FACILITY USE AGREEMENT

(Green Island Tennis Courts)

This Facility Use Agreement (the "Agreement") is entered into by and between the **City of La Crosse**, a Wisconsin municipal corporation, (herein **"City"**) and the **Coulee Region Tennis Association, Ltd.**, (herein **"Association"**), a community Wisconsin non-stock and IRC 501 (c) 3 non-profit corporation.

Whereas, the City and the Board of Regents of the University of Wisconsin System, a body corporate under Wis. Stat. § 36.07 and doing business as the University of Wisconsin- La Crosse (herein **"University")** entered into a Joint Facility Use Agreement in 2013 allowing, among other things, City access to the University's tennis courts; **Whereas**, the University has discontinued use of those tennis courts in 2019;

Whereas, the Association, the University, and Aquinas Catholic Schools, Inc, a Wisconsin non-stock and IRC 501(c)(3) tax exempt corporation (herein "Aquinas") (collectively herein "Parties") ventured with the City to construct and maintain a tennis facility and allow them the use of the facility; and

Whereas, the construction and maintenance of a tennis facility was a significant endeavor for the City and would not have been possible without the continued support of the University, Aquinas, and the Association.

Now, therefore, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. **Term.** The term of this Agreement commenced August 1, 2020 and will end on July 31, 2040, unless terminated or extended as provided herein.

A. The Association shall have the option to extend the term of this Agreement for two (2) - five (5) year renewal terms. The Association may exercise each renewal option by written notice to City not more than three hundred sixty-five (365) days or less than ninety (90) days prior to the expiration of the then term. Collectively in this Agreement, the initial term and renewal term are described as the "term."

B. The Association may terminate this Agreement at any time upon one hundred twenty (120days) advanced written notice to City. Termination of this Agreement by the Association shall not relieve the Association of the payment of any financial obligation pursuant to this Agreement accruing prior to the effective date of termination.

2. Facility. The City designed and constructed thirteen (13) outdoor tennis courts at La Crosse WI Green Island Park (herein "Facility"), subject to annual appropriation of the City's Common Council. The location and design of the Facility was determined by the City of La Crosse, WI.

3. Contribution of Construction Funds. The Association provided funds to offset the City's costs to design and construct the Facility, specifically two hundred fifty thousand dollars ($250,000) through community fundraising and United States Tennis Association (USTA) facilities grant. Other Parties also contributed $250,000 each.

4. Shared Use of Facility. The City, University, Aquinas, and the Association shall share priority scheduling of the Facility through 2040, more specifically,

A. Association Use. The Association shall have priority scheduling of the Facility commencing on June 1 and ending August 15 each year for community recreational adult tennis league (LTTA), USTA adult tennis leagues, USTA Junior Team Tennis Program, adult/youth tennis tournaments, youth summer tennis camps, and future programming needs. The Association shall have the right to place/build, maintain, repair, replace and use a tennis equipment storage shed at the Facility near the courts with their own insurance covering vandalism and storm damage. The Association shall have access to water and bathroom facilities located at the Facility. The Association shall have access to water, restrooms, locker room, and other indoor meeting rooms as needed at nearby Green Island Ice Arena to extent is not already occupied by third parties and is available for use. The Association members shall have accessible parking located at or near the facility.

B. University Use. University use of the facility tennis courts for the spring and fall tennis seasons shall commence of the first day of practice specified by the National Collegiate Athletic Association (herein "NCAA") and conclude at 7pm on the day prior to the first day of the NCAA Division III National Tournament on Courts 8-13 with hours 9am to 7pm. On match days, University has priority use of the Facility tennis courts 8am to 7pm any day all courts.

C. Aquinas Use. Aquinas use of the Facility tennis courts for the spring and fall tennis seasons shall commence of the first days specified by the Wisconsin Interscholastic Athletic Association (herein "WIAA") at 3:30pm and end the first day prior to the State Team Tennis Tournament at 7pm plus Saturday practices 8am to 1pm on Courts 1-7. In addition, Aquinas will have priority scheduling one (1) hour prior to invitationals, WIAA subsection/section tournaments to conclusion, including the rescheduling due to weather or other circumstances.

