

District: **HERITAGE HARBOR COMMUNITY DEVELOPMENT DISTRICT**

Date of Meeting: Wednesday, January 15, 2020

Time: 6:30 PM

Location: Heritage Harbor Clubhouse
19502 Heritage Harbor Parkway
Lutz, Florida 33558

Dial-in Number: 712-775-7031
Guest Access Code: 109-516-380

Workshop Agenda

I. Call to Order

II. Business Matters

A. Discussion of Restaurant Lease Update

Exhibit 1

III. Adjournment

EXHIBIT 1

**SECOND AMENDMENT TO SUBLEASE AGREEMENT AND GOLF COURSE
CONCESSION**

This Second Amendment to Sublease Agreement and Golf Course Concession (the "Amendment") hereby modifies and amends that certain Sublease Agreement and Golf Course Concession by and between the Heritage Harbor Community Development District, a special purpose unit of local government (the "District") and Olympian Restaurant and Bar, Inc., a Florida Corporation, d/b/a Rocky's Sports Grill ("Rocky's"), dated January 7, 2008, as amended by the Amendment to the Sublease Agreement and Golf Course Concession dated October 1, 2010 (collectively, the "Sublease"), effective as of July 1, 2013.

Agreement

For and in consideration of the mutual covenants contained in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Renewal Term.** Rocky's remaining renewal option is hereby exercised, and the Renewal Term shall expire on December 31, 2016.

2. **Option Term.** Following the Renewal Term, Rocky's shall have the option to extend the term of the Sublease for two additional periods: (i) a four (4) year option term expiring on December 31, 2020 (the "**First Option Term**"), and (ii) a two (2) year option term expiring on December 31, 2022 (the "**Second Option Term**" and together referred to as the "**Option Term**"), provided Rocky's timely complies with the notice and other conditions required in Section 3 of the Sublease concerning the exercise of renewal options. During the First Option Term, the Percentage Rent payment terms shall remain unchanged. During the Second Option Term, the Percentage Rent rate shall be increased from five percent (5%) to seven percent (7%) and shall be otherwise payable as provided for in Section 5 of the Sublease.

3. **Base Rent.** Section 4 of the Sublease is hereby amended to read as follows:

4. Base Rent. Rocky's shall pay to the District as rent ("**Base Rent**") for the Premises the cash sum of \$78,000 per year, which shall be payable in advance on the 1st day of each month from and after the effective date of this Amendment, in the amount of \$6,500.00 (together with applicable sales tax) throughout the Renewal Term and the Option Term. Beginning January 1, 2017, the commencement date of the First Option Term (if exercised) (the "**2017 Adjustment Date**"), if the variable costs incurred by the District for the utilities listed on **Exhibit "7"** (the "**Variable Costs**") during the District's preceding fiscal year beginning October 1, 2015, and ending September 30, 2016 (the "**2016 Fiscal Year**"), exceed by five percent (5.0%) or more of the Variable Costs incurred by the District during the fiscal year which began on October 1, 2012 and ended on September 30, 2013 (the "**2013 Fiscal Year**"), the Base Rent shall be increased by five percent (5.0%). Subsequently, beginning January 1, 2021, the commencement date for the Second Option Term (if exercised), if no Base Rent adjustment occurred on the 2017 Adjustment Date and the Variable Costs for the District's preceding fiscal year beginning October 1, 2019 and ending September 30, 2020 (the "**2020 Fiscal Year**") exceed by five percent (5.0%) or more of the Variable Costs incurred during the 2013 Fiscal Year, the Base Rent



shall be increased by five percent (5.0%); provided, however, that upon the occurrence of a rent adjustment (increase) on the 2017 Adjustment Date, if the Variable Costs incurred by the District for the 2020 Fiscal Year exceed by five percent (5.0%) or more the Variable Costs incurred by the District during the 2016 Fiscal Year, then the Base Rent shall be increased by an additional five percent (5.0%). The annual Base Rent due under this Sublease shall not at any time be subject to a reduction. Rocky's shall pay all Base Rent and additional sums due under this Sublease to the District without demand, counterclaim, or set-off. All past due Base Rent, Additional Rent, and other sums of any kind past due hereunder shall, beginning thirty (30) days after the due date thereof, bear interest at the maximum lawful non-usurious rate per annum until paid (the "**Default Rate**"). [Base Rent and Additional Rent, defined below, are sometimes referred to herein, collectively, as "rent".]

