



Rizzetta & Company

Fishhawk Community Development District III

**Board of Supervisors' Meeting
July 26, 2017**

**District Office:
9428 Camden Field Parkway
Riverview, Florida 33578
813-533-2950**

www.fishhawkcdd3.org

July 19, 2017

Board of Supervisors
Fishhawk Community
Development District III

WORKSHOP AGENDA

Dear Board Members:

The Continued Meeting of the Board of Supervisors of the Fishhawk Community Development District III will be held on **Wednesday, July 26, 2017, 6:00 p.m.** located at Fishhawk Ranch Tennis Club, 15921 Courtside View Drive, Lithia, Florida 33547. The following is the agenda for this meeting:

- 1. CALL TO ORDER/ROLL CALL**
- 2. AUDIENCE COMMENTS**
- 3. DISCUSSION OF TENNIS CONNECTION AGREEMENT Tab 1**
- 4. SUPERVISOR REQUESTS**
- 5. ADJOURNMENT**

We look forward to seeing you at the meeting. In the meantime, if you have any questions, please do not hesitate to call us at (813) 533-2950.

Sincerely,

Greg Cox

Greg Cox
District Manager

Tab 1

FISHHAWK TENNIS CENTER RECREATION PROGRAM AND AMENITY MANAGEMENT AGREEMENT

This Fishhawk Tennis Center Recreation Program and Amenity Management Agreement dated as of the 14th day of October, 2014 (the "**Agreement**") is entered into by and among **FISHHAWK COMMUNITY DEVELOPMENT DISTRICT III**, a local unit of special purpose government established pursuant to Chapter 190, Florida Statutes, located in Hillsborough County, Florida and with offices at 3434 Colwell Avenue, Suite 200, Tampa, Florida, 33614 (the "**District**"), and **STARLING FISHHAWK RANCH HOMEOWNER'S ASSOCIATION, INC.**, a Florida not for profit corporation, with offices at 5844 Old Pasco Road, Suite 100, Wesley Chapel, Florida, 33544 (the "**HOA**") and **THE TENNIS CONNECTION OF WEST FLORIDA, INC.**, whose address is P.O. Box 22743, Tampa, Florida 33622 ("**The Tennis Connection**").

RECITALS

- A. The HOA, operates certain recreational facilities owned by the Fishhawk Community Development III (the "**District**") located in the Fishhawk Community residential development located within the HOA, in Hillsborough County, Florida (the "**Community**"), which includes facilities such as tennis courts and pro shop for the use and benefit of the community's residents; and
- B. The District and the HOA desires to provide residents and nonresidents with access to recreational programs; and
- C. The Tennis Connection and its subcontractors offer tennis lessons, (group and individual), clinics, tournaments, and similar events, including but not limited to management of the courts and pro shop. The Tennis Connection has petitioned the District and HOA for permission to conduct such classes at the tennis courts in the HOA, as well as manage the pro shop (the "**Tennis Center**"); and
- D. The District and the HOA have approved The Tennis Connection's request to conduct the classes on the terms and conditions set forth below.

OPERATIVE PROVISIONS

The mutual covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, The Tennis Connection and the HOA covenant and agree as follows:

1. **License:** The District and the HOA hereby grants and conveys to The Tennis Connection a non-exclusive license to offer tennis lessons, (group and individual), clinics, tournaments, and similar events, for residents and non-residents at the Tennis Center and manage the pro shop. The District and the HOA reserve the right to allow other parties to offer lessons at the Tennis Center.

2. **Term:** The term of this License shall begin upon execution of this Agreement by all parties and end two years after such execution, and may be renewed by the parties. Either party may terminate this Agreement without cause with thirty (30) days written notice to the other party.

3. **Hours:** The Tennis Connection may conduct the classes in the area of the Tennis Center designated by the District or HOA for conducting classes during the days and times to be mutually agreed upon by the parties.

4. **Use of Tennis Center Facilities:** The Tennis Connection shall not have exclusive use of the Tennis Center Facilities. The Tennis Connection shall have exclusive use of the portion or area of the Tennis Center Facilities, during the days and times designated by the District or HOA for such purposes when they are conducting lessons.

5. **Maintenance of Tennis Center Facilities:** The HOA shall maintain the tennis courts in a clean and functionally safe working condition.

