any and all liability or responsibility to Company or anyone claiming through or under

Company by way of subrogation or otherwise, for any loss or damage to property caused by fire or any other casualty, unless such fire or casualty shall have been caused by the negligence or willful misconduct of District, its elected and appointed officials, its agents, employees and volunteers and other working on behalf of District. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of this Agreement. Company's policies of insurance shall contain a clause or endorsement to the effect that such release shall not adversely affect or impair such policies or prejudice the right of Company to recover thereunder.

ARTICLE 14 ACCOUNTING AND RECORDS

14.1 Accounting System.

- A. Company agrees to install and maintain at its own expense and with approval of District, a bookkeeping, accounting, and revenue control system covering the Food and Beverage Facilities, which books and accounts must be prepared in accordance with the procedures set forth in the operations manual and must, during standard business hours, be open to the inspection of District and its representatives. Company's bookkeeping, accounting, and control system shall provide detailed books, records, and accounts for all income, revenues, and receipts for the Food and Beverage Facilities. A record of all receipts and disbursements must be contained in such books and accounts, with copies being maintained within Spartanburg County, SC. The bookkeeping, accounting, and control system including procedures and daily reporting methods must be satisfactory at all times to the President/CEO. This system must incorporate the financial reporting and auditing procedures set forth in the Company's operations manual and must maintain records in accordance with Generally Accepted Accounting Principles (GAAP). In addition to any internal and third-party audits performed by Company, District may at any time perform audits of Company's financial records and operations to determine compliance with the terms of this Agreement. The accounting system must be satisfactory to the District Finance Director and the President/CEO.

- B. Company shall make its books, records and supporting documentation available to District for at least five (5) years after the termination of this Agreement.
 - 1. Company shall store accounting records in such manner so as to provide expeditious access for audit purposes.

2. Company shall comply with all audit requests from District or its authorized representative within ten (10) business days. In the event that Company fails to comply, Company will be responsible for District's cost of the audit, including, but not limited to, District's staff's time. District shall have sole discretion to waive or extend this time frame as circumstances require.
 3. Company shall pay District fifty (50) dollars every calendar day for any report specified within this Agreement for which Company is delinquent, including, but not limited to, the audit requests described in Subsection B.2 above. The charge will continue until specific performance is accomplished.
 4. Company shall ensure that its financial or accounting subcontractors (e.g. armored car service, payroll processor, etc.), are required to comply with the requirements of this section.
- C. District will reimburse Company for an appropriate share of a computerized point-of-sale system software license and hardware necessary to complete the sales and revenue tracking process for food and beverage sales required in this **Article 14**. District will provide secondary support for all such equipment. Company's bookkeeping, accounting, and revenue control system must contain, but is not limited to, the following features:
1. Daily reconciliation of revenues from credit cards and cash for each location within the Food and Beverage Facilities, sorted by type (alcohol, non-alcoholic beverages, food, etc.).
 2. Control and safeguarding of cash and other property assets of District.
 3. Control of food and beverage revenues.
 4. Control of payroll costs, including use of time clocks or time sheets, and other expenditures.
 5. Proper classification of revenues and expenditures and compliance with other accounting requirements as specified by District.
 6. Proper accounting of revenue so as to provide reports evidencing the sales made in the Food and Beverage Facilities and the revenue generated at each location within the Food and Beverage Facilities.
 7. Such other reports and statements to be provided by Company as set forth in its operations manual.

- 14.2 **Bank Account**. The District shall establish a bank account for Company. Company shall deposit all income, revenues, and receipts of the Food and Beverage Facilities into the account in a timely manner. Company shall bear full responsibility for depositing daily income, revenues, and receipts and providing for their safekeeping. Company shall reimburse District for all lost income, revenues, and receipts caused by (a) Company's failure to follow the procedures set forth in Company's operations manual; and (b) any negligence, misconduct or other fault of Company. Company is not authorized to withdraw any funds from this account. District will receive monthly statements directly from the bank with which the account is held.
- 14.3 **Additional Services for Company**. In addition to providing concession management and operating services, bonds, and insurance, Company agrees to perform for the Food and Beverage Facilities the following services, at its own expense:
- A. All accounts payable records and supplies inventory control.
 - B. Completion of payroll, social security, withholding tax, workers compensation, and all other related required forms.
 - C. Periodic audit of cash handling procedures for accuracy and proper control.
 - D. Preparing and holding for review by District the following records and reports for the Food and Beverage Facilities.
 - 1. Weekly payroll summary on forms for that purpose, showing names of employees, hours worked each day, hourly rate or salary, and gross pay for the week. These summaries are to be completed within three (3) calendar days after the end of each week and retained at the Airport.
 - 2. Written reports for each damage, theft, or injury claim arising from the operation of the Food and Beverage Facilities, to be submitted to District within twenty-four (24) hours.
 - 3. Substantiating records for payrolls, payroll taxes, and other expenditures, as may be required for audit purposes by District, to be submitted within ten (10) calendar days after District has made a request.
 - 4. A monthly report containing information on daily sales by type and daily revenues and deposits, to be submitted to District within

fourteen (14) calendar days after the end of each month.

