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2 **DRAFT LICENSE AGREEMENT**
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4 THIS LICENSE AGREEMENT ("License" or "Agreement") is made and entered into
5 as of the ___ day of _____, 2023 by and between the City of Grand Junction, a
6 Colorado Home Rule Municipality, ("City"), and _____, a
7 _____ ("THERAPY PROVIDER") collectively, the City and
8 _____ may be referred to as the "Parties" or in context individually as a "Party".
9 The License, as provided herein is for naming rights of swimming pools and the
10 operation of a rehabilitation facility/therapy clinic within the Grand Junction Community
11 Recreation Center, 2844 Patterson Road, Grand Junction, Colorado, 81506 ("GJCRC"),
12 upon the terms and conditions set forth in this License.
13

14 **RECITALS**
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16 WHEREAS, the City is scheduled to construct the GJCRC in 2025, and upon
17 completion, the City will own, operate, and manage the GJCRC; and
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19 WHEREAS, upon completion of the GJCRC, the THERAPY PROVIDER desires to
20 have exclusive naming rights to the GJCRC pools as well as to operate a therapy clinic
21 within the GJCRC; and
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23 WHEREAS, in exchange for a payment of lump sum contribution from THERAPY
24 PROVIDER to the City, the City Council will agree to sell THERAPY PROVIDER exclusive
25 naming rights for the extensive and expansive pools in the GJCRC including the leisure
26 pool, the lap pool, the wellness pool and the hot tub, ("Pools") to be named
27 _____ as jointly agreed by the Parties; and
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29 WHEREAS, the Parties agree that the physical rehabilitation facility staff by
30 licensed physical therapists ("Therapy Clinic") shall be located within the GJCRC at the
31 location shown and described in EXHIBIT A attached hereto (the "Premises"); and
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33 WHEREAS, the THERAPY PROVIDER commits to fund tenant improvement
34 finishes (about 30% of construction costs) to take the core and shell that the City will
35 pay to construct (about 70% of construction costs) on terms and conditions set forth in
36 this License.
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38 WHEREAS, THERAPY PROVIDER agrees, on terms and conditions set forth in this
39 License. to compensate the City for the exclusive opportunity to design, construct and
40 operate the Therapy Clinic in the GJCRC, as well as for City opening the GJCRC and
41 making the Pools available for nonexclusive patient access to the Pools and the GJCRC

42 for social and recreation use by the patients;
43

44 NOW THEREFORE, in consideration of the mutual promises and covenants herein
45 contained, including the Recitals which are incorporated as substantive terms hereof,
46 and other good and valuable consideration, the receipt and sufficiency of which are
47 hereby acknowledged by the City and the THERAPY PROVIDER, to support the making
48 and the enforcement of this Agreement, the Parties hereby agree as follows:
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50 1. Initial Term of License for Naming Rights and Cost. In accordance with
51 the terms and conditions of this Agreement, the City agrees to sell and THERAPY
52 PROVIDER agrees to buy a license for naming rights of the Pools at the GJCRC. In
53 exchange for payment by THERAPY PROVIDER of \$_____ (total) to the City, the
54 City will grant THERAPY PROVIDER the exclusive right to name the GJCRC leisure pool,
55 lap pool, wellness pool and the hot tub, to be named collectively the
56 “_____ Pools at the GJCRC”. This name may be changed from time to time but
57 must be mutually agreed to by both Parties. This Agreement will commence December
58 1, 2025, and these exclusive naming rights will continue for an initial term of 50 years
59 (“Initial Naming Rights Term” with an option for one renewal terms of 50 years
60 (“Renewal Naming Rights Term(s)”). THERAPY PROVIDER will pay the City
61 \$_____ for the Initial Naming Rights Term as follows: \$_____ by
62 December 31, 2023, \$_____ by December 31, 2024, and \$_____ by
63 December 31, 2025. A Renewal Naming Rights Term(s), if any, will subject to
64 negotiation and agreement by and between the parties upon the expiration of the Initial
65 Naming Rights Term or any Renewal Naming Rights Term(s).
66

