

**LICENSE AGREEMENT BETWEEN THE VERO BEACH ROTARY CHARITIES
FOUNDATION, INC. AND INDIAN RIVER COUNTY FOR USE OF THE VICTOR HART
SENIOR COMMUNITY ENHANCEMENT COMPLEX**

This License Agreement (the “**Agreement**”) dated this ____ day of _____, 2024, between The Vero Beach Rotary Charities Foundation, Inc., a Florida not-for-profit corporation, whose address is 570 Beachland Boulevard, Vero Beach, Florida 32963 (“**Vero Beach Rotary**”), and Indian River County, a political subdivision of the State of Florida, whose address is 1801 27th Street, Vero Beach, Florida 32960 (“**County**”), as of the date set forth below as the effective date.

WHEREAS, County owns and operates the Victor Hart Senior Community Enhancement Complex, which is home to the Gifford Aquatic Center and is located at 4715 43rd Avenue, Vero Beach, Florida 32967 (the “**Complex**”); and

WHEREAS, on December 2, 2023, Vero Beach Rotary held its First Annual Kids Triathlon at the Complex as a public benefit to promote physical wellbeing and instill a love for running, bicycling, and swimming to children in the community; and

WHEREAS, Vero Beach Rotary wishes to hold its Second Annual Kids Triathlon, which has an expected participation of approximately 300 children, on December 7, 2024, at the Complex; and

WHEREAS, Vero Beach Rotary wishes to reserve the Complex as a location for future Kids Triathlons; and

WHEREAS, the parties desire to memorialize the Agreement for use of the Complex for the mutual benefit of the parties.

Accordingly, the parties agree as follows:

1. **Recitals.** The recitals set forth above are true and correct and incorporated by reference herein.

2. **Subject Matter Performance.** Subject to the provisions of this Agreement, Vero Beach Rotary shall pay an annual licensing fee to County, and County shall reserve the Complex for Vero Beach Rotary’s annual Kids Triathlon.

3. **Term.** This Agreement’s term begins following the full execution of this Agreement and ends on December 31, 2026 (the “**Term**”), unless sooner terminated or revoked.

4. **Fee.** The annual fee for reserving the Complex for the Kids Triathlon is \$318.75 per year. With respect to each year of the Term, Vero Beach Rotary shall pay County thirty days prior to the date of the Kids Triathlon for that particular year.

5. **Use, Operations, and Management.**

(a) **Description of Use.** County shall reserve the Complex for the use of Vero Beach Rotary for hosting its Kids Triathlon during the first Saturday in December for the years 2024, 2025, and 2026. This reservation of use includes using the Gifford Aquatic Center pool for the swim portion of the triathlon and the Complex's park for the running and biking portions of the triathlon, as more particularly shown on the triathlon course maps (Exhibit "A").

(b) **Limitations of Use.** Vero Beach Rotary shall use the Complex only for the purpose and duration of hosting its Kids Triathlon. Vero Beach Rotary shall not use, or permit the use of, the Complex or any part thereof in any manner that would violate any of the provisions of this Agreement, be dangerous to persons or property, or adversely affect other uses of the Complex.

(c) **Lifeguards.** During the course of the Kids Triathlon, County shall supply sufficient lifeguards and any additional Aquatic Division Staff necessary for the safe and efficient operation of the Giffard Aquatic Center during the swim portions of the triathlon.

(d) **Operating and Management Obligations.** During the Kids Triathlon, Vero Beach Rotary shall be responsible for

i. supplying all equipment, including tents, tables, and chairs, sufficient for registration or other administrative duties necessitated by the Kids Triathlon;

ii. setting up and breaking down of all tents, tables, chairs, decorations, signage, and/or other equipment used for and during the Kids Triathlon; and

iii. coordinating with Indian River County Sheriff's Office and Indian River County Fire Rescue for Maintenance of Traffic, Advanced Life Support, and any other safety personnel required for the Kids Triathlon.

6. **Swim Clinics.** Each year during the Term, County shall cause its Aquatics Division Staff to host free swim clinics to help children participating in the Kids Triathlon learn the basics of swimming and improve swimming techniques ("**Swim Clinic**"). The Swim Clinics shall be held on Sundays from August 24, 2024, through December 1, 2024. The dates for Swim Clinics will be coordinated between County and Vero Beach Rotary.

7. **Participation Notice.** In order to supply sufficient lifeguards and other Aquatics Division Staff for the swim portion of the Kids Triathlon, Vero Beach Rotary shall provide County with a good faith estimate of the number of participants 14 days in advance of the date of the Kids Triathlon.

8. **Insurance.** Not less than 30 days prior to the Kids Triathlon, Vero Beach Rotary must supply proof of liability insurance to County, attention Risk Manager. The coverage provided must include a minimum coverage amount of Five Million Dollars (\$5,000,000) for general liability and Five Hundred Thousand Dollars (\$500,000) for auto liability. Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A-Class VIII or better. All required policies must name County as an "Additional Insured."