- 14.4 **Correctness of Reports**. Company is charged with the responsibility of exercising proper care and accuracy in the preparation of required reports and records.
- 14.5 **Preservation of Reports**. Company will keep and preserve for a minimum of seven (7) years after the termination of this Agreement (or longer if required by law) all sales slips, cash register tapes, sales books, bank books, or duplicate deposit slips, credit card totals, and other evidence of gross receipts and business transacted. Company shall furnish District copies of any such records upon request.
- 14.6 **Approval of Company's Annual Budget**. Not less than thirty (30) calendar days prior to the beginning date of this Agreement, Company and District will collaborate to establish an annual budget for the first Agreement Year of the Agreement. In subsequent Agreement Years, Company shall prepare and submit for approval by District a proposed annual budget, broken down by type and amount of projected revenues and expenses, for the Food and Beverage Facilities. The final budget for the first Agreement Year of operation under this Agreement must be submitted to District no later than thirty (30) calendar days after the Effective Date of the Agreement. The budget for subsequent years must be submitted one hundred twenty (120) calendar days prior to the beginning of each Agreement Year. Company shall promptly submit any modifications to the proposed budget as requested by District.

On a monthly basis, Company shall submit a budget variance report detailing revenues and reimbursable expenses budgeted, actually experienced, and any variances. If possible, a fourth column detailing the previous Agreement Year's budget will also be included.

ARTICLE 15 PAYMENT OF EXPENSES

- 15.1 **Operating Expenses**. Unless otherwise specified, all operating expenses for the operation of the Food and Beverage Facilities shall be paid by Company. Such operating expenses will include:
- A. Employee payroll (including tips paid through payroll)
 - B. Employee benefits as approved by the President/CEO (including health insurance, life insurance, retirement benefits, incentives, etc.)
 - C. Employee recruiting and training expenses

- D. Food, ingredients, beverages, and liquor
- E. Paper and kitchen supplies
- F. Replacement dishes, flatware, glasses, etc.
- G. Kitchen equipment purchase and maintenance
- H. Upgrades and maintenance for the point-of-sale system
- I. Cleaning supplies
- J. Employee uniforms (excluding laundry service)
- K. Telephone service as approved by the President/CEO (including cellular service for the general manager)
- L. Internet and cable television service to the Food and Beverage Facilities
- M. Licenses and permits not directly purchased or held by the District
- N. Armored car and other cash handling expenses related to the operation of the Food and Beverage Facilities
- O. Other costs and expenses incurred with respect to the Food and Beverage Facilities on behalf of District pursuant to District's written request

Within fourteen (14) calendar days of the end of each month, Company will submit an itemized request to the District for reimbursement of all Operating Expenses from the prior month, along with supporting documentation. Upon review and approval of the request, the District shall reimburse Company for the operating expenses. The District reserves its right to request additional expense documentation as needed to verify any reimbursement item before providing payment.

Any expense over \$1,000, other than employee payroll expense and food and beverage inventory expenses, must be submitted in writing and approved in writing by the President/CEO. Company shall secure the advantage of any savings which may result by reason of other operations of Company and Company shall pass on to District the benefit of any savings which may result by reason of block purchasing of food, equipment, and supplies.

- 15.2 **Miscellaneous Expenses**. The following costs will be absorbed in Company's Management Fee compensation provided for in **Article 4**, and Company shall pay such costs from its own funds, and shall not charge such costs as operating expenses:
- A. The costs of all services listed in **Article 14** to be performed by the Company, including those for a general ledger and payroll bookkeeping, accounting, and revenue control system and for the costs associated with the various reports and services specified, including costs for telephone, postage, and office supplies related to such services.
 - B. The costs of insurance premiums, including workers' compensation insurance, required in **Article 13**.
- 15.3 **Working Capital Fund**. Within thirty (30) calendar days of the Effective Date of this Agreement, Company and the District will collaborate to establish an annual budget for the first Agreement Year of the Agreement in accordance with the procedures set out in **Section 14.6**. Prior to the commencement of the Agreement, the District will establish a working capital fund equal to one-fourth (1/4) of the first-year annual budgeted operating expenses. This fund will remain the property of the District but will be immediately available to pay operating expenses of the Food and Beverage Facilities.

ARTICLE 16 ASSIGNMENT

- 16.1 **District Consent**. Company shall not, at any time, assign this Agreement or any part hereof, without the prior written consent of District. Failure to obtain approval will be cause for immediate termination of this Agreement.
- 16.2 **Transfer of Stock**. A transfer of ten (10) percent or more of Company's corporate stock, or a transfer of ten (10) percent of the control of Company to another individual or entity, is considered an assignment of this Agreement and District's prior written approval of such transfer is required. This provision will not apply when Company's corporate stock is traded on the New York Stock Exchange or the NASDAQ Exchange.
- 16.3 **Change in Corporate Name**. Company shall notify District in advance of any change in corporate name or adoption of any trade name.
- 16.4 **Subcontracting**. Company shall not subcontract for the provision of any management or operation services under this Agreement without the prior written consent of District.