D. Scheduling Meeting. Annually, the Parties shall participate in a scheduling meeting to be held in January of the year prior to the scheduled events if any conflicts. The Parties shall schedule their events and use of the Facility, determine rain dates, identify potential scheduling conflicts, negotiate in good faith and make every effort to resolve such conflicts with minimal disruption to any other Party. Requested practice dates by any Party shall not take priority over competition dates. Any scheduling conflicts that remain unresolved between the Parties shall be decided by the Board of Park Commissioners. The City's Parks & Recreation Department shall schedule and conduct the annual scheduling meeting as needed.

E. Public Use. For days or times that are not scheduled during the annual scheduling meeting, the City may schedule events or allow other general public use of the Facility.

5. Maintenance.

A. City shall operate and provide ordinary and regular maintenance of the Facility subject to annual appropriation of the City's Common Council. The City shall not be responsible for any uncommon or extraordinary maintenance, supply, equipment, personnel, utilities, clean-up costs or any other expense associated with the use of the Facility by the University, Aquinas, or Association. Specific work to set up or dismantle preparations for events at the Facility shall be the responsibility of the user. The Parties further acknowledge, understand and agree that the Facility will deteriorate over time and that the contributions made pursuant to Section 3 are only in consideration for the City to design and construct the Facility on City land.

B. During the terms of this Agreement in years 1-9, the Association shall pay an annual user fee of four thousand dollars ($4,000.00) to La Crosse City Treasurer through the Parks Dept. The Association paid this user fee in years 2020 through 2024. In years 10-20 of the term of this Agreement, as applicable, the Association shall pay an annual user fee of five thousand dollars ($5,000.00). The user fee will be paid by August 1 of each year. The user fees paid by the Association, the University, and Aquinas shall be placed in a facility specific fund with the City. Said user fees shall be utilized the resurfacing of the court playing surface, tennis net replacement, net post repair, and replacement and fencing repair, as applicable.

6. Appropriate Use. The Association shall be responsible for ensuring that its use complies with this Agreement along with any applicable laws, rules, regulations, policies and procedures. The sale of alcoholic beverages in or about the Facility is prohibited. Additionally, the Parties shall not sell or cause to be sold programs and/or other novelties in or about the Facility, except on written terms and conditions as established by the City's Board of Park Commissioners. Each Party shall not permit any use whatsover of the fire, flames, sparks, or the like without the prior express written consent of (i) the Chief of the City's Fire Department and (ii) the City's Board of Park Commissioners. The University, Aquinas, and the Association shall provide appropriate crowd control and oversight for participants when using the Facility and shall ensure that spectators and participants comply with all applicable laws, rules, regulations, policies and procedures during their use of the Facility. When using the Facility, the University, Aquinas, and the Association shall not charge any admission fee for spectators. Each Facility user shall be responsible for any damage caused by its use arising from this Agreement.

7. Violation and Removal from Facility. If any any time the use of the Facility by the University, Aquinas, or the Association violates an applicable ordinance or law of the City, State or other authority, they shall either cease and desist from continuing such use or surrender the Facility forthwith upon demand of the City. The terms and conditions of this Agreement do not require the City to relinquish its control of the to any other Party. The City retains the right to require any other Party, or any of Party's participants, guests or subcontractors, to leave the Facility and City premises if the City in its sole discretion determines that circumstances require it.

8. Liability. Each Party shall be solely responsible for its actions, omissions, claims or losses of any type arising from its use of the Facility. Nothing in this Agreement is intended or shall be construed to be a waiver or estoppel of any Party or Party's insurer (or otherwise affect or alter their ability) to rely upon the limitations, defenses and immunities contained within Wisc Stat. 345.05 and 893.80 or other applicable law.