67 2. Initial Term of License for Therapy Clinic and Cost. In accordance with
68 the terms and conditions of this Agreement, the City agrees to sell and grant and
69 THERAPY PROVIDER agrees to buy a license for THERAPY PROVIDER to design,
70 construct and operate a Therapy Clinic on the Premises. The Initial Term of the License
71 for Therapy Clinic will be ten (10) years commencing December 1, 2025, and ending
72 December 31, 2035 (“Initial Term of License for Therapy Clinic” with three (3) optional
73 ten (10) year renewal periods (“Renewal Term(s) of License for Therapy Clinic”). A
74 Renewal Term(s) of License for Therapy Clinic, if any, will subject to negotiation and
75 agreement by and between the parties upon the expiration of the Initial Term of
76 License for Therapy Clinic or any Renewal Term(s) of License for Therapy Clinic.
77 THERAPY PROVIDER will pay the City \$118,000 per year for each year of the Initial
78 Term of License for Therapy Clinic as the base fee (“Annual Fee”). The Annual Fee
79 shall be annually increased by 2.5% over the previous years’ Annual Fee. Each Annual
80 Fee is due from THERAPY PROVIDER to the City on or before December 31 of each
81 year.
82

83 3. Construction of Therapy Clinic. Regarding the cost to construct the
84 additional 2900 square feet that is not currently in the 2022 GJCRC building plan is
85 projected to be \$3,515,000, as detailed in EXHIBIT B. The City will add this to the total
86 project cost for the CRC currently set at \$70,700,000 and it will be funded by the City
87 up to core and shell, estimated to be 70% of the cost (\$2,460,500). The City will also
88 pay for additional design and engineering services along with any other soft costs
89 (excluding furniture, fixtures, and equipment) associated with completing the
90 construction of this therapy space up to core and shell. The City's hired
91 architect/engineer group lead by Barker-Rinker-Seacat will complete the design of the
92 therapy space up to and including construction. The City will also hire and pay a
93 qualified Construction Manager / General Contractor to oversee the construction of the
94 space, which will be a part of the full CRC construction. The THERAPY PROVIDER will
95 fund tenant improvement finishes to complete the space, estimated at 30% of the cost
96 to add the space (\$1,054,500). This payment of one million fifty-four thousand five
97 hundred (\$1,054,500) from the THERAPY PROVIDER to the City is due December 31,
98 2025.

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100 3. Licenses and Permits. The THERAPY PROVIDER shall obtain and maintain
101 any and all vending licenses and/or permits that may be required by local governmental
102 entities having jurisdiction, including without limitation Mesa County, Colorado (the
103 "County"), prior to the utilization of the Premises for the Therapy Clinic. If the
104 THERAPY PROVIDER is unable to secure the necessary approvals contemplated by this
105 Section 3, this License shall automatically terminate. If this occurs, any fee already
106 paid by the THERAPY PROVIDER to cover the monthly license fee for months that have
107 not yet happened shall be refunded to the THERAPY PROVIDER on a prorated basis.

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109 4. Insurance. The THERAPY PROVIDER shall carry general liability insurance in
110 an amount no less than One Million Dollars (\$1,000,000) for a single occurrence and no
111 less than Three Million Dollars (\$3,000,000) in the aggregate, with the City as a named
112 insured on such policy. THERAPY PROVIDER shall be required to provide to the City an
113 ACORD form "*Certificate of Insurance*" evidencing required coverage for the term of this
114 License Agreement. The general liability insurance policy and the "*Certificate of Insurance*"
115 must be effective for the term of the Therapy Clinic License Agreement, commencing as of
116 the Effective Date. The THERAPY PROVIDER shall cease all operations in the GJCRC
117 immediately upon cancellation of the insurance coverage required pursuant to this Section
118 4, in accordance with any notice of cancellation received by the City.

119
120 5. Premises Owned by the City. The Premises, and any and all
121 improvements made thereto by THERAPY PROVIDER and/or the City, are and shall at
122 all times remain the sole property of the City, and THERAPY PROVIDER shall have no
123 right, title, or interest therein, except to the use of the same in accordance with this

124 Agreement. All furniture and equipment provided by THERAPY PROVIDER I shall
125 remain property of THERAPY PROVIDER.

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127 6. Use and Maintenance of the Premises by THERAPY PROVIDER. THERAPY
128 PROVIDER shall use and maintain the Premises in accordance with all applicable health and
129 safety laws, ordinances, and/or regulations for the protection of GJCRC users. THERAPY
130 PROVIDER shall use the Premises strictly for the operation of a Therapy Clinic. THERAPY
131 PROVIDER agrees to comply with all rules and regulations of the GJCRC and the City while
132 using the Premise. THERAPY PROVIDER shall repair and/or replace any damage to any
133 portion of the Premises or the GJCRC only to the extent any damages shall be caused by or
134 be in connection with THERAPY PROVIDER's use thereof. Payment for all costs for such
135 repair or replacement and all work performed in connection therewith shall be the
136 responsibility of THERAPY PROVIDER. The City, in its sole reasonable discretion, shall
137 determine when the Premises are in need of repair or replacement due to the activities of
138 THERAPY PROVIDER and/or staff, patients and visitors on the Premises.