6. **Guest Play and Basis for Per Capita Payment to the District and HOA of Programming Fees:** The Tennis Center Facilities are owned by the District and provided as an amenity to the residents of the Fishhawk Community (documented residents of the Fishhawk Community Development District, Fishhawk Community Development District II, or Fishhawk Community Development District III (“**Resident Participants**”)). Guests of Resident Participants (except those paying annual fees for resident member status) shall be required to pay \$10.00 per day per person guest fees which will be collected by the Tennis Club manager and shall be remitted to the District on no less than a monthly basis. Activities sponsored by The Tennis Connection, such as tennis lessons, (group and individual), clinics, tournaments, and similar events, may be provided for Resident Participants and Non-Resident Participants. To offset a portion of the operating costs incurred by the District and HOA for the Tennis Center Facilities, The Tennis Connection shall pay the HOA ten (10%) of the gross amount of all revenue it receives from participation in its individual or group activities from Residents. To offset a portion of the operating costs incurred by the District and HOA for the use of the Tennis Center Facilities by Non Resident Participants who do not pay Operation and Maintenance payments to the Districts, The Tennis Connection shall pay the HOA twenty percent (20%) of the gross amount of all revenue it receives from participation in its individual activities from Non Resident Participants and The Tennis Connection shall pay the HOA a percentage of the gross amount of all revenue it receives from participation in its group activities from Non Resident Participants, based on the following sliding scale:

Percentage of Non Resident Participants	Percentage of Gross Revenue Due District
0% - 15%	20%
15%-30%	30%
30%-45%	40%
>45%	50%

7. **Tennis Club Manager:** The Tennis Connection and the District and HOA shall agree on the hiring of a individual to be the Tennis Club Manager. The Tennis Club Manager will have primary responsibility for 1) the scheduling and programming tennis related activities; 2) hiring, scheduling, screening and compensation of all professional instructors who shall not be or

become employees of the District or the HOA; 3) coordination and supervision of all maintenance activities at the Tennis Center and courts; 4) marketing of activities at the Tennis Center to the Community; 5) coordination of selection and sales of all Pro Shop merchandise, however, all merchandise and any other use of trademarks associated with the Community shall require approval of the trademark holder in advance of any use; 6) preparing and distributing monthly/bi-weekly CDD and HOA reports including but not limited to Sales Report, Debit Card Reimbursement, Petty Cash Reimbursement, Summary of Deposits, Time Sheets, Stringing Reports, Operations Report and other reports as requested by the CDD and HOA. The District and HOA shall agree on an amount of base compensation to the Tennis Club Manager and the HOA shall provide such funds for that purpose under its amenity management agreement with the District. The District shall be responsible for reimbursing the HOA for the actual costs associated with the management, staffing and operation not directly paid by the District to insure that such costs are reimbursed. Such reimbursements to the HOA shall be made in a similar fashion to the manner outlined in the true up provisions in the agreement between the HOA and the District, as well as Fishhawk Community Development District, Fishhawk Community Development District II, however, only the District will reimburse such costs associated with the Tennis Center.

8. Tennis Center Pro Shop: The Tennis Connection shall split the Tennis Pro Shop profits on the basis of 50% of all profits going to the District or HOA (or their designee) and 50% of all profits going to the Tennis Connection, including, but not limited to, amounts received from ball machine rental and racket stringing services. Where racket stringing services are provided by a member of the HOA staff, such staff member will be paid five dollars (\$5.00) directly by the Tennis Connection for such work. The District or the HOA shall have responsibility for non-routine maintenance of the ball machine.

9. Tennis Center Facilities: The Tennis Connection acknowledges that the Tennis Center Facilities are community Tennis Center Facilities that are open at all times to use by members of the community, and agrees to abide by the District and HOA's rules and regulations governing use of the Tennis Center Facilities.

10. Participant List: The Tennis Connection shall provide the District and HOA with a list of participants at the beginning of each new class identifying those participants who are Resident Participants and Non-resident Participants. The majority of the participants in any class (50% + 1) are required to be Resident Participants. The Tennis Connection acknowledges that the District is a local unit of special purpose government established pursuant to Chapter, 190, Florida Statutes, and that all records of the District are public records in accordance with Chapter 119, Florida Statutes and will be available for inspection by the public.

11. Registration Priority, Discounts and Non Resident Use of the Tennis Center Facilities: The Tennis Connection shall only allow participants enrolled in a class to use the Tennis Center Facilities during lessons.

12. Wavier of Liability: The Tennis Connection agrees to provide the District and the HOA a completed wavier of liability provided by the District and HOA signed by the participants, or the parent or legal guardian of a minor child, prior to the start of any classes.

13. Background Screening: The Tennis Connection shall provide the District and HOA with evidence of a Level I background screening pursuant to Chapter 435, Florida Statutes (the

“**Screening**”) for all staff conducting lessons at the Tennis Center Facilities, and shall update the Screening upon request. If the Screening reveals any information which causes the District or HOA to determine in its sole discretion that The Tennis Connection is unsuitable or unqualified to perform this Agreement, the District or HOA reserves the right to terminate this Agreement immediately.

14. Instructor Certifications: The Tennis Connection agrees that all instructors that conduct classes at the Tennis Center Facilities shall be certified by an independent, reputable organization in teaching such classes and shall provide the District and HOA with copies of certifications upon start date of classes. The Tennis Connection shall abide by all applicable laws at all times, and The Tennis Connection shall obtain all necessary permits and licenses for conducting the classes.

