

NAMING RIGHTS AGREEMENT

This agreement is made as of _____ ("Effective Date") by and between Good Shepherd Health Care System ("GSHCS") and the City of Hermiston, Oregon ("City"), an Oregon municipal corporation.

WHEREAS, City in partnership with the Hermiston Pickleball Group is constructing and will own the pickleball Complex ("Complex") and related facilities more particularly described below. The Complex is located at Theater Sports Park in Hermiston, Oregon, which is owned by the City.

WHEREAS, City has the authority to name park facilities pursuant to its Policy for Naming/Renaming City Facilities and Parks including Commercial Naming Rights.

WHEREAS, pursuant to the Naming Rights Policy, City has the authority to grant commercial naming rights, advertising rights and promotional rights with respect to the Complex, provided the naming, advertising and promotional rights are not inconsistent with the laws of United States, the State of Oregon, the Hermiston Charter, the Hermiston Municipal Code and the Naming Rights Policy.

WHEREAS, GSHCS donated a substantial amount to the construction of the Complex through the Hermiston Pickleball Group with the understanding that GSHCS have the right to name the Complex and the rights to conduct advertising and promotional activities in connection with the Complex as well as the other promotional rights and benefits described in this Agreement.

NOW, THEREFORE, the parties agree as follows:

Section 1. Complex

- A. The Complex will be a state-of-the-art multi-purpose pickleball facility as generally depicted on the Site Plan, attached as Exhibit A, including the following elements:
 - Pickleball Courts.
 - Fencing.
 - Parking and outdoor landscaped areas.
- B. City shall continue to own, operate, and maintain the Complex.
- C. City acknowledges the importance of GSHCS connection with the Complex to GSHCS' public image and business reputation. City shall maintain its policy of non-discrimination, facility use regulations, and maintenance standards, which shall reflect favorably on GSHCS' public image, goodwill, and business reputation.
- D. GSHCS shall not bear responsibility for the maintenance or operation of the Complex.

Section 2. Naming Rights Fee

- A. Fees. GSHCS shall donate \$100,000 for the completion of the Complex.
- B. Due Date. March 1, 2025.
- C. Payments. GSHCS to mail payment to:

Greater Hermiston Community Foundation
975 Southeast 4th Street
Hermiston, Oregon 97838

Section 3. Grant of Rights

- A. Grant of Naming Rights. Pursuant to the Naming Rights Policy, City grants to GSHCS the exclusive right to name the Complex and to advertise and promote the Complex and the naming rights associated with the Complex. Pursuant to this grant, the parties agree to name the Complex: "Good Shepherd Health Care System Pickleball Complex." GSHCS acknowledges and agrees that the foregoing grant does not include the right to name any individual elements of the Complex.
- B. Complex Signage. GSHCS and the City will jointly approve signage at the court in conjunction with the Hermiston Pickleball Group. Approval by either party shall not be unreasonably withheld.
- C. Changes. GSHCS may propose a new Complex name upon notice to the City. Any new name shall be subject to City's prior written approval, which shall not be unreasonably withheld. GSHCS agrees to pay all costs and expenses incurred in implementing the changes.
- D. Grant of Sponsorship Rights. City grants GSHCS exclusive sponsorship right to be identified as a sponsor of the Complex and to advertise and promote the Complex and its sponsorship.

Section 4. Exclusivity

- A. City shall not authorize or accept sponsorship or advertising in the Complex from other health care service providers.

Section 5. Advertising and Merchandising

- A. Quality Control. All material designed to publicize, advertise, promote or otherwise refer to the Complex shall be of a high standard of quality at least comparable to other similar facilities and bear appropriate trademark and copyright notices.
- B. Promotional Merchandise. GSHCS and the City shall each have the royalty-free right to produce, sell, and distribute promotional merchandise related to the Complex and activities at the Complex, and each party may retain their respective proceeds from sale of those items.

- C. Defective or Problematic Use. If any promotional merchandise manufactured, distributed, or sold by a party is defective in material or workmanship or otherwise fails to conform with terms of this Agreement, the other party may require alteration or destruction of the goods, at the sole expense of the owner of such merchandise.