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140 Notwithstanding the definition of the Premises on EXHIBIT A, and the conceptual
141 design of the Premises as provided for on EXHIBIT A (further defined herein) the Parties
142 acknowledge and agree that construction of the GJCRC and thus the Premises is not
143 complete.

144

145 7. Furniture, and Equipment and Operating Expenses. THERAPY PROVIDER
146 will be responsible for providing all furniture, and equipment necessary for its use of the
147 Premises as a Therapy Clinic. Any furniture and/or equipment left in the Premises after
148 the end of the Initial or any Renewal Term of the Therapy Clinic License shall without
149 further notice to THERAPY PROVIDER become City property. THERAPY PROVIDER shall
150 be responsible for the Therapy Clinic's share of utility expenses as well covering all
151 operating expenses related to the operation of the Therapy Clinic. During the pendency
152 of this License, the City shall be responsible for covering all custodial expenses related
153 to THERAPY PROVIDER's use and enjoyment of the Premises.

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155 8. Hold Harmless. _____ doing business as THERAPY PROVIDER
156 does hereby agree, covenant and pledge to hold harmless, defend and indemnify the
157 City, its directors, employees, agents, representatives, successors and assigns, from
158 and against any and all liabilities, claims, penalties or damages of any nature, whether
159 present or future, including without limitation damages for personal injury, disease and
160 death; property damage; administrative or judicial penalties or fines; accountants fees,
161 consultants fees and attorney's fees associated with or necessary for the City's defense
162 of matters arising under this License), arising out of, or related directly or indirectly to
163 the use of the Premises by THERAPY PROVIDER and its staff, patients and visitors.

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165 9. Additional Terms of this Agreement.

166 a. THERAPY PROVIDER may provide direct, written input to the City GJCRC
167 design team by submitting written comment to City Parks and Recreation
168 Director Ken Sherbenou. While the City welcomes THERAPY PROVIDER's input
169 on the design of the Therapy Clinic, including but not limited to interior finishes,
170 the City will make all final design and finish decisions. The THERAPY PROVIDER
171 will be able to actively participate in the design process to ensure the THERAPY
172 PROVIDER's needs will be met within the dedicated therapy space.

173 b. The Therapy Clinic and the GJCRC must pass regulatory agency inspection
174 (including but not limited to the Joint Commission, Colorado Department of
175 Health and Occupational Safety and Health Administration) and meet these
176 requirements throughout the Term of the Therapy Clinic License Agreement. If
177 not rectified by the City within 60 days of notice of such violation, this Therapy
178 Clinic License Agreement may be terminated without claim against the City for
179 lost profit and/or opportunity and/or without a claim for damage, recourse, or a
180 repayment of any Annual Fee(s).

181 c. THERAPY PROVIDER will enjoy the exclusive use of at least 5 dedicated
182 parking spaces in close proximity to the dedicated therapy space. During
183 therapy appointments as well as on the day of those appointments, THERAPY
184 PROVIDER's therapy patients may use of all amenities of the GJCRC without the
185 typical day pass, punch pass or annual pass required of other GJCRC patrons.
186 Usage by patients must still be according to City scheduling. Patient usage
187 pursuant to this section is included in Annual Fees to be paid by THERAPY
188 PROVIDER. Any other use by THERAPY PROVIDER patients on days other than
189 those of scheduled appointments with licensed therapists will be according to
190 GJCRC policies as applied to any other GJCRC patron.

191 d. The City will schedule and program all spaces within and surrounding the
192 GJCRC, except the Therapy Clinic for recreation or community-related activities
193 during the License Agreement Term(s).

194 e. The Parties will act in good faith to achieve a successful collaboration to
195 the benefit of the Grand Junction community.