**ARTICLE 17
TERMINATION**

17.1 **Termination.**

- A. In the event that one of the following occurs, District may at any time terminate this Agreement upon giving Company thirty (30) calendar days' notice in writing:
1. The Food and Beverage Facilities are not operated in a manner deemed by District to be satisfactory or in accordance with this Agreement, and Company does not correct the unsatisfactory operation within ten (10) calendar days of the receipt of written notice of the particulars of the default from District; or
 2. Company fails to perform any provision or covenant of this Agreement, and Company does not remedy the default within ten (10) calendar days of the receipt of written notice of the particulars of the default from District; or
 3. The Food and beverage Facilities are required for any purpose other than food and beverage sales.
- B. If for any reason beyond District's control, District deems the Food and Beverage Facilities, or a substantial portion thereof, to be inoperable, then District may terminate this Agreement by giving Company thirty (30) calendar days' notice in writing.

17.2 **Bankruptcy.** If a petition in bankruptcy or a petition for a receiver is filed against Company, then District may terminate this Agreement.

17.3 **Final Decision.** The decision of District as to any matters in this Article will be final and conclusive and District will not be liable for any loss or damage to Company by reason thereof, or for the payment of any compensation to Company following such termination.

**ARTICLE 18
FAA PROVISIONS**

18.1 **Compliance with Non-Discrimination Requirements.** During the performance of this contract, the Company, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

A. **Compliance with Regulations:** The Company (including consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

B. **Non-discrimination:** The Company, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Company will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

C. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Company for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Company of the Company's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

D. **Information and Reports:** The Company will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the District or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a subcontractor is in the exclusive possession of another who fails or refuses to furnish the information, the Company will so certify to the District or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

E. **Sanctions for Noncompliance:** In the event of the Company's noncompliance with the Non-discrimination provisions of this contract, the District will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

1. Withholding payments to the Company under the contract until the Company complies; and/or
2. Cancelling, terminating, or suspending this Agreement, in whole or in part.

F. **Incorporation of Provisions:** The Company will include the provisions of paragraphs A through E in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Company will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Company becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Company may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Company may request the United States to enter into the litigation to protect the interests of the United States.

18.2 **List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this contract, the Company, for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- B. 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- F. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the

Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- H. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- I. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

18.3 **Civil Rights.** The Company and its successors agree to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision obligates the Company or its successors for the period during which Federal assistance is extended to the airport through the Airport Improvement Program.

In cases where Federal assistance provides, or is in the form of personal

property; real property or interest therein; structures or improvements thereon, this provision obligates the Company or any successor for the longer of the following periods:

- A. The period during which the property is used by the District or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- B. The period during which the District or any transferee retains ownership or possession of the property.

18.4 **Exclusive Rights**. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958, and as said act may be amended from time to time.

18.5 **Subordination to Agreements**. This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between the District and the United States of America or the State of South Carolina relative to the operation, maintenance, development, or administration of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to District for Airport purposes, or to the expenditure of federal or State of South Carolina funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, and as said act may be amended from time to time.

ARTICLE 19 GENERAL PROVISIONS

19.1 **Rules, Regulations, and Policies**. Company shall observe and obey all rules, regulations, and policies that the District may adopt, from time to time, with respect to the use of the Airport. Company shall not violate and shall not knowingly permit its agents, contractors, invitees or employees acting on Company's behalf to violate any such rules, regulations, or policies.

19.2 **Compliance with Law**. Company shall comply, at all times, at its own cost and expense, with all applicable ordinances and laws of city, county and state government and of the United States Government, and of any political division, subdivision, agency, District or commission that has jurisdiction to pass laws or ordinances with respect to the Food and Beverage Facilities or to the uses permitted in this Agreement. Company shall not allow any illegal activity to be

conducted or operated on any Airport area.

- 19.3 **Reservation of Rights.** Any and all rights and privileges not expressly granted to Company by this Agreement are hereby reserved for and to District.
- 19.4 **Successors and Assigns Bound by Covenant.** All the terms, covenants, and agreements herein contained will be binding upon and shall inure to the benefit of successors, permitted assigns, and legal representatives of the respective parties hereto.
- 19.5 **Warranty.** Company warrants that it has at least five years successful experience in the management and operation of a public restaurant (or group of restaurants) that involves gross receipts of \$4,000,000 or more per year.
- 19.6 **Governing Law, Forum and Disputes.** This Agreement and all claims or disputes arising out of or relating to this Agreement or its subject matter are governed by the laws of the State of South Carolina, without regard to its conflict of laws provisions, and any action, claim or proceeding arising out of or relating to this Agreement must be brought only in the Circuit Court for Spartanburg County, South Carolina. Each party hereby waives any objection, including any objection based upon improper venue or *forum non conveniens*, that it may have, now or in the future, to the bringing of any action, claim or proceeding in the Circuit Court for Spartanburg County, South Carolina.
- 19.7 **Nonwaiver of Rights.** No waiver of default by either party of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the other party will be construed as, or operate as, a waiver of the terms, covenants, or conditions unless expressly agreed to by the party in writing, and any such waiver shall not operate as a waiver of any other terms, covenants, and conditions herein contained or any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party.
- 19.8 **Severability.** If one or more clauses, sections, or provisions of this Agreement, or the application thereof, shall be held to be unlawful, invalid, or unenforceable, then such clauses, sections, and provisions shall be construed in a manner to best effectuate the intent of the parties and be lawful, valid, and enforceable, and the remainder of this Agreement and the application of its remaining provisions will not be affected thereby.
- 19.9 **Force Majeure.** Neither Company nor District will be liable for delays in performance caused by acts of God or government regulatory District, war, riot, sabotage, storm, flood, inclement weather, strike or work stoppage, or