15. Insurance and Indemnity: Prior to beginning any classes, The Tennis Connection shall acquire and maintain general commercial liability insurance coverage acceptable to the District and HOA in an amount not less than \$1,000,000, per occurrence, which shall include coverage for all claims and losses that may relate in any manner whatsoever to The Tennis Connection's (or subcontractors of The Tennis Connection) use of the Tennis Center Facilities. The Tennis Connection shall provide continuous proof of such insurance coverage to the District and HOA. Such proof shall include the District and HOA as a named insured. The Tennis Connection agrees to indemnify and hold the District and HOA harmless from and against any and all claims, demands, losses, damages, liabilities, and expenses, and all suits, actions and judicial decrees (including, without limitation, costs and reasonable attorneys' fees for the District's and HOA's legal counsel), arising from personal injury, death, or property damage resulting in any manner whatsoever from The Tennis Connection 's (or subcontractors of The Tennis Connection) use of the Tennis Center Facilities by its employees, agents or invitees. It is expressly understood and agreed that The Tennis Connection does not agree to indemnify or hold the District and HOA harmless from and against any claims, demands, losses, damages, liabilities, expenses, suits, actions or judicial decrees (including, without limitation, costs and reasonable attorneys' fees) for personal injury, death or property damage resulting in any manner whatsoever from the acts, inactions or conduct, whether negligent, intentional or unintentional, of the District or HOA, its agents, servants or employees, including, but not limited to, claims, demands, losses, damages, liabilities, expenses, suits or actions arising from, or as a result of, the District's or HOA's failure to maintain the Tennis Center Facilities in a reasonably safe condition, and the District's or HOA's failure to warn of hidden, latent and/or unknown conditions at the Tennis Center Facilities.

16. Notices: Any notice, request, demand or other communication ("**Notice**") given by either party to the other shall be deemed to have been properly sent or given when delivered by hand or when sent by certified mail, return receipt requested, or by overnight courier service. If to The Tennis Connection of West Florida, Inc., P.O. Box 22743, Tampa, Florida 33622. If to the District, Fishhawk Community Development HOA III, c/o Rizzetta & Company, Inc., 3434 Colwell Avenue, Suite 200, Tampa, Florida 33614, Attn. District Manager with a copy to Biff Craine, Esq., 4830 West Kennedy Boulevard, Suite 475, Tampa, Florida 33609. If to the Starling Fishhawk Ranch Homeowner's Association, Inc., a Florida not for profit corporation, 5844 Old Pasco Road, Suite 100, Wesley Chapel, Florida, 33544, Attn. Community Association Manager.

17. **Attorney's Fees:** It is mutually agreed and understood that in the event it becomes necessary for either of the parties to enforce this agreement through an attorney, that the non-prevailing party agrees to pay all costs, including reasonable attorney's fees, whether collected by suit or otherwise to the prevailing party.

18. **Severability:** If any provision of this agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limit in such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

19. **No Transfer:** The License shall be for sole and exclusive use of The Tennis Connection and shall not be assigned or transferred without the prior written consent of the HOA. A transfer or assignment of all or any part of the License shall cause the License to become voidable, at the sole option of the HOA.

20. **Entire Agreement:** This is the entire agreement of the parties and may not be altered or amended except in a writing signed by both parties.

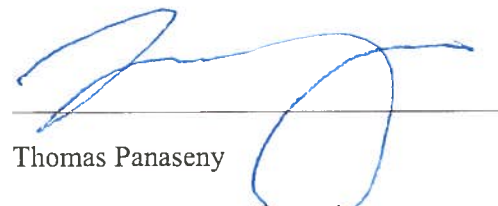
In witness whereof, the parties have executed this instrument for the purposes herein expressed, the day and year written below.

Attest:


Secretary/Assistant Secretary


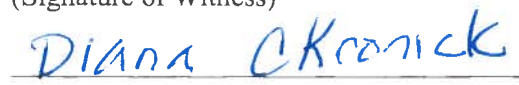
FISHHAWK COMMUNITY

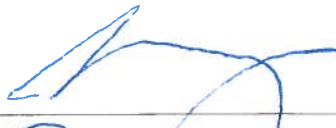
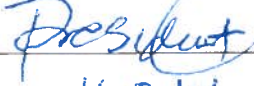
DEVELOPMENT DISTRICT III


Thomas Panaseny
Chairman, Board of Supervisors

**STARLING FISHHAWK RANCH
HOMEOWNER'S ASSOCIATION, INC.**

a Florida corporation


(Signature of Witness)

(Print Name of Witness)

By: 
Its: 
Date: 11.5.14

{Signatures Continued on Following Page}

The Tennis Connection of West
Florida, Inc.

By: DAF

Name: DAVID A. FREIMAN
(Printed)

Title: PRESIDENT, THE TENNIS CONNECTION OF WEST FLORIDA, INC

Date: 11-5-2014