

Gift Agreement for Prominent Naming Rights

This Gift Agreement for Prominent Naming Rights (“Agreement”), effective this ____ day of (“Effective Date”)_____, is made and entered into by and between Rotary Club of Brooksville, Inc., a Florida not for profit corporation, whose address is 4287 Bellaire Drive, Spring Hill, Florida 34607 and the Rotary Club of Brooksville Charitable Trust, Inc., a Florida not for profit corporation (collectively hereinafter referred to as the “Donor”), whose address is 4287 Bellaire Drive, Spring Hill, FL 34607 and Hernando County, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing body thereof (hereinafter referred to as the “County”), whose address is 15470 Flight Path Drive, Brooksville, FL 34604.

RECITALS

WHEREAS, Donor wishes to make a charitable gift to the County for the use and benefit of the County as set forth in this Agreement; and

WHEREAS, County desires to accept such gift, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the charitable gift, the mutual covenants, promises and representations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to the following terms and conditions:

AGREEMENT

1. **Gift.** Donor hereby pledges to the County for the use and benefit of the County the following: One Hundred Thousand Dollars (\$100,000.00) (“Gift”).

2. **Payment of the Gift.** The Gift is an irrevocable pledge that will be paid to County over a period of four (4) installments. Payments in support of this pledge will be made in accordance with the following schedule:

Payment Due (on or within ten (10) business days after)	Payment Amount
Board Approval/Acceptance	\$25,000
Splash Park Groundbreaking	\$25,000
Completion of Rough Trades (Plumbing)	\$25,000
Final Completion/Acceptance from Contractor	\$25,000

Donor may accelerate the payment of any or all of this pledge at any time in Donor’s discretion so long as the cumulative total of all gift payments meets the foregoing schedule. Payments shall be paid by Donor to County via check payable to the Hernando County Board of County Commissioners or other methods acceptable to Donor and County.

Use of the Gift; Repayment in the Event of Project Termination. The Gift shall be used for the design, construction, and completion of a public splash park located at Anderson Snow Park, 1360 Anderson Snow Road, Brooksville, FL 34604 in Hernando County (the “Splash Park”). In the event, at any point during the Term of this Agreement, County decides not to proceed with completion of the Splash Park, County shall repay to Donor any payments it has received from Donor under this Agreement within thirty (30) days of date County determines not to proceed with the Splash Park.

3. **Acknowledgment.** In consideration for the Gift, the County will acknowledge the Gift by naming the Splash Park the “Rotary Splash Park” and installing an official Rotary Wheel (or Wheels) that

shall be prominently displayed at the entry points to the Splash Park (the “Naming” or the “Named Facility”). Before the Naming and Rotary Wheel(s) installation, Donor shall be current with pledge payments. After the Naming is erected or installed, Donor will continue pledge payments in accordance with the foregoing schedule and make the final payment prior to any naming publicity or event(s). Subject to the terms of this Agreement, the Naming will last for the useful life of the Named Facility.

4. **Termination of Naming.** In addition to any rights and remedies available at law, the County may terminate this Agreement and all rights and benefits of the Donor hereunder, including terminating the Naming:

a. In the event of any default in payment of the Gift as provided in this Agreement,
or

b. In the unlikely event the County determines in its reasonable and good faith opinion that circumstances have changed such that the Naming chosen by the Donor would adversely impact the reputation or image of the County of a continued association with Donor and the continuation of the Naming provided for herein.

Upon any such termination of this Agreement and/or the Naming hereunder, the County shall have no further obligation or liability to Donor and shall not be required to return any portion of the Gift already paid. The County, however, may determine an alternative recognition for the portion of the Gift already received, upon approval by the Donor, which approval shall not be unreasonably withheld.

5. **Modification of Naming.** If during the useful life of the Named Facility, the Named Facility is transferred or conveyed from County, closed, deconstructed, destroyed, or severely damaged, significantly renovated, upgraded, or modified; relocated, or replaced, then the Naming will cease. In such event, however, the Donor, if available, and in consultation with and as mutually agreed by County, will have the right, for no additional payment, to have another available and equivalent County facility named after the Donor.

6. **Publicity.** For purposes of publicizing the Gift and the Naming, County will have the right, without charge, to photograph the Donor and use the names, likenesses, and images of the Donor in photographic, audiovisual, digital, or any other form of medium (the “Media Materials”) and to use, reproduce, distribute, exhibit, and publish the Media Materials in any manner, in whole or in part, including in brochures, website postings, informational and marketing materials, reports and publications describing County’s development and business activities.