other cause beyond the control of Company or District. However, this provision does not excuse Company from paying those fees set forth in the District rules and regulations, nor does it excuse compliance with **Section 19.13**, Taxes and Assessments.

19.10 **Entire Agreement**. This Agreement, together with all exhibits and attachments, constitutes the entire agreement between the parties, and all prior representations, promises or statements, verbal or written, are merged in this Agreement. This Agreement supersedes and cancels any and all previous agreements and understandings on its subject matter between Company and District.

19.11 **Amendments**. Any and all changes or amendments to this Agreement must be in writing and duly executed by all parties.

19.12 **Licenses and Permits**. Company shall obtain and/or maintain all applicable licenses and permits required by federal, state, or local law.

19.13 **Taxes and Assessments**. Prior to the effective date of this Agreement, the Food and Beverage Facilities are tax exempt. Company shall be fully responsible for payment of any and all taxes, assessments, and charges levied against any taxable interest of Company acquired in this Agreement from and after the date of this Agreement. Company shall also be responsible for payment of any and all personal property taxes levied against any personal property placed upon the Food and Beverage Facilities by Company. Company shall pay all such taxes, assessments and charges as the same become due and payable. Such taxes, assessments and charges shall not be included in operating expenses. Upon request, Company shall deliver to District duplicate receipted tax statements showing such taxes, assessments and charges as having been paid prior to delinquency. Taxes for the fiscal year in which this Agreement is terminated shall be paid upon such termination in a prorated amount equal to one-twelfth of the taxes due and payable for the preceding fiscal year multiplied by the number of months in the fiscal year of such termination which elapsed prior to and including the month of such termination.

19.14 **Compliance with Federal Aviation and Transportation Security Regulations**.

A. Company agrees to comply at all times with Federal Aviation Regulations (FAR) Part 139, and Transportation Security Regulations (TSR) Parts 1500, 1520 1540 and 1542, District's policies, regulations and ordinances, District's Transportation Security Administration approved Airport Security Program, and any other applicable laws, regulations and rules as such currently exist and are amended from time to time. Company further

agrees that any fines levied upon District, its officers, employees, agents, and members of District's boards and commissions and employees, agents or officers of District's boards and commissions pursuant to enforcement of FAR Part 139 and TSR Parts 1500, 1520, 1540, and 1542 due to acts or omissions by Company, Company's agents, servants, officers, employees, independent contractors, or patrons shall be borne by Company. Company further agrees to indemnify and hold harmless District, its officers, employees, agents, and members of District's boards and commissions, and employees, agents, or officers of District's boards and commissions from any and all fines so levied and from any and all claims, demands, liabilities, or expenses of every kind or nature related to such levy or defense to such levy (including, but not limited to, salary of attorneys employed by District) which District or any of its officers, employees, or other persons set out above shall or may at any time sustain or incur by reason of or in consequence of such acts or omissions by Company. Company further agrees to indemnify and hold harmless District, its officers, employees, agents, and members of District's boards and commissions, and employees, agents, or officers of District's boards and commissions from any and all claims, demands and or lawsuits arising out of Company's or Company's employees' failure to comply with FAR Part 139 and TSR Parts 1500, 1520, 1540 and 1542, the Airport Security Program or any other applicable law, regulation or rule.

- B. Company agrees to control all persons and vehicles entering any Airport restricted area (including aircraft movement area) through the Food and Beverage Facilities in accordance with the Greenville-Spartanburg International Airport Security Program and in compliance with TSR Parts 1500, 1520, 1540, and 1542 as such currently exist and are amended from time to time.

19.15 **Right to Amend.** In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of Airport, Company agrees to consent to such amendments, modifications, revisions, supplements or deletions or any of the terms, conditions, or requirements of this Agreement as may be required to obtain such funds; provided, however, that in no event will Company be required, pursuant to this paragraph, to agree to a reduction in the Annual Management Fee or to a change in the use, provided it is an authorized use, to which Company has put the Food and Beverage Facilities.

19.16 **War or National Emergency.** During the time of war or national emergency, District shall have the right to lease the landing area of the Airport or any part thereof to the United States Government for military or naval use, and, if such lease is executed, the provisions of this instrument insofar as they

are inconsistent with the provisions of the lease to the Government shall be suspended.