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197 10. Notice. Any notice, demand, or other communication required or
198 permitted to be given by any provision of this License shall be given in writing,
199 delivered personally, or sent by certified or registered mail, postage prepaid and return
200 receipt requested, or by overnight courier, with shipping charges prepaid, addressed as
201 follows:

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203 To the City:

City of **GRAND JUNCTION**
Attn: City Manager
250 North 5th Street

206 Grand Junction, CO. 81501
207 Ph: (970) 244-1501

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209 With a copy to: City of **GRAND JUNCTION**
210 Attn: City Attorney
211 250 North 5th Street
212 Grand Junction, CO. 81501
213 Ph: (970) 244-1501

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215 To THERAPY PROVIDER: Chief Executive Officer
216 **THERAPY PROVIDER**
217 _____
218 _____

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221 With a copy to: General Counsel
222 **THERAPY PROVIDER**
223 _____
224 _____

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226 All notices, demands, requests or other communications shall be effective upon such
227 personal delivery, or one (1) business day after being deposited with Federal Express or
228 other nationally recognized overnight air courier service, or three (3) business days
229 after deposit in the United States mail. By giving the other party thereto at least ten
230 (10) days written notice thereof in accordance with the provisions hereof, each of the
231 Parties shall have the right from time to time to change its address.

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233 11. No Continuing Obligation. In no event shall this Agreement create a long-
234 term funding obligation subject to annual appropriation for the City.

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236 12. Assignment. THERAPY PROVIDER shall not in any manner transfer or
237 assign or attempt to transfer or assign this License Agreement or any aspect of it,
238 without the prior written consent of the City, and any attempt to do so without the
239 City's prior written consent shall be null and void and confer no rights on third persons.
240 The City may in its sole discretion refuse to consent to an assignment(s).

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242 13. Binding Effect. This License shall be binding upon and inure to the benefit
243 of the Parties hereto and their respective successors and permitted assigns.

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245 14. Governing Law. This License shall be governed by and construed in
246 accordance with the laws of the State of Colorado. The Parties agree that venue for
247 any dispute regarding this License shall be proper in Mesa County, Colorado.

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15. Attorneys' Fees. In the event either Party to this License commences an action to enforce any of the provisions hereof, the prevailing Party in such action shall recover from the other Party the prevailing Party's reasonable costs and reasonable attorneys' fees incurred in the action.

16. Relationship of the Parties. Nothing contained in this License shall be deemed or construed by the Parties hereto or by any third person to create the relationship of employer and employee, principal, and agent, or of a partnership or joint venture, or of any association between THERAPY PROVIDER and the City.

17. Headings for Convenience Only. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this License.

18. Modification. This License and its attached exhibits set forth the entire understanding and agreement between the Parties hereto with respect to the Premises. Except as otherwise provided herein, this License may be modified, amended, changed, or terminated, in whole or in part, only by an agreement in writing and duly authorized and executed by the Parties hereto.

19. Severability. In case any one or more of the provisions contained herein for any reason shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this License, but this License shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

20. Survival. Unless provided for otherwise, all rights and obligations of the Parties herein described and agreed to be performed, or which by the nature thereof are or would be required to be performed, regardless of termination of this License or subsequent to the term of the License shall survive any termination of this License or the term of the license.

IN WITNESS WHEREOF, the Parties have executed this License, intending it to be effective as of the date first set forth above.

CITY:
CITY OF GRAND JUNCTION
A COLORADO HOME RULE MUNICIPALITY

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ATTEST:

Greg Caton
Its: City Manager

Amy Phillips
Its: City Clerk

:
THERAPY PROVIDER

ATTEST:

Its: Chief Executive Officer

Its:

EXHIBIT A
"Premises"

That certain area within the Grand Junction Community Recreation Center, consisting of 2000 net square feet. (NOTE: Therapy Provider will need to work with the City and its hired architect and engineer to progress the design of the Therapy Provider dedicated space in the GJCRC. Wherever the design stands when this agreement is ready to be signed, that floor plan will be included in this license agreement.)



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Please note: the drawing will show the Therapy Provider Physical Therapy in the GJCRC.
 The floor plans above show above is the facility layout per the Council approved 2022
 CRC Plan.

EXHIBIT B
 "Dedicated Therapy Space Costs"

Program Component	GSF	Construction Cost	Support Spaces Max 50%	Site Costs	Soft Costs	Total Cost
DEDICATED THERAPY SPACES						
Partner/Hospital Wellness Center	2,900	\$ 1,296,000	\$ 1,572,000	\$ 161,000	\$ 483,000	\$ 3,515,000
Lobby/ Reception Area						
Offices						
Work Room						
Assessment Rooms						
Therapy Area						
Storage						

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