

Gift Agreement

This Gift Agreement (“Agreement”), effective as of January, 2017 (“Effective Date”), is made and entered into by and between Friends of the Morgan Hill Senior Center, whose address is 830 Claremont Dr (“Donor”) and the City of Morgan Hill (the “City”) for the use and benefit of the Centennial Recreation Senior Center (“CRC Senior Center”). Based upon the Recitals below, and in consideration of the mutual promises and benefits hereunder, the parties hereto hereby agree as follows:

RECITALS

Donor wishes to make a charitable gift to the MHCF Morgan Hill Senior Support Fund for the future use by the City of Morgan Hill for the benefit of the CRC Senior Center as set forth in this Agreement.

The City of Morgan Hill desires to accept such gift, subject to the terms and conditions set forth in this Agreement.

AGREEMENT

1. **Gift.** Donor hereby pledges to the MHCF Morgan Hill Senior Support Fund for the use and benefit of the CRC Senior Center the following gift: \$40,000 (“Gift”).
2. **Payment of the Gift.** The Gift is an irrevocable pledge that will be paid to MHCF Morgan Hill Senior Support Fund over a period of One (1) year(s). Payments in support of this pledge will begin immediately upon the execution of this Agreement with a payment of \$40,000.

Amount of payment by Donor

Due Date

\$ 40,000

January, 2017

Donor may accelerate the payment of any or all of this pledge at any time at Donor’s discretion so long as the cumulative total of all gift payments meets the foregoing schedule. Payments shall be paid by Donor to MHCF Morgan Hill Senior Support Fund via check, electronic funds transfer, or other methods acceptable to Donor, MHCF Morgan Hill Senior Support Fund and the City of Morgan Hill.

3. **Use of the Gift.** The Gift shall be used for the specific purpose of growing an endowment to support the ongoing operations of the CRC Senior Center.
4. **Acknowledgment.** In consideration for the Gift, the City of Morgan Hill will acknowledge the Gift by naming the Giving Tree (*at the Centennial Recreation Senior Center*), by naming it *the Friends of the Morgan Hill Senior Center Giving Tree* (“Naming”). Before the Naming is erected, “The Friends” shall demonstrate reasonable and timely pledge payments. After the Naming is affixed, Donor will continue pledge payments in accordance with the foregoing schedule. Subject to the terms of this Agreement, the Naming will last for the useful life of the Facility.
5. **Termination of Naming.** In addition to any rights and remedies available at law, the City of Morgan Hill 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 City of Morgan Hill 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, image, mission or integrity of the City, in the event 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 City shall have no further obligation or liability to Donor and shall not be required to return any portion of the Gift already paid. The City, however, may in its sole and absolute discretion determine an alternative recognition for the portion of the Gift already received.

6. **Modification of Naming.** If during the useful life of the Facility, the Facility is transferred or conveyed from the CRC Senior Center, 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 the City, will have the right, for no additional payment, to have another available and equivalent facility named after the Donor.
7. **Publicity**
- For purposes of publicizing the Gift and the Naming, the City 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 and in whole or in part, including in brochures, website postings, informational and marketing materials, and reports and publications describing the City's development and business activities.
8. **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.
9. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with regard to the matters referred to herein, and supersedes all prior oral and written agreement, 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, or in any way affect the interpretation of this Agreement.
10. **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of California without regard to any conflict of laws rule or principle that might refer the governance or construction of this Agreement to the laws of another jurisdiction. Subject to the sovereign immunity of the State of California, any legal proceeding brought in connection with disputes relating to or arising out of this Agreement will be filed and heard in Santa Clara County, California, 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.
11. **City Approval.** This Agreement and the recognition and naming provided for herein are subject to the approval by the City and this Agreement will not be effective unless and until approved by the City.

ACCEPTED AND AGREED TO:

City of Morgan Hill
City Manager

By: _____

By: _____

Name:

Name: _____

Title: _____