19.17 **Subordination to Bond Ordinance.**

- A. This Agreement is made subject and subordinate to any Airport Bond Resolution enacted by District, whether enacted prior to or as of the time of execution of this Agreement or thereafter.
- B. In the event of conflicts between this Agreement and the Bond Resolution, the Bond Resolution shall govern.
- C. It is mutually understood and agreed that, so long as any bonds secured by a Bond Resolution are outstanding, the deposit and application of Airport revenues shall be governed by the Bond Resolution.

19.18 **Americans with Disabilities Act.** Company shall comply with the Americans with Disabilities Act and the Rehabilitation Act, and any administrative rules promulgated to implement the Acts, with regard to Company's operations in the Food and Beverage Facilities.

19.19 **Agreement Construction.** Words and phrases used in this Agreement are to be construed as in the singular or plural number, and as masculine, feminine, or neuter gender, and as disjunctive or conjunctive, according to the context. Any rule to the effect that ambiguities are to be resolved against the drafting party will not apply to the interpretation of this Agreement or any amendments or exhibits.

19.20 **Representations of Parties.** District and Company represent that each has the full power and proper District to make and execute this Agreement, to exercise its rights, powers and privileges as described herein, and to perform the agreements and covenants set forth herein. Company further warrants that it has the District to enter into and be bound by the terms of this Agreement and no order of any bankruptcy or other court, and no agreement with others, prohibits or limits such District.

19.21 **No Third Party Beneficiaries.** This Agreement is for the benefit of Company and the District only. This Agreement shall not create any rights in any person not a party to this Agreement.

19.22 **Notices.** Notices required herein must be given by registered or certified mail, return receipt requested, by depositing the same in the United States mail in the United States, postage prepaid, or by certified overnight delivery via a commercial carrier. Either party has the right, by giving written notice to the other in

accordance with this Section 19.22, to change the address at which its notices are to be received. Until any change is made, notices are to be delivered as follows:

Greenville-Spartanburg Airport District
ATTN: President/CEO
2000 GSP Drive – Suite 1
Greer, SC 29651

With copy in any event to:

Womble Bond Dickinson (US) LLP
ATTN: Managing Partner
550 South Main Street – Suite 400
Greenville, SC 29601

Company:
Successful
Proposer
123 Main
Street City,
State ZIP
Telephone: (123) 555-1212

Any notice given by registered or certified mail, return receipt requested, or by overnight delivery will be effective upon receipt by the addressee as shown on the mail or delivery receipt. If notice is given in any other manner or at any other place, it must also be given at the place and in the manner specified above.

- 19.23 **Waiver of Visual Artists Rights**. Company shall not install any object in or on the Food and Beverage Facilities or commence construction of any improvement that constitutes a work of visual art under the Visual Artists Rights Act of 1990 and any corresponding provision of State or local law now in effect or hereafter enacted ("VARA"), unless and until Company has provided to the District either (a) a written opinion in a form and from a law firm reasonably acceptable to the District that VARA does not apply; or (b) a written waiver from the author of a work of visual art, in form and substance reasonably satisfactory to the District, which identifies specifically the work of visual art and the uses of that work to which the waiver applies in accordance with 17 U.S.C. §106A(e)(1) and any similar applicable provision of state or local law.
- 19.24 **Liens**. Neither the Company nor anyone claiming by, through, or under the Company shall have the right to file or place any mechanic's liens, security interests or other lien of any kind or character whatsoever, upon the Food and Beverage Facilities or upon any improvement thereon, or upon the interest of

the Company, and notice is hereby given that no contractor, subcontractor, or anyone else who may furnish any material, service or labor for any improvements, alterations, repairs or any part thereof shall at any time be or become entitled to any lien on the Food and Beverage Facilities, and for the further security of the District, the Company covenants and agrees to give actual notice thereof in advance to any and all contractors, subcontractors, and anyone else who may furnish or agree to furnish any such material, service or labor.

District shall have, in addition to any lien given by law, a security interest as provided by the Uniform Commercial Code of South Carolina upon all of Company's personal property, whether now owned or hereafter acquired, kept and used on the Food and Beverage Facilities by Company. District may proceed at law or in equity with any remedy provided by law or by this Agreement because of Company's default in its performance.

- 19.25 **District's Right to Make Good Default.** If Company should commit any default in the performance of, or compliance with, any of the terms or conditions of this Agreement, then, in addition to all other remedies now or hereafter provided by law, District may, but need not, perform such term or condition, or make good such default and any amount advanced shall be repaid forthwith on demand, together with interest at the maximum rate permitted by law, from date of advance.
- 19.26 **Rights and Remedies Cumulative.** The various rights, powers, options, elections and remedies of either party provided in this Agreement shall be construed as cumulative and no one of them as exclusive of the others, or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of either party to pursue any other equitable or legal remedy to which either party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.
- 19.27 **Certification.** Company certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Company hereby agrees to defend, indemnify and hold harmless District from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

19.28 **Survival**. The representations, warranties, and indemnities contained in this Agreement shall survive the termination or expiration of this Agreement. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

19.29 **WAIVER OF JURY TRIAL**. EACH OF THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