Section 6. Display of GSHCS Trademarks

- A. Use of Trademarks. City shall use GSHCS trademarks in accordance with GSHCS guidelines.
- B. Use of Complex Trademarks. City shall use the Complex name in all advertising and promotional materials and merchandise for the Complex.
- C. Preeminence of Naming Rights and Sponsorship. City shall ensure that no other health care service providers trademarks or signs shall be displayed in the Complex and all signage within the Complex shall adhere to the terms and conditions of this Agreement, including, without limitation, subsection (E) below.
- D. Naming of Specific Features. GSHCS acknowledges that, subject to Section 3, City may name specific portions of the Complex to recognize other contributors to the construction and implementation of the Complex project.
- E. Advertisements Within the Complex. GSHCS acknowledges that, subject to Section 3, the City may solicit fence banner advertisements for the Complex and may have various vending machines and concessions within the Complex to help offset Complex operational costs.

Section 7. Approval Rights

- A. GSHCS may review and approve in advance all advertising and promotional materials or merchandise that use GSHCS trademarks. Such approvals shall not be unreasonably withheld.
- B. City may review and approve in advance advertising and promotional materials, or merchandise produced by or on behalf of GSHCS bearing City trademarks and related to the Complex. Such approvals shall not be unreasonably withheld.

Section 8. Reports

GSHCS may request progress reports related to activities engaged in by the City with specific reference to obligations and duties under this Agreement.

Section 9. Term

GSHCS has exclusive rights for the life of the Complex.

Section 10. Termination

A. By GSHCS. GSHCS may terminate this Agreement:

- i. Upon notice to City of a material breach by City. Such termination shall be effective 30 days after the date of such notice (unless a greater period is specified in the notice) unless City cures the breach within such period. A material breach includes a default by City in performance or observance of any material term of this Agreement.
- ii. The cure period shall not apply if the City, or any of its agents associated with the Complex become involved in or have at any time been involved in scandalous, criminal, or disreputable activity that is likely to damage, detract from, or reflect unfavorably on GSHCS's public image or business reputation.

B. By City. City may terminate this Agreement upon notice to GSHCS if GSHCS fails to pay the Naming Rights Fee. Such termination shall be effective 30 days after the date of such notice (unless a greater period is specified in the notice) unless GSHCS cures the breach within such period. The City may also terminate this Agreement immediately, and without a cure period, upon notice to GSHCS if GSHCS, or any of its agents become involved in or have at any time been involved in scandalous, criminal, or disreputable activity that is likely to damage, detract from, or reflect unfavorably on City's public image.

C. Consequence of Termination. On any termination, the City shall:

- i. Take action necessary to protect property in its possession in which GSHCS has an interest, including property bearing GSHCS trademarks.
- ii. Take reasonable steps to protect GSHCS trademarks, including ceasing use of them within a reasonable period of time under the circumstances of termination.
- iii. At GSHCS's request, take action necessary to announce and publicize discontinuation of GSHCS's affiliation with the Complex.

D. Continuation of Complex Name. Upon expiration of this Agreement, City may continue to use the Complex name under the standards set forth in this Agreement for a commercially reasonable period of time, but no longer than 120 days.

Section 11. Representations and Warranties

A. By GSHCS. GSHCS represents and warrants that:

- i. It owns GSHCS trademarks.
- ii. It has full power and authority to enter into this Agreement, and the person signing this Agreement on its behalf has the authority to do so.

B. By City. City represents and warrants that:

- i. It has and will continue to have the authority to own, operate and maintain the Complex during the term of this Agreement.
- ii. It has full power and authority to enter into this Agreement, and the person signing this Agreement on its behalf has the authority to do so.