4. **Hospitality Cart.** From and after July 1, 2013, the District shall have no further duty or obligation under the Sublease to provide Rocky's with a Hospitality Cart. Thereafter, Rocky's shall be solely responsible for acquiring, providing, operating, maintaining, repairing and replacing, as necessary, the Hospitality Cart required to service the Golf Course Concession pursuant to the terms of the Sublease. The Hospitality Cart shall at all times be maintained in good operating condition and in aesthetic condition comparable to and consistent with the District's golf carts and facilities. Upon request by Rocky's, the District's golf course staff shall provide maintenance services ("**Maintenance Services**") for Rocky's Hospitality Cart within their on-site capabilities, and Rocky's shall pay the District for such services within thirty (30) days after the services are billed. The cost for Maintenance Services on the Hospitality Cart shall be computed based on the District's existing labor rates, the cost of parts, a ten percent (10%) service charge on labor and parts, and applicable sales tax. Rocky's may also purchase fuel at the golf course gasoline pump facilities at the District's then existing per gallon fuel cost (the "**Fuel Cost**"). The Maintenance Services and Fuel Cost shall constitute Additional Rent and shall be subject to late charges, the Default Rate, and all other Sublease provisions applicable to payment of Additional Rent. Nothing in this section shall be construed to alter or amend any of Rocky's service obligations in connection with the Golf Cart Concession.

5. **Notice.** The addresses of the parties for notice purposes pursuant to Section 22 of the Sublease are hereby amended as follows:

If to the District—

Heritage Harbor Community Development District
Severn Trent Services, Inc.
2634 Cypress Ridge Blvd., Suite 102
Wesley Chapel, Florida 33544

With a copy to:
Straley & Robin
1510 W. Cleveland St.
Tampa, Florida 33606

If to Rocky's—

Olympian Restaurant and Bar, Inc.,
P.O. Box 290192
Tampa, Florida 33687

6. **Capitalized Terms.** All capitalized terms not otherwise defined in this Second Amendment shall have the meaning set forth in the Sublease.

7. **Conflicts.** Whenever possible, this Second Amendment, the First Amendment and the Sublease shall be construed as a single document. In the event of a Conflict, this Second Amendment shall be deemed controlling. Except as modified hereby, the Sublease shall remain in full force and effect.

8. **Ratification.** The undersigned parties hereby ratify and confirm all of the terms and conditions of the Sublease, as modified by this Second Amendment.

Executed on the ____ day of June, 2013.

Witnesses:

Rich Gordon

Signature

Rich Gordon

Print or type name

Robert Rossi

Signature

ROBERT ROSSI

Print or type name

Witnesses:

Samantha MEEK

Signature

SAMANTHA MEEK

Print or type name

Kathleen Costello

Signature

DISTRICT

Heritage Harbor Community Development
District

By:

DAVID PENZER

Print Name:

CHAIR, CDD

Title:

8/29/13

Date:

ROCKY'S

Olympian Restaurant and Bar, Inc.

By:

NICHOLAS KAROJIANIS

Print Name:

VICE PRESIDENT

Title:

Kathleen Costello
Print or type name

Date: 8/20/13

Handwritten initials 'SK' and a circled signature.

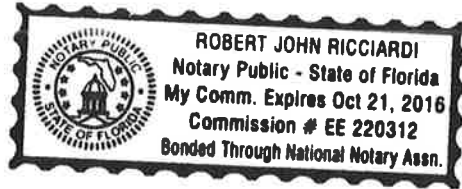
STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 20 day of AUGUST, 2013, by DAVID PENZER as CHAIRMAN of the Board of Supervisors of the Heritage Harbor Community Development District, on behalf of the District. He is personally known to me or _____ has produced _____ (type of identification) as identification.

Robert John Ricciardi
NOTARY PUBLIC

(Print, Type or Stamp Commissioned Name of Notary Public)



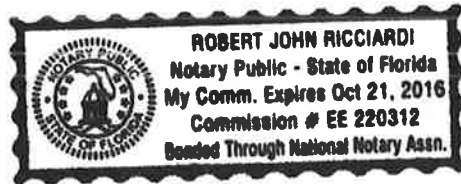
STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 20 day of AUGUST, 2013, by NICHOLAS KALOSIANNIS as VICE PRESIDENT of Olympian Restaurant and Bar, Inc., for and on behalf of the corporation. He is personally known to me or _____ has produced _____ (type of identification) as identification.

Robert John Ricciardi
NOTARY PUBLIC

(Print, Type or Stamp Commissioned Name of Notary Public)



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