**GREENVILLE-SPARTANBURG
AIRPORT DISTRICT**

ATTEST: _____
Printed Name: _____

By: _____
Printed Name: David N. Edwards, Jr.
Title: President/CEO

Date: _____

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

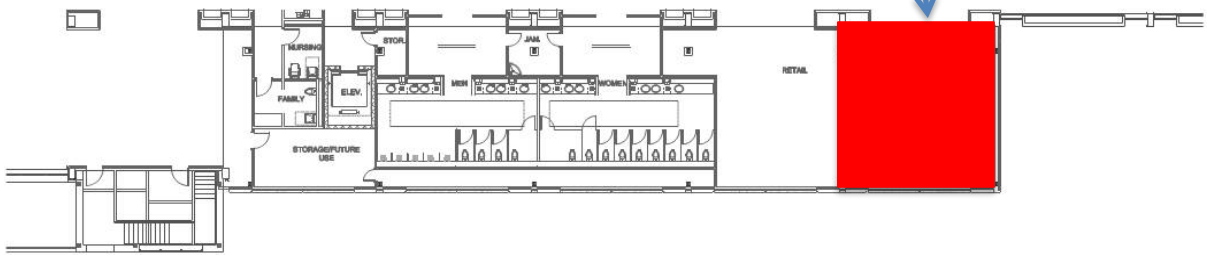
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Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

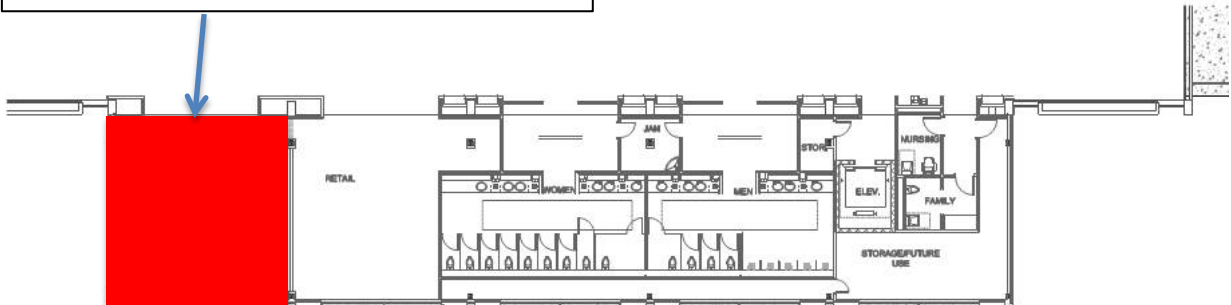
Date: _____

Exhibit A
FOOD AND BEVERAGE LOCATIONS

Concourse A
Café/Bar – 1,134 s.f.
Satellite Seating – 500 s.f.



Concourse B
Café/Bar – 1,128 s.f.
Satellite Seating – 500 s.f.