9. **Laws, Rules and Regulations.** Vero Beach Rotary shall comply with all federal, state, and local laws, regulations, and ordinances, whether now in force or hereafter enacted, pertaining to its use of the Complex. If any governmental license or permit is required for the proper and lawful conduct of Vero Beach Rotary pursuant to this Agreement, Vero Beach Rotary shall, at its sole cost and expense, duly procure and maintain such license or permit and comply with the terms and conditions of each such license or permit.

10. **Indemnification.**

(a) **Vero Beach Rotary Indemnification Obligations.** Vero Beach Rotary assumes all risks. To the extent not arising or resulting from the sole negligence or willful misconduct of County, its employees, or its agents, Vero Beach Rotary hereby agrees to indemnify, defend, and hold harmless County, its officers, directors, employees, affiliates, and agents, from and against any and all demands, claims, causes of action, fines, penalties, damages, liabilities, accidents or injuries to person(s) or property, judgments, and expenses, including, without limitation, reasonable attorneys' fees, incurred in connection with or arising from

i. the use or occupancy of the Complex, as granted in this Agreement, by Vero Beach Rotary, its visitors, agents, and employees, or any person claiming under Vero Beach Rotary;

ii. any acts or omissions of Vero Beach Rotary, its visitors, agents, and employees, or any person claiming under Vero Beach Rotary; and

iii. any breach, violation, or non-performance by Vero Beach Rotary, its visitors, agents, and employees, or any person claiming under Vero Beach Rotary, of any provision of this Agreement or any law, ordinance, or governmental requirement of any kind.

If any action or proceeding is brought against County by reason of any such claim for which Vero Beach Rotary has indemnified (or is required to indemnify) County, Vero Beach Rotary, upon notice from County, shall defend the same at Vero Beach Rotary's expense with counsel satisfactory to County in its reasonable discretion.

(b) **Waiver of Claims.** To the extent not arising or resulting from the sole negligence or willful misconduct of County, Vero Beach Rotary hereby releases all claims for, damages to, or loss of personal property sustained by Vero Beach Rotary, its visitors, agents, and employees, or any person claiming under Vero Beach Rotary, resulting from any fire, accident, occurrence, theft, or condition in or upon the Complex and its facilities, or of adjoining or contiguous property, facilities, or buildings.

(c) **Indemnification Term.** The indemnity provisions contained in this Section shall survive the expiration or earlier termination of this Agreement to the extent that any such demands, claims, causes of action, fines, penalties, damages, liabilities, judgments and expenses relate to events or circumstances which occurred or existed during the Term.

11. **Cancellation.** This Agreement is subject to cancellation by either Vero Beach Rotary or County, provided written notification is received by the non-cancelling party sixty days prior to the Kids Triathlon, without penalty or obligation on the part of the cancelling party.

12. **Disclaimers.**

(a) **No Warranties or Guarantees.** Except as explicitly set forth in this Agreement, County makes no warranties or guarantees upon which Vero Beach Rotary may rely, and assumes no liability or obligation to Vero Beach Rotary, by providing any waiver, approval, consent or suggestion to Vero Beach Rotary in connection with this Agreement.

(b) **Facility Disclaimer.** County shall have no liability or obligation whatsoever to perform or pay for any improvements, alterations, or repairs in connection with the Kids Triathlon. County assumes no responsibility for circumstances that may require the closing of the Complex due to conditions that would render it unfit for public usage due to inclement weather, state health department or other regulatory agencies' requirements. In the event of such occurrence, it is the responsibility of Vero Beach Rotary to obtain alternative facilities and County would refund any fees for unused full days only (no partial day refunds), and thereupon County shall have no further liability to Vero Beach Rotary in this regard.

13. **Governing Law.** The laws of the State of Florida shall govern this Agreement and any and all legal action instituted because of this Agreement shall be instituted in Indian River County for all court matters, and in the Southern District of Florida for all federal court matters.

14. **Entirety of Agreement.** This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings of the

matters contained herein and the parties agree that there are no commitments, or understandings of any nature whatsoever concerning the subject matter of this Agreement that are not contained in this Agreement. No supplement, modifications, or amendment to this Agreement will be binding unless signed in writing by County and Vero Beach Rotary.

15. **Severability.** In the event any of the provisions of this Agreement are deemed to be unenforceable, the remaining provisions of this Agreement shall not be affected.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers on this _____ day of _____, 2024.

VERO BEACH ROTARY
CHARITIES FOUNDATION, INC.:

BOARD OF COUNTY COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA

By: _____
Vero Beach Rotary

By: _____
Susan Adams, Chairman

Its: _____

Date Signed: _____

Approved: _____

ATTEST:

Approved:

By: _____
Deputy Clerk

County Administrator

Approved as to form
and legal sufficiency: _____

William K. De Braal
Deputy County Attorney