

SIDEWALK LEASE AGREEMENT

This lease Agreement is made to September 1, 2009 between the City of Neptune Beach, a municipal corporation, as Lessor, and Caribbee Associates, LLC, a limited liability corporation, as lessee,

WITNESSETH:

1. Lessor leases to Lessee a portion of the Lessor's right-of-way, more particularly described and designated in Exhibit A attached hereto and incorporated hereto, contained in the sidewalk area immediately in front of and adjacent to the Lessee's business premises known as Caribbee Key.

2. This Lease Agreement and Lessee shall be governed by all terms and conditions contained in Section 27-479 of the Code of Ordinances of the City of Neptune Beach, Florida as enacted by Ordinance No. 2004-02. All terms and conditions contained in that section are incorporated herein and made a part hereof. A copy of Section 27-479 is attached hereto and marked as Exhibit B.

3. The term of this Lease Agreement shall be for a period of one (1) year from the above date.

4. This Lease Agreement may be renewed on the anniversary dates hereof for additional one (1) year periods, upon the mutual consent of Lessor and Lessee to said renewal, including any revisions, additions or deletions that are a part of said renewal. The renewal shall be agreed to no later than thirty (30) days prior to the expiration of the original term of this Lease Agreement. ~~and, in the event that no renewal is agreed to, this Lease Agreement shall be terminated~~ Or at the discretion of the city manager, it may be month to month until renewed by City Council.

5. The City Manager may revoke or suspend any outdoor dining permit associated with this Lease Agreement if it is found that:

a. Any necessary business or health permit has been suspended, revoked or cancelled;

b. The Lessee does not have insurance which is correct and effective in the minimum amount described in Section 27-479 (5);

c. Changing conditions of pedestrian or vehicular traffic cause congestion necessitating removal of the sidewalk dining;

d. Such decision shall be based upon findings of the City Manager that there is a danger to the health, safety or general welfare of pedestrians or vehicular traffic or the public in general;

e. The Lessee has failed to correct violations of Section 27-479, or conditions of this lease Agreement or dining permit; or

f. For any other reason that the City Manager deems necessary for the protection, health, safety and welfare of the public.

6. In the event of any such revocation or suspension by the City Manager, the Lessee shall have the right to initiate an appeal to the City Council by filing a written notice of appeal with the City Manager within ten (10) days of any such revocation or suspension.

7. The above revocation and suspension provisions are supplemental to the revocation provisions contained in Section 27-479 (d)(16).

8. Under this Lease Agreement, the Lessee is authorized to place nine (9) new tables in the designated outdoor dining area as described on the Exhibit A attached hereto. The Lessee shall assure the boundaries of the dining area are fixed so the area cannot be expanded. The fixed boundary must be approved by the City Manager. Failure to secure said boundaries, within ten (10) days of signing this lease will, in the sole discretion of the City Manager, result in the termination of the Lease.

9. Lessee shall not sublet the outdoor dining premises, nor any part thereof, nor assign this Lease Agreement.

10. All dining or other activities will cease no later than 12:00 a.m. each evening.

11. The Lessee further agrees as follows:

a. To pay Lessor, as rent for the described premises, the sum of \$411.23 per month for the full term of this Lease Agreement. Said payments shall be paid on the first day of each month commencing September 1, 2009 and continue throughout the term of this Lease Agreement. Failure on the part of the Lessee to pay the monthly payment by the tenth of each month will place the Lease in default and will be subject to a 10% late fee. The Lessor will not provide notices of payments due.

b. To be responsible for paying all taxes and fees required by local, state or federal law, including but not limited to sales taxes.

c. At its own expense, to remove and relocate, to a place designated by Lessor, the individually named bricks located within the described leased area and replace them with similar type bricks if needed.

d. To maintain and keep the described premises in good repair and a clean state at the Lessee's expense. The Lessor shall have the sole discretion, through the City Manager, to direct any necessary maintenance or repair to be required of and performed by the Lessee during the term of this Lease Agreement. Maintenance will include pressure washing of the outside dining area every six (6) weeks from April through September and at other times as

deemed needed by the City Manager. Maintenance also includes the daily trash pick-up along the sidewalk in front of the restaurant area to the edge of the street.

e. To leave the described premises, on termination of this Lease Agreement, in the same condition and state of repair as it was at the commencement of this Lease Agreement.

12. Upon termination of this Lease Agreement or upon revocation or suspension of any outdoor dining permit associated with this Lease Agreement, in the event the Lessee does not immediately, upon demand by the Lessor, remove all tables, chairs, fixtures and other accessories from the described area, the Lessor shall have the absolute right to enter the described area and remove all such items and dispose of said items in its sole discretion.

13. If any default by Lessee occurs, Lessor may eject ~~to~~ immediately terminate Lessee's right of possession under this Lease Agreement without notice to Lessee.

14. In the event of a default by the Lessee of any of the terms and conditions of this lease Agreement, including all incorporated terms and conditions hereof, the Lessor shall have the absolute right, with no notice to Lessee, to declare due all sums under this Lease Agreement and to accelerate and demand total payment thereof.