**Exhibit A
FOOD AND BEVERAGE LOCATIONS**

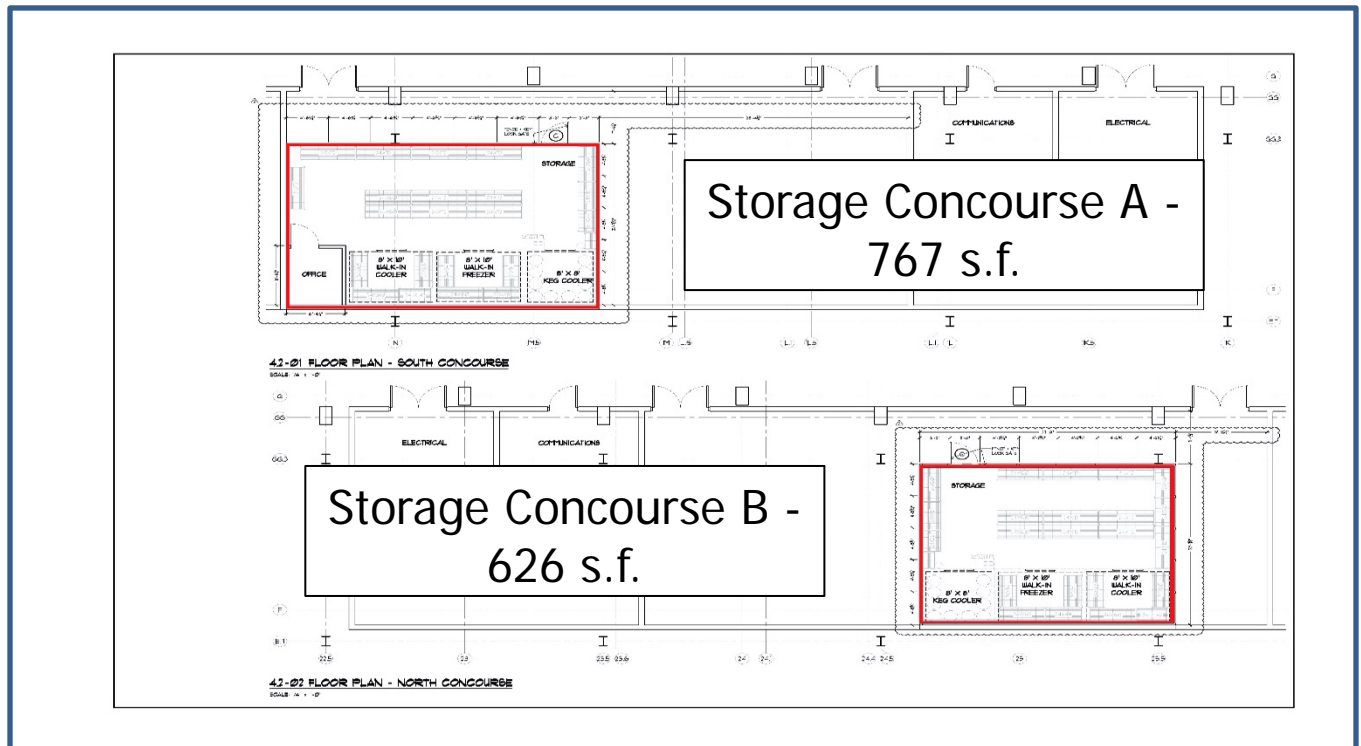
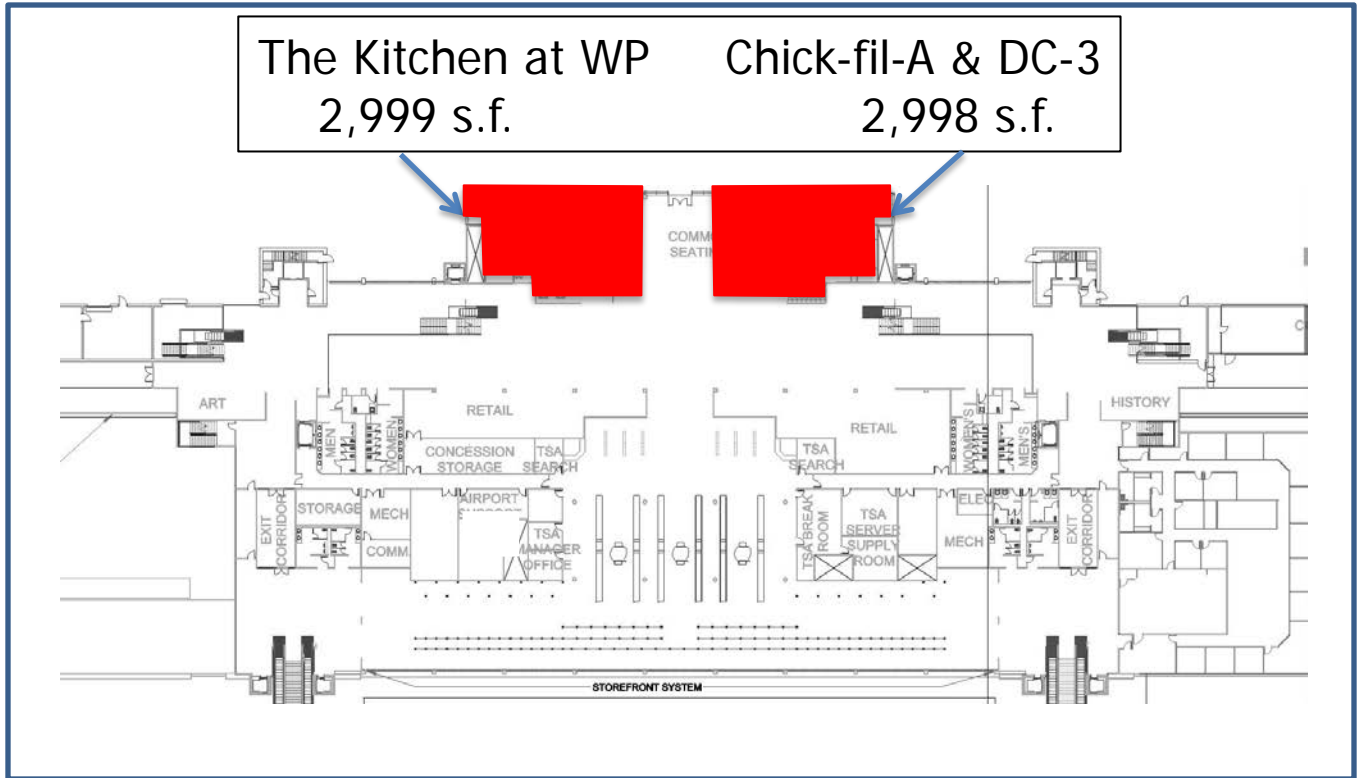


Exhibit B
CERTIFICATES OF INSURANCE

SAMPLE

Exhibit C
COMPANY'S PROPOSAL TO FOOD AND BEVERAGE
CONCESSIONS MANAGEMENT & OPERATING SERVICES REQUEST FOR
PROPOSALS

SAMPLE

Exhibit D
INFORMATION FOR DETERMINING ACDBE ELIGIBILITY

(This form must be completed and filed with the bid documents if the firm wishes to be considered a disadvantaged business enterprise under the Procedures for the Greenville-Spartanburg Airport District DBE Program. This form does not supersede but rather supplements the DBE Certification.)

