



BOZEMAN PARKING COMMISSION

RESOLUTION 2019-10

A RESOLUTION OF THE BOZEMAN PARKING COMMISSION OF THE CITY OF BOZEMAN, MONTANA, APPROVING THE SECOND AMENDMENT (#2) OF AN ‘AGREEMENT FOR THE USE OF PARKING SPACES IN THE BRIDGER DOWNTOWN INTERMODAL FACILITY’ EXTENDING THE DEADLINE FOR ISSUANCE OF A FINAL OCCUPANCY PERMIT TO APRIL 1, 2020; AND AUTHORIZING THE PARKING PROGRAM MANAGER TO SIGN THE AMENDMENT (#2).

WHEREAS, Montana Code Annotated 7-14-4621 sets out general powers of a parking commission; and,

WHEREAS, the Bozeman City Commission created and empowered the Bozeman Parking Commission pursuant to Resolution Numbers 1676, 1839, 3803, and 4577; and,

WHEREAS, Resolution Number 4577 provides the Bozeman Parking Commission “..*decision making authority regarding all policies, practices, and operations regarding parking enterprise assets such as the Bridger Park..*”(Except as limited by the same resolution); and,

NOW THEREFORE, BE IT FURTHER RESOLVED that the Bozeman Parking Commission approves the second amendment (#2) of an agreement between the City of Bozeman and Etha Hotel ‘*For the use of parking spaces in the Bridger Downtown Intermodal Facility*’ that extends the deadline for issuance of a final occupancy permit to April 1, 2020; and authorizes the Parking Program Manager to sign the same amendment (#2).

PASSED AND ADOPTED by the Parking Commission of the City of Bozeman, Montana, at a session held on the 21st day of November 2019. This resolution shall become effective immediately.

Jim Ness, Chairman

Bozeman Parking Commission

ATTEST:

Ed Meece, Parking Program Manager

City of Bozeman

AFTER RECORDING PLEASE RETURN TO:
Ed Meece
City of Bozeman Parking Manager
PO Box 1230
Bozeman, MT 59771-1230

AMENDMENT 2 – Agreement for the Use of Parking Spaces in the Bridger Park Downtown
Intermodal Facility
By The Etha Hotel, LLC

Whereas, the Bozeman Parking Commission (“Parking Commission”) and The Etha Hotel, LLC (“The Etha”) entered into an Agreement for the Use of Parking Spaces in the Bridger Park Downtown Intermodal Facility (the “Agreement”) on August 21, 2013 and recorded as document 2460146 in the records of the Gallatin County Clerk and Recorder; and

Whereas, the Parking Commission and The Etha desire to amend the Agreement as provided herein.

NOW THEREFORE, the Agreement between the parties dated August 21, 2013, is clarified and modified as follows:

1. The second paragraph of Section 2 of the Agreement is modified, as follows, with deleted language indicated by ~~strike through~~ and inserted language with underline:

“In addition, this Agreement shall terminate if a building permit is issued within two (2) years of the effective date of this agreement but a final occupancy permit is not issued by the City of Bozeman prior to April 1, 2020~~prior to December 1, 2019.~~”

The remainder of section 2 shall remain unaltered.

2. All other terms, conditions, covenants and provisions of the Lease Agreement dated August 21, 2013, shall remain in full force and effect.

This Addendum shall be recorded in the files of the Gallatin County Clerk and Recorder. All costs of recording shall be borne by The Etha.

Executed this ___ day of _____, 2019

The Etha Hotel, LLC, a Montana limited liability company:

By: _____ Date: _____

Cory Lawrence, managing member of Extea Hospitality, LLC, managing member of The Etha Hotel, LLC

STATE OF MONTANA)

: ss.

County of Gallatin)

This instrument was acknowledged before me on the ___ day of _____, 20__ by Cory Lawrence, as managing member of Etha Hospitality, LLC, The Etha Hotel LLC's managing member.

Notary Public for the State of Montana
Printed Name: _____
Residing in _____
My Commission Expires: _____

(SEAL)

The Etha Hotel LLC

October 16, 2019

Mr. Ed Meece
City of Bozeman Parking Manager
PO Box 1230
Bozeman, Montana 59771-1230

Subject: Request for Amendment 2 to the Agreement for the Use and Parking Spaces in the Bridger Park Downtown Intermodal Facility agreement

Dear Mr. Meece:

This letter is formal request for an amendment ("Amendment 2") to the Agreement for the Use and Parking Spaces in the Bridger Park Downtown Intermodal Facility ("Agreement") between The Etha Hotel LLC and the City of Bozeman.

Due to delays in the construction process for the Armory Hotel, we respectfully request an amendment to the Agreement to allow sufficient time to complete construction and, as is stipulated in the Agreement, secure a final occupancy permit. Currently, construction completion and the issuance of a final occupancy permit is estimated to be achieved by February, 2020. To account for unforeseen events which would serve to delay beyond this estimate, we are requesting the Agreement to be amended to allow for the issuance of a final occupancy permit by April 1, 2020.

Attached please find a copy of Amendment 1 to the Agreement. I have taken the liberty of adding two comments to this Amendment 1 to illustrate what would be required for the content of Amendment 2, as requested. I hope this helps to further clarify the amendment requested.

In all other respects, we would maintain the obligations and requirements associated with the Agreement.

Thank you in advance for your kind consideration. Please be in touch if you have any questions.

Respectfully,



Cory T. Lawrence
Co-Managing Member

Attachment: Proposed Amendment 2 Illustration