9. No Sublease or Assignment. The Association shall not sublease the use of the Facility or otherwise assign or transfer any rights or obligations under this Agreement without the express written consent of the City, which consent shall not be unreasonably withheld.

10. Opportunity to Cure. In the event of any controversy or claim arising out of or relating to this Agreement, or a breach thereof, the parties hereto shall first attempt to settle the dispute informally, including allowing the opportunity to cure for fifteen (15) days. The opportunity to cure does not apply to a City determination under Section 7 of this agreement.

11. Notice. Any notices or communication required or permitted hereunder shall be sufficiently given if delivered in person, or by registered or certified mail, postage prepaid, or by recognized overnight delivery service, to the address of the applicable Party as set forth below, and such notice shall be deemed to have been given when so delivered or mailed. By such notice, any Party may change its address for future notices.

To the City:	Attn: City Clerk City Hall 400 La Crosse St. La Crosse, WI 54601
With a copy to:	Attn: Director of Parks and Recreation City Hall 400 La Crosse St. La Crosse, WI 54601
To the University:	UWL, Carly Sprouse 130 Mitchell Hall, La Crosse WI 54601
To the Association:	Coulee Region Tennis Association, c/o Treasurer Sally Ruud W5599 Southdale Dr, La Crosse WI 54601
To Aquinas:	Pam Donarski 315 11 St S, La Crosse WI 54601

12. Miscellaneous. This Agreement represents the complete and entire understanding between the Parties, and contains all the terms and conditions agreed upon by the Parties hereto. No other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or be binding upon any of the Parties hereto. This Agreement shall not be modified, changed or altered in any respect except in a writing signed by all Parties. If any term, condition, covenant, provisions, or part thereof of this Agreement is declared invalid, void, or unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect. This Agreement and all questions and issues arising in connection herewith shall be governed by and construed in accordance with the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in La Crosse County, Wisconsin. The Parties acknowledge and agree that each Party has reviewed and negotiated the terms and provisions of this Agreement and has had the opportunity to contribute to its revision. Accordingly, the rule of construction that ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement. Rather, the terms of this Agreement shall be construed fairly as to all parties and not in favor or against a particular party. No Party shall assign its rights or obligations pursuant to this Agreement without the express written consent of the City. This Agreement shall be binding upon the Parties hereto and their successors and permitted assigns. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one agreement. All rights no expressly granted to the University, Association or Aquinas are reserved by the City.

13. **Force Majeure.** Neither party shall be liable for loss, damage or delay in performance resulting from any cause beyond its reasonable control, including, without limitation, severe weather, fire, earthquake or other natural disaster, labor strike, embargo, war, epidemic or pandemic, act of terrorism, or any law order, proclamation, ordinance, demand or requirement of any government agency. If a party determines that its performance will be impacted by a force majeure event, that party shall provide prompt written notice to the other parties. Such notice shall advise the other parties of the nature and anticipated duration of the event. Notwithstanding the foregoing, each party shall use commercially reasonable efforts to promptly perform its obligations under this Agreement. Such force majeure event shall extend the time of performance for a period equal to the period of delay; provided, however, that if the period of delay actually exceeds or is reasonably anticipated to exceed six months, then any party may terminate this Agreement with no further liability to the other party by providing written notice of termination.

14. **Authority.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the Party for whom they are signing.

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In Witness whereof, the Parties have executed this Agreement as of the date first set forth above.

COULEE RGION TENNIS ASSOCIATION, LTD

By: Sally A. Ruud

Date: Rev 7-31-25

Print Name/Title: Sally A. Ruud, Treasurer

CITY OF LA CROSSE

By: _____

Date: _____

Print Name/Title: _____

State of WI **County of** La Crosse

This instrument was acknowledged before me 31st **day of** July, **20** 25

My commission expires 11-27-2028

Signature _____

TAMI WAMSLEY
NOTARY PUBLIC
STATE OF WISCONSIN