If, at any time, the District has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, or acted in a manner prohibited by South Carolina law, the responsible official shall refer the matter to the appropriate state agency.

1. Name of Firm _____

2. Phone Number of Firm _____

3. Contact Person _____

4. Nature of Business: (Specify major services/products) _____

5. Principal Place of Business of Firm _____

6. Organizations/Entities that have issued DBE Certifications to the firm:

_____	Date _____
_____	Date _____
_____	Date _____

(ATTACH COPIES OF ALL LISTED CERTIFICATIONS TO THIS SCHEDULE.)

7. Geographical area served:

States: _____ Counties: _____

8. Years firm has been in business: _____

9. Type of ownership: (Check one)

Corporation Partnership Sole Proprietorship
 Joint Venture Other (Specify) _____

10. Ownership of firm: Identify those who own 5 percent (5%) or more of the firm's ownership. Columns (E) and (F) need to be filled out only if one or more owners is not a socially and economically disadvantaged individual.

A	B	C	D	E	F
	Race	Sex	Years of Ownership	Ownership Percentage	Voting Interest

If any of the owners of 5% or more of the DBE firm is a corporation, partnership or other entity other than an individual (an "Entity"), please provide the following information with respect to each such Entity and the owners of each such Entity at all tiers:

- (i) name, percentage of ownership (and voting percentage, if different) of each individual, corporation, partnership, etc., which owns 5% or more of such Entity;
- (ii) if an individual, specify sex and race;
- (iii) if a corporation, list names, titles and addresses of all officers and directors; and
- (iv) if a partnership, list names and address of all partners.

For example:

If the ABC Corporation owns 49% of the ACDBE firm, please provide the information listed above with respect to ABC Corporation. If, in turn, XYZ Corporation owns 25% of ABC Corporation, please provide the information listed above with respect to XYZ Corporation.

If one or more owners is not a minority or a woman, list the contributions of money, equipment, real estate, or expertise of each of the owners. (Attached a separate sheet if necessary.)

11. Control of firm: Identify by name, race, sex, and title in the firm those individuals

(including owners and non-owners) who are responsible for day-today management and policy decision making including, but not limited, to, those with prime responsibility for:

- a. Financial decisions: _____

- b. Management decisions, such as;
 - (1) Estimating: _____
 - (2) Marketing and sales: _____
 - (3) Hiring and firing of management personnel: _____

 - (4) Purchase of major items or supplies: _____

- c. Supervision of field operations: _____

12. For each of those listed in number 11, provide a brief summary of the person's experience and number of years with the firms, indicating the person's qualifications for the responsibilities given him or her. (Attach a separate sheet if necessary.)

13. Describe or attach a copy of any stock options or other ownership options that are outstanding, and any agreements between owners or between owners and third parties which restrict ownership or control of the disadvantaged owners. (Attach a separate sheet if necessary.)

14. Identify any owner (see Item 10) or management official (see Item 11) of the named firm who is or has been an employee of another firm that has an ownership interest in or a present business relationship with the named firm. Present business relationships include shared space, equipment, financing, or employees as well as both firms having some of the same owners.

15. What are the gross receipts of the firm (including affiliates) for each of the last three years? Please give totals and identify separately gross receipts for each affiliate.

Year ending _____ Gross Receipts \$ _____
 Year ending _____ Gross Receipts \$ _____
 Year ending _____ Gross Receipts \$ _____

16. Name of bonding company, if any: _____

Bonding limit: _____

Source of letters of credit, if any: _____

17. Are you authorized to do business in the state as well as locally, including all necessary business licenses?

YES NO

Attach one copy of the operating license, if any.

18. Specify the major items of equipment owned and/or leased by the firm. (Provide an extra sheet if necessary)

Equipment Owned	Quantity	Equipment Leased	Name and Address of Owner

19. Has the firm ever been denied DBE/MBE/WBE certification?

Yes No Application Pending

If yes, name the certifying authority, date, and state circumstances of such certification or denial. (Attach additional pages if needed.) _____

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SAMPLE

AFFIDAVIT

"The undersigned swears that the foregoing statements are true and correct and include all material information necessary to identify and explain the operations of (name of firm) _____ as well as the ownership thereof. Further, the undersigned agrees to provide, through the prime contractor or, if no prime directly to the grantee, current, complete, and accurate information regarding actual work performed on the project, the payment therefore, and any proposed changes, if any, of the foregoing arrangements and to permit the audit and examination of books, records and files of the named firm. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal and State laws concerning false statements."

NOTE: If, after filing this Schedule A and before the work of this firm is completed on the contract covered by this regulation, there is any significant change in the information submitted, you must inform the grantee of the change through the prime contractor or, if no prime contractor, inform the grantee directly.

Name of Firm

Signature

Name

Title

Date

State of: _____

County of: _____

On this ____ day of _____, 20__, before me appeared (name) _____, as (office) _____ of (name of Firm) _____, who, being duly sworn, did execute the foregoing affidavit, and who is personally known by me or who presented (type of identification) _____.

(Seal)

Notary Public
Printed Name _____
My Commission Expires: _____