Section 12. Indemnification

- A. By GSHCS. GSHCS shall indemnify and hold harmless City and its respective officers, directors, employees, successors, and assigns from any claims, damages, liabilities, losses, government procedures, costs, and expenses, including reasonable attorneys' fees and costs of suit arising out of any claims by third parties relating to negligent or intentional acts or omissions of GSHCS or its employees, agents, or representatives in the exercise of its rights thereunder, including any events or activities conducted by GSHCS, except to the extent caused by the negligence or willful misconduct of the City.
- B. By City. To the extent permitted by Oregon law, subject to the limits of the Oregon Tort Claims Act, City shall indemnify and hold harmless GSHCS and its officers, directors, employees, successors, and assigns from any claims, damages, liabilities, losses, government procedures, costs, and expenses, including reasonable attorneys' fees and costs of suit arising out of claims by third parties relating to:
- i. Any negligent or intentional acts or omissions of City or its employees, agents, or representatives in the exercise of its rights hereunder, except to the extent caused by the negligence or willful misconduct of GSHCS.
 - ii. Any injury, including death, to the person or property of another or other damage occurring in connection with the Complex or the activities of City relating to the Complex, including but not limited to promotional merchandise distributed or sold by the City.
 - iii. All loss, damage, or expense resulting from the execution or the performance of this Agreement that constitutes a breach of any obligation of City to a third party.
- C. Notification. The party seeking to be indemnified shall give prompt written notice to the other of any such claim, suit, or demand. Indemnifying party shall be entitled to defend or settle the matter through counsel of its own choosing and shall promptly notify indemnified party of its intention. Indemnified party shall cooperate with the indemnifying party. Indemnified party may conduct the defense itself, at indemnifying party's expense, if indemnified party has not notified the other of its election within 30 days following notice by indemnified party of such matters.

Section 13. Governing Law

- A. This Agreement shall be governed by the laws of the State of Oregon. Any court action relating to this Agreement shall be brought in the State of Oregon Circuit Court for Umatilla County, Oregon or in the United States District Court for the District of Oregon, Pendleton Division. Nothing in this Agreement shall be deemed to prevent the parties from mediating any disputes under this Agreement.

Section 14. Miscellaneous

- A. Relationship. The parties are acting as independent contractors; nothing in this Agreement shall be deemed to create a joint venture, partnership, agency, employment, or other relationship between the parties.
- B. Modifications. This Agreement may not be amended, modified, waived, or adjusted except in writing signed by the parties.
- C. Assignment. City may not assign or delegate any of its rights or obligations under this Agreement without GSHCS's prior written consent. GSHCS may not assign or delegate any of its rights or obligations under this Agreement without the City's prior written consent, except that an assignment or delegation to one of its affiliates shall not require consent. For the purpose of this section, an "affiliate" means an entity, which directly or indirectly owns or controls, is owned or is controlled by, or is under common ownership control with GSHCS.
- D. Severability. If any provision of this Agreement is deemed to be invalid, the remainder shall not be deemed invalid, and it shall be deemed amended by modifying such provision to the extent necessary to make the provision valid while preserving its intent or, if such a modification is not possible, substituting another valid provision so as to materially effectuate the parties' intent.
- E. Third Party Rights. GSHCS and City are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to any third persons. No person or entity which is not a party to this Agreement has any right of action or relief against GSHCS or the City under this Agreement.
- F. Notice. All communications and notices thereunder shall be in writing addressed to a party at its address set forth below or at such other address as may be given by a party pursuant to a notice that complies with this section. Any notice to another party of this Agreement that is required or permitted under this Agreement is deemed received: three (3) days after deposited in the United States mail, certified and postage paid, and addressed to the address set forth below or to such other address as may be specified from time to time by either of the parties in writing; or by confirmed delivery date by facsimile or overnight mail; or upon the date of personal delivery or service.

For City of Hermiston:	For Good Shepherd Health Care System:
Name: Byron Smith	Name: Jonathan Edwards
Title: City Manager	Title: Chief Operating Officer/Chief Financial Officer
Address: 180 NE 2 nd Street	Address: 610 NW 11 th St.
City, State: Hermiston, OR 97838	City, State: Hermiston, OR 97838
e-mail: bsmith@hermiston.gov	e-mail: jedwards@gshealth.org
Copy to:	Copy to:
rtovey@hermiston.gov	Mrenner@gshealth.org

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective authorized representatives.

GOOD SHEPHERD HEALTH CARE SYSTEM

By: _____
Art Mathisen
President/CEO

Date

CITY OF HERMISTON

By: _____
Byron D. Smith
City Manager

Date

Exhibit A