15. Upon any default by the Lessee, and in the event the Lessee does not immediately, upon demand by the Lessor, remove all tables, chairs, fixtures and other accessories from the described area, the Lessor shall have the absolute right to enter the described area and remove all such items and dispose of said items in its sole discretion.

16. The Lessee shall not be entitled to make any improvements or to add furnishings, tables, seats or other accessories to the described area without the consent of the Lessor.

17. In the event that any dispute arises concerning the terms of this Lease Agreement, this Lease Agreement shall be interpreted and governed by the laws of the State of Florida. In the event that any litigation is initiated relating to this Lease Agreement, venue for any such litigation shall be in Jacksonville, Duval County, Florida.

18. Lessor shall not be liable for any loss, damage or injury of any kind or character to any person or property arising from any use of the described leased area or improvements, or caused by any defect in any building, structure, equipment, facility, or other sidewalk or other improvement on the described leased area, or caused by or arising from any act or omission of lessee, or any of its agents or employees, licensees or invitees, or by or from any accident, fire or other casualty on the premises of the Lessee or the described leased area or occasioned by the failure of Lessee to maintain the premises in safe condition. Lessee waives all claims and demands on its behalf against Lessor for any loss, damage or injury, and agrees to indemnify and hold Lessor entirely free and harmless from all liability for any loss, damage, cost or injury of other persons, and from all costs, including attorney's fees, and expenses arising from any claims or demands of other persons concerning any loss, damage or injury caused other than by the negligent or intentional act or omission of Lessor.

19. Lessee expressly agrees to pay all expenses that Lessor may incur for reasonable attorney's fees and any and all other costs paid or incurred by Lessor for enforcing the terms and provisions of this Lease Agreement.

20. The City Manager, in consultation with the City Attorney, will be responsible for any needed interpretations of this Lease Agreement.

21. For the purposes of any interpretation of this Lease Agreement, this Lease Agreement shall be considered as having been authored, drawn and written by both Lessor and Lessee and, in the interpretation of this Lease Agreement, there shall be no presumption of vagueness, ambiguity or unfairness against the Lessor.

22. The parties hereto agree and understand that time is of the essence as to the performance of all terms and conditions of this Lease.

23. All notices, pursuant to this Lease Agreement, shall be sent to Lessor c/o James R. Jarboe, City Manager, City of Neptune Beach, 116 First Street, Neptune Beach, FL 32266 and to Lessee c/o John Brocato, Managing Member, Caribbee Associates, LLC 100 First Street, Neptune Beach, FL 32266.

Dated this _____ day of _____, 2009.

_____, James R. Jarboe,
City Manager, on behalf of City of Neptune Beach, Lessor

_____, Witness on behalf of the City
of Neptune Beach

_____, John Brocato
Managing Member, on behalf of Caribbee Associates, LLC, Lessee

_____, Witness
on behalf of Caribbee Associates LLC

Terry Klein

From: James Jarboe [jjarboe@neptune-beach.com]
Sent: Friday, July 10, 2009 11:57 AM
To: 'Terry Klein'
Subject: FW: Relay For Life 2010

From: Carpenter, Deborah L., R.N. [mailto:Carpenter.Debbie@mayo.edu]
Sent: Friday, July 10, 2009 11:33 AM
To: jjarboe@neptune-beach.com
Cc: tklein@neptune-.com; adrienne.veatch@cancer.org; bubble37@comcast.net; KLRW671@KW.com
Subject: Relay For Life 2010

Jimmy, we are getting ready for Relay 2010! First, I want to thank you and the City of Neptune Beach for your support of Relay 2009. The response from the community was great! Everyone was glad to be back at Jarboe!

Relay For Life 2010 will be April 17th starting at 1pm going through the night until 7am April 18th. We know that you will need a "certificate of insurance" which, of course, we are happy to provide, as the date gets closer.

As always, we will have music and entertainment throughout the day. The luminaria ceremony is usually at 9pm, after sunset. This is usually the last ceremony that we need sometime of music.

This year, I plan on showing movies after the luminaria ceremony. Using a blow up screen and showing "family" movies to entertain the "all nighters". This won't be an event that will be loud and bothersome to the surrounding homes.

I am happy to come to the council meeting when Relay For Life will be discussed, just let me know that date as soon as you have one, please. I know that most everyone is familiar with "Relay" since we were blessed to be at Jarboe Park last year, but I am happy to review our event and mission to the council again for any new members.

Also, for the American cancer Society, we need the address of City Hall and Jarboe Park.

Last year, The City of Neptune Beach secured the stage and bleachers for the event from the City Of Jacksonville at no charge to ACS. Would this be possible again this year? This was a HUGE savings for us, sending more money to ACS for research and patient services.

Thank you so much, again for what you helped us accomplish last year and in advance for what we are going to achieve in 2010. It takes backing from the community to make this event a success!

Deb Carpenter
Event Chair Relay For Life

1030 Buddy Crout Ln
Neptune Beach, Fl
32266
904-246-3102