7. **Hold Harmless.** To the extent permitted by law, each party agrees to hold the other harmless from any and all claims, actions or suits which might arise out of its own neglect or default of this Agreement. The foregoing is not intended, and shall not be construed, as a waiver by either party of the benefits of Section 768.28, *Florida Statutes* as it may be amended from time to time.

8. **Notice.** All notices, demands, and other writings required under this Agreement shall be deemed to have been fully given or made or sent when (i) mailed in writing and deposited in the United States Mail, postage pre-paid, and addressed to the parties at the addresses noted below or (ii) delivered by nationally recognized courier, receipt of recipient acknowledged by signature. Any notice or disclosures required under this Agreement and any changes to addresses shall be made in accordance with this notice provision. Notices shall be sent to:

HERNANDO COUNTY

ROTARY CLUB OF BROOKSVILLE

Hernando County
Board of County Commissioners

Liz Casner
President

15470 Flight Path Drive
Brooksville, Florida 34601

PO Box 701
Brooksville, Florida 34601

9. **Assignment.** This Agreement and the rights and benefits hereunder may not be assigned by either party without the prior written consent of the other party, which consent shall be in the sole and absolute discretion of the non-assigning party.

10. **Entire Agreement/Modification/Amendment.** This Agreement constitutes the entire agreement of the parties with regard to the matters referred to herein, and supersedes all prior oral and written agreements, if any, of the parties in respect hereto. This Agreement may not be modified or amended except by written agreement executed by both parties hereto. The captions inserted in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement, or any provision hereof, nor in any way affect the interpretation of this Agreement.

11. **Governing Law and Venue.** The parties agree that the laws of the State of Florida shall govern any dispute arising out of or related to this Agreement. Venue for any dispute, claim or action arising out of, or related to, this Agreement shall be in the Circuit Court of the Fifth Judicial Circuit in and for Hernando County, Florida. Any legal proceeding brought in connection with disputes relating to or arising out of this Agreement will be filed and heard in Hernando County, Florida, and each party waives any objection that it might raise to such venue and any right it may have to claim that such venue is inconvenient. Litigation in federal court is precluded by agreement of the parties hereto. Process in any action or proceeding referred to in this paragraph may be served on any party anywhere in the world. Each party hereto agrees to bear their own attorney fees and costs in the event of any dispute. To the extent permitted by law, the parties in this Agreement agree to and do waive trial by jury in any action, proceeding, or counterclaim brought by either of the parties against the other on any matters whatsoever arising out of or in any way connected with this Agreement.

12. **Waiver.** No waiver or estoppel as to or against any party shall result from any failure to exercise or enforce any right or power hereunder, save only to the extent necessarily implied as to the particular matter directly concerned and then only for the time being with respect thereto, and not in any way as to the future or as to any other matter.

13. **Binding Effect.** This Agreement shall be binding upon the respective, successors, administrators, executors, heirs and assigns of the parties hereto.

14. **General.** Other than the covenants and performance contemplated herein, neither party has made promises, representations or warranties. It is expressly acknowledged and agreed that the terms and provisions of this Agreement are for the benefit of the parties hereto. Time shall be of the essence of this Agreement. Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this Agreement.

15. **Validity And Severability.** It is declared to be the intent of the parties to this Agreement that, if any section, subsection, clause, sentence, phrase, term, condition, or provision of this Agreement is for any reason held unconstitutional, invalid, or unenforceable, the invalidity, unconstitutionality, or unenforceability thereof shall not affect the validity of the remaining portions. In the event any one or more of the provisions contained in this Agreement is for any reason held invalid, illegal, or unenforceable in any respect, this Agreement will be construed as if the invalid, illegal or unenforceable provision had never been contained herein and each term provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16. **Joint Preparation.** The preparation of this Agreement has been a joint effort of the parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

17. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same instrument.

18. **County Approval.** This Agreement along with the recognition and naming provided for herein are subject to the approval of the Hernando County Board of County Commissioners and this Agreement will not be effective unless and until approved by the Hernando County Board of County Commissioners.

IN WITNESS WHEREOF, the parties hereunto have caused the execution by their duly authorized officials on the dates indicated below.

HERNANDO COUNTY, FLORIDA

ROTARY CLUB OF BROOKSVILLE, INC.

Signature

Signature

Steve Champion
Chairman, Hernando County Board
of County Commissioners

Liz Casner
President

Attested: _____
Douglas A. Chorvat, Jr.
Clerk of Circuit Court

Date

Date

ROTARY CLUB OF BROOKSVILLE
CHARITABLE TRUST, INC.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Signature

BY Victoria Anderson
County Attorney's Office

Liz Casner
President

Date